

Oneida Tribe of Indians of Wisconsin

Post Office Box 365



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Phone: (414) 869-2214



Oneida, WI 54155



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

RESOLUTION # 7-17-96B

- WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States, and
- WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin, and
- WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council, and
- WHEREAS, the Oneida Business Committee has the legislative responsibility to protect the health and welfare of tribal members, and to protect the environment of the Oneida Reservation, and
- WHEREAS, as an exercise of that responsibility, the Oneida Tribe has been applied for, and received, "treatment as a state" for purposes of Sections 303 and 401 of the Federal Water Pollution Control Act of 1972 (the Clean Water Act), and
- WHEREAS, Section 303 of the Clean Water Act requires that states and eligible Indian tribes adopt of water quality standards for the protection of waters under their jurisdiction, and
- WHEREAS, the Oneida Tribe has proposed water quality standards, and
- WHEREAS, the Oneida Tribe's proposed standards has received a public hearing in accordance with the Oneida Administrative Procedures Act, and all applicable requirements of 40 C.F.R. Part 25, and
- WHEREAS, all comments received regarding the standards have been duly considered by the Oneida Tribe, and
- WHEREAS, the Oneida Tribe has made appropriate modifications to the standards in light of

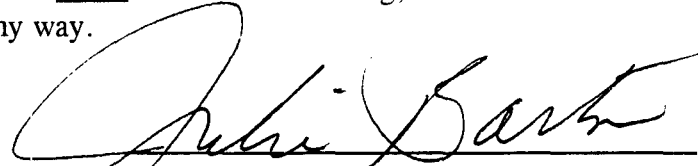
the comments received,

NOW THEREFORE BE IT RESOLVED that the Oneida Tribe of Indians of Wisconsin hereby adopts its Water Quality Standards, effective July 17, 1996.

BE IT FURTHER RESOLVED that the Water Quality Standards and all accompanying documentation be submitted to the United States Environmental Protection Agency for approval.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum, 9 members were present at a meeting duly called, noticed and held on the 17 day of July, 1996, that the foregoing resolution was duly adopted at such meeting by a vote of 8 members for; 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Julie Barton, Tribal Secretary
Oneida Business Committee

ONEIDA NATION WATER QUALITY STANDARDS

Article I. Purpose And Policy

- 1-1. Yukwane'Kánus-- Ta' ne'thone lawe'lu ^yohneka' tanyuhake tsi yuhuntsyate. Ne'thonu twahawitha yukwane'kanushe. Ne' yukwaya'tahnilatsta ne' kafo k^ yukwatathohati. Kahnikinikaun yohnawelotu, kauyahaténi, kanyatalayantu, tho' niyole kahnekowan^se' nikanihale. Nes^ tho'ohuntsyo'ku yohnedatánti khale ya'teku nikantsyo't^she tho'shakotk^latu. Ne' lawe'lu tsyunhékw^ ^kahake. Ta úskah ^twanenuni yukwanikula tahérwanehelatu shukwatisu lawe'lu ^yohneka'tanyuhake khale ya'teku nikantsyo't^she tho'lotk^latu tsi'yuhuntsyate Ne' I' Yukwayatakenhasla ^kahake. Ta' thoniyutuhak yukwanikula.

(Our Waters-- Now then he thought that perhaps there should be water running about the earth. Now it is there that we gather from to strengthen our bodies and mind. That still we see the flow of the streams, springs, rivers, and lakes and to the great oceans. Also, he has placed within the waters the different fish life, this too we gather to help sustain our lives. We also understand that there are waters that run beneath the Earth. So now we put our minds together as one and give thanksgiving that we still see and gather from the waters and fishes for our well-being and that its instructions are carried out. So be it in our minds.)

- 1-2. Although the environmental laws of the United States were put into place for the protection of the environment, we can see across that Nation a great degradation of our shared resources, therefore it is our intent to provide protection for our unborn generations within the framework and principles of the Kayenlakowa.
- 1-3. Within this context the Oneida Nation Water Quality Standards are intended to accomplish the following:
- (a) to establish standards, designated uses, and an Antidegradation Policy for all water bodies within the exterior boundaries of the Oneida Reservation in Wisconsin.
 - (b) to provide protection of the Waters of the Reservation and their respective uses for future generations.
 - (c) to promote and protect the health, safety, welfare, political integrity, economic well-being and cultural heritage of the Oneida Nation and its members; and to promote and provide protection of the health, safety, welfare and economic well-being of all other residents within the exterior boundaries of the Reservation.
 - (d) to promote and protect the healthy self-sustaining propagation of fish and other

aquatic life and associated wildlife.

Article II. Authority, Adoption, Amendment, Repeal

- 2-1. These standards are adopted pursuant to Article IV Section 1(f) and Article IV, Section 2 of the Constitution of the Oneida Tribe of Indians of Wisconsin, the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et. seq.*, (hereinafter the "Clean Water Act") and the inherent authority of the Oneida Nation to regulate matters affecting the political integrity, the economic security, or the health and welfare of the Oneida Nation.
- 2-2. These standards shall be adopted by the Oneida Business Committee Resolution # 7-17-96 B.
- 2-3. These standards may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act.
- 2-4. Should a provision of these standards or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of these standards which are considered to have legal force without the invalid portions.
- 2-5. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with these standards are hereby repealed unless specifically re-enacted after adoption of these standards. Where there are similarities, the most stringent shall supersede.

Article III. Definitions

- 3-1. This article shall govern the definitions of words and phrases used within these standards. All words not defined herein shall be used in their ordinary and everyday sense.
- 3-2. *Applicant* means any person who applies for any license or permit granted by an agency of the federal government to conduct any activity which may result in any discharge into the Waters of the Oneida Reservation.
- 3-3. *Best Management Practices* means any physical, structural, and/or managerial practices, approved by the Oneida Nation, that, when used singularly or in combination, control, restrict and diminish point and/or non-point sources of pollution to the maximum extent possible.
- 3-4. *Bioaccumulation* means the net accumulation of a substance by an organism as a result of uptake from all environmental sources.
- 3-5. *Bioconcentration* means the net accumulation of a substance by an aquatic organism as a

result of uptake directly from the ambient water through gill membranes or other external body surfaces.

- 3-6. *Board* means the Oneida Environmental Resource Board.
- 3-7. *Control Document* means any authorization issued by a State, Tribal or Federal agency to any source of pollutants to waters that specifies conditions under which the source is allowed to operate.
- 3-8. *Criterion Continuous Concentration (CCC)* means an estimate of the highest concentration of a material in the water column to which an aquatic community can be exposed indefinitely without resulting in an unacceptable effect.
- 3-9. *Criterion Maximum Concentration (CMC)* means an estimate of the highest concentration of a material in the water column to which an aquatic community can be exposed briefly without resulting in an unacceptable effect.
- 3-10. *Department* means the Oneida Environmental Department.
- 3-11. *Discharge* means any addition of any pollutant to the Waters of the Reservation from any point source.
- 3-12. *Human Cancer Value (HCV)* means the maximum ambient water concentration of a substance at which a lifetime of exposure from either drinking the water, consuming fish from the water, and/or water-related recreation activities, will represent a plausible upper-bound risk of contracting cancer of one in 100,000 using the exposure assumptions specified in the Methodologies for the Development of Human Health Criteria and Values in 40 C.F.R. Pt. 132 Appendix C.
- 3-13. *Human Noncancer Value (HNV)* means the maximum ambient water concentration of a substance at which adverse noncancer effects are not likely to occur in the human population from lifetime exposure from either drinking the water, consuming fish from the water, and/or water-related recreation activities using the Methodologies for the Development of Human Health Criteria and Values in 40 C.F.R. Pt. 132 Appendix C.
- 3-14. *Hydrology* means the frequency, duration, and volumes of any continuous or intermittent flow. Degradation of hydrology occurs when altered flows result in excessive variations of flow, floods, loss of base flow, reduced groundwater recharge, and degradation of stream morphology.
- 3-15. *Kayentakowa (The Great Law of Peace)* means the principles guiding the Iroquois Nations on how to live together in peace with each other and Mother Earth.

- 3-16. *License or Permit* means any license or permit granted by an agency of the federal government to conduct any activity which may result in any discharge into the Waters of the Reservation.
- 3-17. *Licensing or permitting agency* means any agency of the federal government to which application is made for any license or permit to conduct an activity which may result in any discharge into the Waters of the Reservation.
- 3-18. *Morphology* means the integrity of the form and structure of water bodies, stream channels, banks, pools and riffles, flood plains, ponds, lakes, and wetlands.
- 3-19. *Nation* means the Oneida Tribe of Indians of Wisconsin.
- 3-20. *Non-point source pollution* means pollution that enters any Waters of the Reservation from any land-based or water-based activities that are diffuse and do not have a single point of origin and are not introduced into a receiving stream or other body of water, from a specific outlet. "Non-point source pollution" includes, but is not limited to, surface water run off from agriculture lands, urban areas, certain industrial activities, construction sites, land disposal activities, and other quantities of surface water run-off resulting in deleterious alterations to the hydrology and morphology of the Waters of the Reservation and other sources that cannot be generally classified as point sources of pollution.
- 3-21. *Outstanding National Resource Waters (ONRW)* means high quality waters constituting an Outstanding National Resource, such as waters of National, State, and Tribal parks and wildlife refuges and waters of exceptional recreational, biological or ecological significance.
- 3-22. *Outstanding Tribal Resource Waters (OTRW)* means water bodies in which, on a parameter by parameter basis, the quality of the waters meets or exceeds the levels necessary to support the healthy self-sustaining propagation of fish, shellfish, and wildlife, recreation in and on the water, and/or waters that have unique or significant cultural, religious, ecological, historical, or community value.
- 3-23. *Person* means an individual, owner, operator, corporation chartered under federal, state or tribal law, limited liability company, partnership, association, municipality, township, interstate agency, tribal agency, county agency, state agency or federal agency.
- 3-24. *Point source pollution* means any discernable, confined, and discrete conveyance including, but not limited to, a pipe, ditch, channel, storm sewer, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged into the Waters of the Reservation.

- 3-25. *Pollutant* means, but is not limited to, any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, sewage sludge, munitions, hazardous waste, hazardous substance, chemical waste, biological material, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal or agricultural waste, and discharge of storm water resulting in deleterious alterations to the hydrology and morphology of the Waters of the Reservation.
- 3-26. *Practicable alternatives* means alternatives which are available and capable of being implemented after taking into consideration cost, available technology, and logistics in light of realistic project purposes.
- 3-27. *Regional Administrator* means the Administrator of Region V of the U.S. Environmental Protection Agency.
- 3-28. *Reservation* means the Oneida Indian Reservation as established by the Treaty of 1838, 7 Stat. 566 (February 3, 1838).
- 3-29. *Water Dependency* means the activity requires location in or adjacent to surface waters or wetlands to fulfill its basic purpose.
- 3-30. *Water Quality Standards* means the standards set by the Oneida Nation pursuant to Section 303 of the Clean Water Act.
- 3-31. *Waters of the Reservation* means any accumulation of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, flow through, or border upon the Oneida Indian Reservation. "Waters of the Reservation" shall include wetlands as defined in Section 3-32 of this document, but does not include waters wholly within sewerage systems ultimately discharging at a point or points outside of the Oneida Indian Reservation.
- 3-32. *Wetland* means land that has a predominance of hydric soils, is inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. "Normal circumstances" refers to the soil and hydrologic conditions that are normally present, without regard to whether the vegetation has been removed or whether the lands have been otherwise modified/manipulated by human activity. Wetland delineations shall be conducted using the same standards, guidelines and practices as the U.S. Army Corps of Engineers.

Article IV. General Provisions

- 4-1. These standards shall apply to all Waters of the Oneida Nation and to all facilities, practices and activities that may affect the quality of the Waters of the Reservation.

- 4-2. It is the intent of the Nation that, under normal conditions, water quality criteria necessary to protect the designated uses shall be met at all times and at all locations in all Waters of the Reservation. Water quality standards are not used to control natural background phenomenon nor are they invalidated by acts of the Creator.
- 4-3. Water quality standards shall be the basis for water quality management decisions affecting both point and non-point sources of pollution.
- 4-4. Water quality standards shall be met by both single and cumulative, point and non-point sources, within the Reservation. All sources of pollution within a watershed and their cumulative effects shall be accounted for in all administrative or enforcement activities.
- 4-5. The Oneida Nation Water Quality Standards may be revised from time to time, as the need arises, or as the result of updated scientific information, on a not less than a triennial basis in accordance with 40 C.F.R. §131.20.
- 4-6. In the event that water quality monitoring identifies waters where water quality is not in compliance with the Oneida Nation Water Quality Standards, a use attainability analysis shall be conducted subject to the provisions of the Clean Water Act and shall be carried out in accordance with Use Attainability Analysis procedures as found at 40 C.F.R. §§ 131.3(g) and 131.10(g).
- 4-7. Any permit issued pursuant to the Clean Water Act, 33 U.S.C. §1251, *et seq.*, within the exterior boundaries of the Reservation shall be consistent with The Great Lakes Water Quality Initiative, 40 C.F.R. Pt. 132.

Article V. Antidegradation Policy

- 5-1. The purpose of the Antidegradation Policy is to maintain, protect, and to restore the Waters of the Nation and to provide protection for Outstanding Tribal Resource Waters.
- 5-2. The level of water quality and quantity of all Waters of the Reservation, and existing in-stream uses and designated uses, shall be maintained and protected.
- 5-3. Water quality and quantity necessary to protect any threatened, endangered or culturally significant species (as designated by tribal, federal or state authorities) associated in any way with the Waters of the Reservation shall be maintained.
- 5-4. These standards shall be applicable to any action or activity by any source, point or non-point, of pollutants that is anticipated to result in an increased loading of any pollutant to surface and ground waters within the exterior boundaries of the Reservation and /or any alteration of stream flow that results in deleterious alterations of flows negatively impacting the hydrology and morphology of the Waters of the Reservation.

- 5-5. Where the quality of water exceeds the levels necessary to support the healthy self-sustaining propagation of fish, shellfish, and wildlife, and recreation in and on the water, and whenever waters are of a higher quality than each criterion for the said waters, the existing water quality shall be protected, unless a lowering of water quality is deemed necessary pursuant to Article VI.
- 5-6. The water quality of any waters designated as an Outstanding National Resource Water shall be maintained and protected. No new discharge water shall enter or effect ONRW designated Waters of the Reservation.
- 5-7 All Waters of the Reservation are designated as Outstanding Tribal Resource Waters. OTRWs shall not be degraded below their present water quality nor shall new or increased discharges be allowed except in accordance with Section 6-7 and Section 6-8.

Article VI. Antidegradation Implementation

- 6-1. The Oneida Nation shall impose the most stringent statutory and regulatory controls for all new and existing point sources, and shall support all reasonable best management practices for non-point source control.
- 6-2. When it is found that non-point source pollutants are reducing the quality of Waters of the Reservation, or interfering with designated or existing uses, a set of best management practices shall be established by the Oneida Nation Environmental Department for the affected area and/or operation(s). The best management practices shall be consistent with the goals and objectives of the Duck-Apple-Ashwaubenon Creeks Priority Watershed Project or such other priority watershed projects as may be designated under Section 4-11 of the Oneida Water Resource Ordinance.
- 6-3. The most stringent statutory and regulatory controls shall be used for any land alterations that may effect the wetlands of the Oneida Nation, consistent with Article VIII.
- 6-4 For all Waters of the Reservation, the Department shall ensure that the level of water quality necessary to protect existing and designated uses is maintained and protected.
- 6-5. Where the water quality does not support the designated uses of a water body or where ambient pollutant concentrations exceed water quality criteria applicable to that water body, the Department shall not allow a lowering of water quality for the pollutant(s) preventing the attainment of such uses or exceeding such criteria.
- 6-6. A lowering of water quality occurs when there is a new or increased loading of any pollutant from any regulated existing or new facility, either point or non-point source for which there is a control document or reviewable action, as a result of any activity including but not limited to:

- (a) Construction of a new regulated facility or modification of an existing regulated facility such that a new or modified control document is required.
- (b) Modification of an existing regulated facility operating under a current control document such that the production capacity of the facility is increased.
- (c) Addition of a new source of untreated or pretreated effluent containing or expected to contain any pollutant to an existing wastewater treatment works, whether public or private.
- (d) A request for an increased limit in an applicable control document.
- (e) Other deliberate activities that, based on the information available, could result in an increased loading of any pollutant to any Waters of the Reservation.

6-7. No one will be allowed to lower the water quality of the Waters of the Reservation, or create a new or increased discharge of any pollutant unless an antidegradation demonstration is submitted for consideration by the Oneida Nation Environmental Department. The antidegradation demonstration shall include the following:

- (a) *Pollution Prevention Alternatives Analysis*: Identify all cost-effective pollution prevention alternatives and techniques that are available to the entity, that would eliminate or significantly reduce the extent to which the increased loading results in a lowering of water quality;
- (b) *Best Available Technology*: Identify the best available technology in process and treatment to eliminate or reduce the extent of the lowering of water quality.
- (c) *Important Social or Economic Development Analysis*: Identify the social or economic development and the benefits to the area in which the waters are located that will be foregone if the lowering of water quality is not allowed.
- (d) *Ecological concerns*: Identify any and all ecological impacts as a result of the proposed activity, giving special consideration to wetlands, effected watersheds and the associated plant and wildlife.
- (e) *Special Provision for Remedial Actions*: Entities proposing remedial actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§9601, *et seq.*, as amended, corrective actions pursuant to the Resource Conservation and Recovery

Act, 42 U.S.C. §§6901 *et seq.*, as amended, or similar actions pursuant to other Federal, Tribal or State environmental statutes must submit information to the Department that demonstrates that the action utilizes the most cost effective pollution prevention and treatment techniques available, and minimizes the necessary lowering of water quality in lieu of the information required by Sections 6-7(b) and 6-7(c).

- 6-8. Once the Oneida Environmental Department determines that the information provided by the entity proposing to increase pollutant loadings is administratively complete, the Department shall use that information to determine whether or not the lowering of water quality is necessary, and, if it is necessary, whether or not the lowering of water quality will support unique social and economic development in the area as well as affording protection to the waters, wildlife and residents of the Reservation.
- (a) If the proposed lowering of water quality is either not necessary, or will not support unique social and economic development or will significantly impact Tribal water and associated plant and/or wildlife resources, the Department shall deny the request to lower water quality.
 - (b) If the lowering of water quality is necessary, and will support unique social and economic development and not significantly impact Tribal water and associated plant and/or wildlife resources, the Department may allow all or part of the proposed lowering to occur.
 - (c) In no event may the decision reached under this section allow water quality to be lowered below the minimum level required to fully support existing and designated uses.
 - (d) The decision of the Department shall consider public input consistent with the public participation and hearing process pursuant the Oneida Administrative Procedures Act as well as the public participation requirements outlined at 40 C.F.R. Pt. 25.

Article VII. Narrative Criteria

- 7-1. Narrative criteria shall be used to guide water management decisions and activities that affect the Waters of the Reservation, and to protect and enhance water quality. The following narrative criteria shall apply to all Waters of the Reservation provided, however, where more stringent criteria exist, the stricter standards shall supersede.
- 7-2. All Waters of the Reservation shall be free from:
- (a) pollutants in quantities that, either alone or as a result of interaction with other

pollutants, cause any designated use to become impaired.

- (b) pollutants in quantities that produce or contribute to the production of nuisance aquatic life.**
- (c) pollutants in quantities that produce objectionable color, odor, taste or turbidity.**
- (d) hazardous substances, toxic, corrosive, nonconventional material concentrations, or other deleterious substances, chemicals, and materials, which alone or in combination with other substances or in combination with other components of discharges, or their breakdown products, are acutely or chronically toxic, carcinogenic, teratogenic, and injure, or bioaccumulate, biomagnify, bioconcentrate, or produce adverse physiological responses in human beings and/or fish and aquatic life, or which interfere directly or indirectly with designated, existing, or other uses.**
- (e) exotic nuisance species, e.g. purple loosestrife, zebra mussels, etc.**
- (f) toxic pollutants in quantities that result in bioaccumulation in aquatic organisms leading to toxicity to consumers of the aquatic organisms.**
- (g) excess nutrients that may cause a condition harmful to human health, decrease fish habitat, cause nuisance aquatic growths, or that in any way impair designated uses. Nitrogen and phosphorous concentrations shall not exceed the levels stated in Article XIII of this document.**
- (h) microorganisms at levels that make recreation in and on Reservation waters unsafe.**
- (i) floating debris, oil, scum and other floating materials as a result of human activity in amounts sufficient to be unsightly, cause degradation or impair designated uses.**
- (j) materials entering the waters as a result of human activity producing color, odor, taste or other conditions in amounts sufficient to be unsightly, cause degradation or in any way impair designated uses.**
- (k) substances other than from natural causes that may settle to form objectionable deposits or adversely impact designated uses.**
- (l) contaminants, from other than natural causes, that may settle or remain suspended that have a deleterious effect on the aquatic life or that will significantly alter the physical or chemical properties of the water body or that in any way impairs designated uses.**

- 7-3. All wetlands shall be protected to maintain and restore their natural physical, biological, and chemical characteristics, including substrate, vegetative and hydrological conditions necessary to support natural amounts of native vegetation, maintain natural hydrodynamics and maintain natural water temperature variations that are necessary to protect and support all existing and designated uses.
- 7-4. All naturally occurring biological communities and the habitat needed to support them shall be maintained and protected in all waters and wetlands of the Reservation at all times.
- 7-5. Concentrations of radioactive materials shall not exceed concentrations caused by local naturally occurring materials.
- 7-6. All Waters of the Reservation shall be free from unauthorized discharges at all places at all times.
- 7-7. Any activity that allows storm discharges or base flow conditions to significantly degrade stream morphology or result in a waterway's inability to maintain existing aquatic life shall be prohibited. Cumulative impacts of any such activity shall be considered.
- 7-8. Waters contained in intermittent and ephemeral streams shall meet all water quality criteria applicable to any perennial streams to which they are tributaries.
- 7-9. All criteria should be met at all times and all locations, including low flow rates. However, allowance may be made for mixing, on a case by case basis, where compliance with the chronic criteria is not technically feasible. In such cases mixing zones shall be established consistent with 40 C. F. R. Pt. 132, Appendix F, Procedure 3. In no case will mixing be permitted in biologically or recreationally sensitive areas. In no case may the acute criteria be exceeded.
- 7-10. Natural native biological/ecological communities associated with Waters of the Reservation and their biotic and abiotic components and relationships shall be protected.
- 7-11. Waters of the Reservation shall not be degraded below their present water quality nor shall new or increased discharges be permitted unless it is determined by the Environmental Department that the accompanying water quality degradation from such discharges will provide unique benefits in accordance with Section 6-7 and Section 6-8. All existing and designated uses shall be protected at all times.
- 7-12. Any activities that degrade the aesthetic quality, stability and/or ecological integrity of the Waters of the Reservation shall be prohibited unless authorized in a manner consistent with the water quality standards contained herein.

- 7-13. The discharge of toxicants into the Waters of the Reservation that are known or found to be synergistic with other pollutants shall be addressed on a case by case basis.
- 7-14. For substances where numeric criteria have not yet been adopted by the Oneida Nation, the numeric criteria and methodologies in 40 C.F.R. Pt. 132, Appendices A-D shall be used and are incorporated into these standards by reference.

Article VIII. Wetlands

- 8-1. The purpose of this article is to establish water quality standards to protect, preserve, restore, and enhance:
- (a) the quality of water in the wetlands of the Reservation and the associated ground and surface waters; and
 - (b) the hydrologic flows which are essential to maintaining healthy aquatic habitats within the Waters of the Reservation.
- 8-2. The following water quality related functional values or uses shall be protected, within the range of natural variation:
- (a) Storm and flood water storage and retention and the moderation of water level fluctuation;
 - (b) Hydrologic functions including the maintenance of dry season streamflow, the discharge of groundwater to a wetland, the recharge and infiltration of groundwater from a wetland and the flow of groundwater through a wetland;
 - (c) Filtration or storage of sediments, nutrients or toxic substances that would otherwise adversely affect the water quality of the Waters of the Reservation;
 - (d) Shoreline protection against erosion through the dissipation of wave energy, water velocity and anchoring of sediments;
 - (e) Habitat for aquatic organisms in the food web including, but not limited to, fish, crustaceans, mollusks, insects, annelids, planktonic organisms and the plants and animals upon which these aquatic organisms feed and depend upon for their needs in all life stages;
 - (f) Habitat for transient wildlife species, including mammals, birds, reptiles, and amphibians for breeding, resting, nesting, escape cover, travel corridors and food;
 - (g) Recreational, cultural, educational, scientific, and natural aesthetic values and uses.

8-3 All Reservation wetlands shall be free from:

- (a) pollutants or other material that may be present in amounts that may cause significant adverse impacts to wetlands;**
- (b) pollutants or other material in amounts that may interfere with designated uses or public interest, or that may cause significant adverse impacts to wetlands;**
- (c) pollutants producing offensive color, odor, taste or causing adverse impacts to wetlands;**
- (d) concentrations or combinations of pollutants that are toxic or harmful to human, animal or plant life and/or are in amounts which individually or cumulatively may cause significant adverse impacts to wetlands of the Reservation;**

8-4. Hydrological and hydraulic conditions necessary to support the biological and physical characteristics required of aquatic systems shall be protected to prevent significant adverse impacts to:

- (a) the morphology of streams, wetlands, other water bodies and associated aquatic habitats, including but not limited to, bank erosion, imbedding of bottom substrate, siltation, channel widening and down cutting, channel scour, and loss of pool and riffle structure;**
- (b) water currents, erosion or sedimentation patterns;**
- (c) water temperature variations;**
- (d) the chemical, nutrient, and dissolved oxygen regime of the wetland;**
- (e) the movement of aquatic fauna;**
- (f) the pH of the wetland; and**
- (g) water level variations and elevations, including base flows, and water levels necessary for healthy aquatic life and associated plant life and wildlife.**

8-5 Existing habitats and populations of wetland plant and wildlife shall be maintained by:

- (a) protecting food supplies for fish and wildlife;**
- (b) protecting reproductive and nursery areas; and**

- (c) preventing conditions conducive to the establishment or proliferation of nuisance organisms and exotic species.

Article IX. Designated Uses

- 9-1. All of the following categories of designated uses shall apply to all Waters of the reservation except where noted.
- 9-2. *Public Water Supply.* Waters specifically designated as suitable or intended to become suitable for providing an adequate supply of drinking water for the continuation of the health, safety and welfare of the Nation's members and the residents of the Oneida Reservation.
- 9-3. *Wildlife.* All surface waters capable of providing a water supply and vegetative habitat for the support and propagation of all wildlife located within the exterior boundaries of the Oneida Nation Reservation.
- 9-4. *Aquatic Life.* Waters of the Reservation shall be categorized as one of the following:
 - (a) *Cold Water Ecosystems:* Waters of the Reservation where water temperature, habitat and other characteristics are suitable or intended to be suitable for the support and propagation of cold water fish and other aquatic life, or serving as a spawning or nursery area for cold water fish species. Examples of cold water fish include brook trout and rainbow trout. Trout Creek, Lancaster Brook and the associated tributaries are hereby designated as cold water ecosystems.
 - (b) *Warm Water Ecosystems:* Waters of the Reservation where water temperature, habitat and other characteristics are suitable or intended to be suitable for support and propagation of warm water fish and other aquatic life, or serving as a spawning or nursery area for warm water fish species. Examples of warm water fish species include large mouth bass and bluegills. All Waters of the Reservation are hereby designated as warm water ecosystems except those mentioned in Section 9-4(a).
- 9-5. *Subsistence Fishing.* Waters of the Reservation where spearing, netting or bow fishing is allowed as stated in the Oneida Conservation Hunting and Fishing Law.
- 9-6. *Cultural.* Waters that are suitable or intended to be suitable for traditional, cultural, historic and modern ceremonial uses which may include, but are not limited to the harvest and use of medicinal plants and wildlife associated with aquatic, wetland and riparian habitats; cultural educational uses including but not limited to ethnohydrological learning experiences that are passed from one generation to the next regarding the harvest of plants, fish, and animals; subsistence fishing; and activities that may require drinking and primary

contact with water. These practices require the protection of sensitive and valuable aquatic plant and wildlife, and aquatic, wetland and riparian habitat.

9-7 Recreation.

- (a) **Primary Contact Recreational:** Waters that are suitable for activities involving prolonged human contact where the risk of ingesting small quantities of water is likely; examples of this type of activity include, but are not limited to, swimming, tubing, rafting, skin diving, etc. The Norbert Hill Pond is hereby designated as a primary contact recreational area.
- (b) **Secondary Contact Recreational:** Waters that are suitable for activities in which human contact with the water may, but need not occur and in which the probability of ingesting raw water is unlikely. Examples of this type of activity include, but are not limited to, fishing, wading, boating, etc. All Waters of the Reservation are hereby designated as secondary contact recreational areas except for those mentioned in Section 9-5(a).

9-8. **Agricultural.** Waters that are suitable for crop irrigation and livestock ingestion.

9-9. **Navigation.** Waters that are suitable for navigation in and on the water.

9-10. **Industrial.** Waters that are suitable for manufacturing and/or production enterprises.

Article X. Waters of the Reservation

10-1. The following table lists all of the waters within the exterior boundaries of the Oneida Nation Reservation subject to these water quality standards. Wetlands are not listed in this table however, all wetlands within or bordering upon the exterior boundaries of the reservation are subject to these water quality standards.

| NAME | TOWNSHIP | RANGE | SECTION |
|--------------------------|----------|-------|---------|
| LAKES | | | |
| NORBERT HILL POND | T22N | R19E | 3 & 4 |
| ROCK QUARRY | T23N | R19E | 26 & 35 |
| CREEKS: | | | |
| DUCK CREEK | T22N | R18E | 1 |
| | T23N | R18E | 36 |

| NAME | TOWNSHIP | RANGE | SECTION |
|---|-----------------|--------------|-------------------------------|
| | T23N | R19E | 30,19,20,17,16,9,4,3,31 |
| | T24N | R19E | 34,35,36,26,25,24,19,29,17 |
| UNNAMED TRIBUTARIES OF DUCK CREEK | T24N | R20E | 20,19,30,29 |
| | T24N | R20E | 19,18,17 |
| | T24N | R20E | 19,24 |
| | T24N | R20E | 19,30 |
| | T24N T24N | R19E R20E | 25 30 |
| | T24N | R19E | 25,36 |
| | T24N T23N | R19E R19E | 35 2,3 |
| | T23N | R19E | 26,27 |
| | T23N | R19E R18E | 30 25 |
| | T23N T22N | R18E R18E | 36,35 2 |
| | T22N | R18E | 1,2 |
| | T24N | R20E | 18 |
| | T24N | R19E | 13 |
| TROUT CREEK | T24N T24N | R20E R19E | 19 24,25,26,23,14,15,10,16 |
| UNNAMED TRIBUTARIES OF TROUT CREEK | T24N | R19E | 26,23 |
| | T24N | R19E | 23 |
| | T24N | R19E | 23,24 |
| | T24N | R19E | 14,23 |
| | T24N | R19E | 14,23,22,27,28,34,33 |
| | T23N | R19E | 4 |
| | T24N | R19E | 14,11 |

| NAME | TOWNSHIP | RANGE | SECTION |
|--|--------------|--------------|----------------------------|
| | T24N | R19E | 15,16,17,20,19,29,30,21,28 |
| | T24N | R19E | 10,3,4,9 |
| SILVER CREEK | T24N | R19E | 35 |
| | T23N | R19E | 2,3,10,9,16,21, 20 |
| UNNAMED TRIBUTARIES OF SILVER CREEK | T24N | R19E | 35 |
| | T24N T23N | R19E R19E | 35 2 |
| | T23N | R19E | 10,11 |
| | T23N | R19E | 10,15,14 |
| | T23N | R19E | 16,15 |
| DUTCHMAN'S CREEK | T23N | R20E | 8,7 |
| | T23N | R19E | 12,13,24,23,26,27,34 |
| UNNAMED TRIBUTARIES OF DUTCHMAN'S CREEK | T23N | R20E | 8,7,12,6 |
| | T23N | R19E | 12,13,14,15,22,21 |
| | T23N | R19E | 13,14,23,22 |
| | T23N | R19E | 23 |
| | T23N | R19E | 26,27,34 |
| | T23N | R19E | 27,28 |
| | T23N | R19E | 33 |
| | T23N | R19E | 32,28,29,31 |
| | T22N | R19E | 6 |
| | T22N | R19E | 5,6 |
| | T22N | R19E | 6,7 |
| | T23N | R19E | 25,24 |
| | T23N | R20E | 8,7,6,32 |
| | T23N | R20E | 7 |
| | T24N | R20E | 31 |

| NAME | TOWNSHIP | RANGE | SECTION |
|-------------------------------------|----------------------|----------------------|------------------------|
| BEAVER DAM CREEK | T24N | R20E | 32,29,28 |
| FISH CREEK | T23N | R19E | 19 |
| | T23N | R18E | 24,13,23,22 |
| UNNAMED TRIBUTARIES OF FISH CREEK | T23N | R19E | 19,30 |
| | T23N | R19E | 19,30 |
| | T23N | R18E | 24,25,26,35,36,34 |
| | T23N | R18E | 27,28,29,20,21,32,33 |
| | T23N T23N | R19E R18E | 19,18 13 |
| | T23N | R18E | 23,22 |
| ONEIDA CREEK | T23N T23N T24N | R19E R18E R18E | 17,8,5,6 1,2 35 |
| UNNAMED TRIBUTARIES OF ONEIDA CREEK | T23N T24N | R19E R19E | 8,9,4 33,32,28 |
| | T23N | R19E | 8,5 |
| | T23N | R19E | 6,7 |
| | T23N T23N | R19E R18E | 6 12,11,10,15,13,14 |
| | T23N T24N | R19E R19E | 6 32,31 |
| | T23N T24N | R19E R19E | 6 31,30,29 |
| | T23N | R18E | 1,12,11,2 |
| | T23N T24N | R18E R18E | 1 35 |
| UNNAMED BRANCH OF ASHWAUBENON CREEK | T22N | R19E | 8,5,4,9,10 |

| NAME | TOWNSHIP | RANGE | SECTION |
|---|--------------|--------------|------------------------|
| UNNAMED TRIBUTARY OF N. BRANCH OF ASHWAUBENON CREEK | T22N | R19E | 9,8 |
| UNNAMED TRIBUTARY OF S. BRANCH ASHWAUBENON CREEK | T22N | R19E | 9 |
| | T22N | R19E | 9 |
| HEMLOCK CREEK | T23N | R19E | 33,34,35 |
| UNNAMED TRIBUTARIES OF HEMLOCK CREEK | T23N | R19E | 26,25 |
| | T23N | R19E | 25 |
| UNNAMED TRIBUTARIES OF ASHWAUBENON CREEK | T22N T23N | R19E R19E | 3,2 34 |
| S. BRANCH SUAMICO RIVER | T25N T24N | R19E R19E | 33 4,9,8,7 |
| UNNAMED TRIBUTARIES OF S. BR. SUAMICO RIVER | T24N T25N | R19E R19E | 4,5 33,32 |
| | T24N | R19E | 4,5,6 |
| | T24N T24N | R18E R19E | 24,14,23 8,17,18,19 |
| OTHER UNNAMED CREEKS | T24N | R18E | 35,26,34 |
| | T24N | R18E | 31 |
| | T23N T24N | R19E R19E | 12,11 36 |
| | T24N | R19E | 14,11 |

(Source: USGS 7.5 minute, 1:24,000 topographic maps)

Article XI. Analytical Methods

- 11-1. *Bacteriological Surveys.* The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a thirty day period. When less than five samples are collected in a thirty day period, no single sample shall exceed the applicable upper limit for bacterial density set forth herein.

Article XII. Site Specific Criteria

- 12-1. In some water bodies or parts thereof, it may become necessary to develop more stringent water quality criteria or modify existing criteria through site specific analysis which will more effectively protect designated and existing uses. Site specific criteria shall not impair designated or existing uses and shall protect against acute and chronic toxicity.
- 12-2. Site specific criteria shall be developed in a manner consistent with the Environmental Protection Agency Water Quality Standards Handbook as updated and with 40 C.F.R. Pt. 132.
- 12-3. The Oneida Nation shall provide opportunities for public review and comment on the proposals to revise criteria. After the public review, the Nation may formally adopt any appropriate site specific criteria.

Article XIII. Numeric Criteria

- 13-1. *Acute Water Quality Criteria For Protection Of Aquatic Life In Ambient Water.*

(a)

| CHEMICAL | CRITERION MAXIMUM CONCENTRATION (CMC in $\mu\text{g/L}$) |
|---------------|--|
| Arsenic (III) | ^a 339.8 |
| Chromium (VI) | ^a 16.02 |
| Cyanide | ^c 22 |
| Dieldrin | ^d 0.24 |
| Endrin | ^d 0.086 |
| Lindane | ^d 0.95 |
| Mercury (II) | ^a 1.694 |
| Parathion | ^d 0.065 |
| Selenium | ^a 19.34 |

(b)

| CHEMICAL | m_A | b_A |
|--------------------------------|--------|---------|
| Cadmium ^e | 1.128 | -3.6867 |
| Chromium (III) ^e | 0.819 | +3.7256 |
| Copper ^e | 0.9422 | -1.700 |
| Nickel ^e | 0.846 | +2.255 |
| Pentachlorophenol ^f | 1.005 | -4.869 |
| Zinc ^e | 0.8473 | +0.884 |

^a CMC = CMC^{tr}

^c CMC should be considered free cyanide as CN.

^d CMC = CMC^c

^e CMC^{tr} = exp { m_A [ln (hardness)] + b_A }

^f CMC^c = exp m_A { [pH] + b_A }. The CMC^c shall be rounded to two significant digits.

Notes: CMC is Criterion Maximum Concentration.

CMC^{tr} is the CMC expressed as total recoverable.

CMC^c is the CMC expressed as a total concentration.

13-2. *Chronic Water Quality Criteria For Protection Of Aquatic Life In Ambient Water.*

(a)

| CHEMICAL | CONTINUOUS CRITERION CONCENTRATION (CCC in $\mu\text{g/L}$) |
|----------------------------|---|
| Arsenic (III) ^a | 147.9 |
| Chromium (VI) ^a | 10.98 |
| Cyanide ^c | 5.2 |
| Dieldrin ^d | 0.056 |
| Endrin ^d | 0.036 |
| Mercury (II) ^a | 0.9081 |
| Parathion ^d | 0.013 |
| Selenium ^a | 5 |

(b)

| CHEMICAL | m_c | b_c |
|-------------------|--------|---------|
| Cadmium | 0.7852 | -2715 |
| Chromium (III) | 0.819 | +0.6848 |
| Copper | 0.8545 | -1.702 |
| Nickel | 0.846 | +0.0584 |
| Pentachlorophenol | 1.005 | -5.134 |
| Zinc | 0.8473 | +0.884 |

* CCC=CCCtr.

* CCC should be considered free cyanide as CN.

* CCC=CCCt.

* CCCtr=exp $\{m_c[\ln(\text{hardness})]+b_c\}$.

* CMCt=exp $\{m_A[\text{pH}]+b_A\}$. The CMCt shall be rounded to two significant digits.

Notes: CCC is Criterion Continuous Concentration.

CCCtr is the CCC expressed as total recoverable.

CCCt is the CCC expressed as a total concentration.

13-3. Water Quality Criteria For Protection Of Human Health.

| CHEMICAL | HNv ($\mu\text{g/L}$) | | HCv ($\mu\text{g/L}$) | |
|--------------------|-------------------------|-------------|-------------------------|-------------|
| | Drinking | Nondrinking | Drinking | Nondrinking |
| Benzene | 1.9E1 | 5.1E2 | 1.2E1 | 3.1E2 |
| Chlordane | 1.4E-3 | 1.4E-3 | 2.5E-4 | 2.5E-4 |
| Chlorobenzene | 4.7E2 | 3.2E3 | | |
| Cyanides | 6.0E2 | 4.8E4 | | |
| DDT | 2.0E-3 | 2.0E-3 | 1.5E-4 | 1.5E-4 |
| Dieldrin | 4.1E-4 | 4.1E-4 | 6.5E-6 | 6.5E-6 |
| 2,4-Dimethylphenol | 4.5E2 | 8.7E3 | | |
| 2,4-Dinitrophenol | 5.5E1 | 2.8E3 | | |
| Hexachlorobenzene | 4.6E-2 | 4.6E-2 | 4.5E-4 | 4.5E-4 |
| Hexachloroethane | 6.0 | 7.6 | 5.3 | 6.7 |
| Lindane | 4.7E-1 | 5.0E-1 | | |

| | | | | |
|----------------------|--------|--------|--------|--------|
| Mercury ¹ | 1.8E-3 | 1.8E-3 | | |
| Methylene chloride | 1.6E3 | 9.0E4 | 4.7E1 | 2.6E3 |
| PCBs (class) | | | 3.9E-6 | 3.9E-6 |
| 2,3,7,8-TCDD | 6.7E-8 | 6.7E-8 | 8.6E-9 | 8.6E-9 |
| Toluene | 5.6E3 | 5.1E4 | | |
| Toxaphene | | | 6.8E-5 | 6.8E-5 |
| Trichloroethylene | | | 2.9E1 | 3.7E2 |

¹ includes methylmercury.

13-4. *Water Quality Criteria For Protection Of Wildlife.*

| CHEMICAL | CRITERIA ($\mu\text{g/L}$) |
|-----------------------------------|---------------------------------|
| DDT and metabolites | 1.1E-5 |
| Mercury (including methylmercury) | 1.3E-3 |
| PCBs (class) | 7.4E-5 |
| 2,3,7,8-TCDD | 3.1E-9 |

13-5. *Other pollutants.*

- (a) *Alkalinity:* shall be a minimum of 20 mg/L as CaCO_3 .
- (b) *Bacteria:* The geometric mean of E. Coli bacteria, based on 5 samples equally spaced over a 30 day period, shall not exceed 126/100 ml. No sample shall exceed 235/100 ml at any time.
- (c) *Chlorine:* The total residual shall not exceed 11 $\mu\text{g/L}$ for Criterion Continuous Concentration (CCC) or 19 $\mu\text{g/L}$ for Criterion Maximum Concentration (CMC).
- (d) *Dissolved Oxygen:* Shall not be lowered to less than 6.0 mg/l at any time except under stratified conditions in the hypolimnion in lakes and reservoirs.
- (e) *Dissolved Solids:* Shall not exceed 250 mg/L for chlorides and sulfates.
- (f) *pH:* The pH of the Waters of the Reservation shall not be permitted to fluctuate in excess of 0.5 units (within a range of 6.0-9.0) over a 24-hour period for other than natural causes.

- (g) **Phosphorus:** Total phosphates as phosphorus ($\text{PO}_4^{3-}\text{-P}$) shall not exceed 25 $\mu\text{g/L}$ for any lake or reservoir. Total phosphates as phosphorus ($\text{PO}_4^{3-}\text{-P}$) shall not exceed 50 $\mu\text{g/L}$ for any stream where the stream flows directly into a reservoir or lake. Streams that do not flow into reservoirs or lakes shall not exceed 100 $\mu\text{g/L}$.
- (h) **Temperature:** There shall be no temperature changes that may adversely affect fish and aquatic life. Natural daily and seasonal temperature fluctuations shall be maintained.
- (i) **Turbidity:** The turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
- (j) **Dissolved Gas:** The total dissolved gas concentrations shall not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures at any point of sample collection.

13-6. *Numeric Water Quality Criteria For Ammonia.*

- (a) **Maximum Allowable Four-day Average Concentrations for Un-ionized Ammonia in mg/L NH_3 (accounting for Salmonids and other Sensitive Coldwater Species).**

| pH | 0° C | 5° C | 10° C | 15° C | 20° C | 25° C | 30° C |
|------|--------|--------|--------|--------|--------|--------|--------|
| 6.50 | 0.0008 | 0.0011 | 0.0016 | 0.0022 | 0.0022 | 0.0022 | 0.0022 |
| 6.75 | 0.0014 | 0.0022 | 0.0028 | 0.0039 | 0.0039 | 0.0039 | 0.0039 |
| 7.00 | 0.0025 | 0.0035 | 0.0049 | 0.0070 | 0.0070 | 0.0070 | 0.0070 |
| 7.25 | 0.0044 | 0.0062 | 0.0088 | 0.0124 | 0.0124 | 0.0124 | 0.0124 |
| 7.50 | 0.0018 | 0.0111 | 0.0156 | 0.0220 | 0.0220 | 0.0220 | 0.0220 |
| 7.75 | 0.0129 | 0.0182 | 0.0260 | 0.0360 | 0.0360 | 0.0360 | 0.0360 |
| 8.0 | 0.0149 | 0.0210 | 0.0300 | 0.0420 | 0.0420 | 0.0420 | 0.0420 |
| 8.25 | 0.0149 | 0.0210 | 0.0300 | 0.0420 | 0.0420 | 0.0420 | 0.0420 |
| 8.50 | 0.0149 | 0.0210 | 0.0300 | 0.0420 | 0.0420 | 0.0420 | 0.0420 |
| 8.75 | 0.0149 | 0.0210 | 0.0300 | 0.0420 | 0.0420 | 0.0420 | 0.0420 |
| 9.00 | 0.0149 | 0.0210 | 0.0300 | 0.0420 | 0.0420 | 0.0420 | 0.0420 |

(b) Maximum Allowable Four-day Average Concentration for Total Ammonia in mg/L NH_3 (accounting for Salmonids and other Sensitive Coldwater Species).

| pH | 0° C | 5° C | 10° C | 15° C | 20° C | 25° C | 30° C |
|------|-------|-------|-------|-------|-------|-------|-------|
| 6.50 | 3.000 | 2.800 | 2.700 | 2.500 | 1.760 | 1.230 | 0.870 |
| 6.75 | 3.000 | 2.800 | 2.700 | 2.600 | 1.760 | 1.230 | 0.870 |
| 7.00 | 3.000 | 2.800 | 2.700 | 2.600 | 1.760 | 1.230 | 0.870 |
| 7.25 | 3.000 | 2.800 | 2.700 | 2.600 | 1.770 | 1.240 | 0.880 |
| 7.50 | 3.000 | 2.800 | 2.700 | 2.600 | 1.780 | 1.250 | 0.890 |
| 7.75 | 2.800 | 2.600 | 2.500 | 2.400 | 1.660 | 1.170 | 0.840 |
| 8.0 | 1.820 | 1.700 | 1.620 | 1.570 | 1.100 | 0.780 | 0.560 |
| 8.25 | 1.030 | 0.970 | 0.930 | 0.900 | 0.640 | 0.460 | 0.330 |
| 8.50 | 0.580 | 0.550 | 0.530 | 0.530 | 0.380 | 0.280 | 0.210 |
| 8.75 | 0.340 | 0.320 | 0.310 | 0.310 | 0.230 | 0.173 | 0.135 |
| 9.00 | 0.195 | 0.189 | 0.189 | 0.195 | 0.148 | 0.116 | 0.094 |

(c) Maximum Allowable One-hour Average Concentrations for Un-ionized Ammonia in mg/L NH_3 .

| pH | 0° C | 5° C | 10° C | 15° C | 20° C | 25° C | 30° C |
|------|--------|--------|--------|-------|-------|-------|-------|
| 6.5 | 0.0091 | 0.0129 | 0.0182 | 0.026 | 0.036 | 0.036 | 0.036 |
| 6.75 | 0.0149 | 0.021 | 0.030 | 0.042 | 0.059 | 0.059 | 0.059 |
| 7.00 | 0.023 | 0.033 | 0.046 | 0.066 | 0.093 | 0.093 | 0.093 |
| 7.25 | 0.034 | 0.048 | 0.068 | 0.095 | 0.135 | 0.135 | 0.135 |
| 7.50 | 0.045 | 0.064 | 0.091 | 0.128 | 0.181 | 0.181 | 0.181 |
| 7.75 | 0.056 | 0.080 | 0.113 | 0.159 | 0.22 | 0.22 | 0.22 |
| 8.00 | 0.065 | 0.092 | 0.130 | 0.184 | 0.26 | 0.26 | 0.26 |
| 8.25 | 0.065 | 0.092 | 0.130 | 0.184 | 0.26 | 0.26 | 0.26 |
| 8.50 | 0.065 | 0.092 | 0.130 | 0.184 | 0.26 | 0.26 | 0.26 |
| 8.75 | 0.065 | 0.092 | 0.130 | 0.184 | 0.26 | 0.26 | 0.26 |
| 9.00 | 0.065 | 0.092 | 0.130 | 0.184 | 0.26 | 0.26 | 0.26 |

(d) Maximum Allowable One-hour Average Concentrations for Total Ammonia in mg/L NH₃.

| pH | 0° C | 5° C | 10° C | 15° C | 20° C | 25° C | 30° C |
|------|------|------|-------|-------|-------|-------|-------|
| 6.50 | 35 | 33 | 31 | 30 | 29 | 20 | 14.3 |
| 6.75 | 32 | 30 | 28 | 27 | 27 | 18.6 | 13.2 |
| 7.00 | 28 | 26 | 25 | 24 | 23 | 16.4 | 11.6 |
| 7.25 | 23 | 22 | 20 | 19.7 | 19.2 | 13.4 | 9.5 |
| 7.50 | 17.4 | 16.3 | 15.5 | 14.9 | 14.6 | 10.2 | 7.3 |
| 7.75 | 12.2 | 11.4 | 10.9 | 10.5 | 10.3 | 7.2 | 5.2 |
| 8.00 | 8.0 | 7.5 | 7.1 | 6.9 | 6.8 | 4.8 | 3.5 |
| 8.25 | 4.5 | 4.2 | 4.1 | 4.0 | 3.9 | 2.8 | 2.1 |
| 8.50 | 2.6 | 2.4 | 2.3 | 2.3 | 2.3 | 1.71 | 1.28 |
| 8.75 | 1.47 | 1.40 | 1.37 | 1.38 | 1.42 | 1.07 | 0.83 |
| 9.00 | 0.86 | 0.83 | 0.83 | 0.86 | 0.91 | 0.72 | 0.58 |

Article XIV. Certification.

14-1. Policy and Purpose.

- (a) This Article establishes the procedures and criteria for the application, processing and review of tribal water quality certifications required by Section 401 of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. § 1341.
- (b) It is the policy of the Oneida Tribe of Indians of Wisconsin to review, consistent with the requirements of section 401 of the Clean Water Act, all activities which require a federal license or permit which may result in any discharge to the Waters of the Reservation and to:
 - (1) Deny certification for any activity where the Oneida Nation does not have reasonable assurance that any discharge will comply with effluent limitations or water quality related concerns or any other appropriate requirements of tribal law;
 - (2) Grant or grant conditionally certification for any activity where the Oneida Nation has reasonable assurance that any discharge will comply with effluent limitations, water quality related concerns or any other appropriate

requirements of tribal law; or

- (3) Waive certification for any activity which the Oneida Nation finds will result in no discharge or any activity that does not fall within the purview of the Oneida Nation's authority.
- (c) In order to obtain certification of any proposed activity that may result in a discharge to Waters of the Reservation, an applicant must demonstrate that the entire activity over its lifetime will not violate or interfere with the attainment of any limitations or standards contained in Sections 301, 302, 303, 306, or 307 of the Clean Water Act, the federal regulations promulgated pursuant thereto, and any provisions of tribal law or regulation adopted pursuant to, or which are more stringent than, those provisions of the Clean Water Act.
- (d) The Oneida Nation may condition certification on any requirements consistent with ensuring the applicant's compliance with the provisions listed above, or with any other requirements of tribal law related to the maintenance, preservation, or enhancement of water quality. Examples of certification conditions include, but are not limited to: effluent limitations, monitoring requirements, mitigation/replacement of wetlands, use of Best Management Practices to control storm water runoff and erosion, replacement of vegetation and wildlife, minimization of in-stream equipment operation and other disturbances, and other measures designed to maintain, preserve, or enhance water quality.

14-2. Water Quality Certification Procedure.

- (a) Application Contents.
 - (1) No person may conduct any activity which may result in any discharge into the Waters of the Reservation unless the person has received a certification or waiver under this Ordinance. Unless the licensing or permitting agency or the Regional Administrator submits an application to the Department under 40 C.F.R. §121.13, the applicant shall submit to the Department a complete description of the activity for which certification is sought, including:
 - (A) The name and address of the applicant;
 - (B) A description of the facility or activity and of any discharge which may result from the activity or facility, including, but not limited to: the construction and operation of the facility; the volume of discharge; the biological, chemical, thermal, and all other characteristics of the discharge; a description of the existing

physical environment at the site of the discharge; the size of the area affected; the location or locations at which the discharge may enter the Waters of the Reservation; and any environmental impact document information and photographs which have been provided to the licensing or permitting agency;

- (C) A description of the function and operation of equipment, facilities or activities to treat pollutants or other effluents which may be discharged, including specification of the degree of treatment expected to be attained;
 - (D) The date or dates on which the activity will begin and end, if known, and the date or dates on which the discharge will take place;
 - (E) A description of the methods being used or proposed to monitor the quality and characteristics of the discharge and the operation of equipment, facilities, or activities employed in the treatment or control of pollutants or other effluents;
 - (F) Information sufficient to determine whether the proposed activity is water dependent; and
 - (G) A description of practicable alternatives to the proposed activity and a description of the investigation conducted to determine the viability of such alternatives, including alternative locations, construction design and methods, and operations.
- (2) The Department shall review the application for completeness within 30 days of receipt of the application. The Department shall notify the applicant of any additional information reasonably necessary to review the application. An application may not be considered complete until the requirements of the National Environmental Policy Act, 42 U.S.C. §4321, §§4331-4335, and §§4341 *et. seq.*, the National Historic Preservation Act, 16 U.S.C. §§470 *et. seq.*, and the Endangered Species Act, 16 U.S.C. §§1531 *et. seq.*, have been met.
 - (3) The applicant shall submit in a timely fashion, at any time during the review process, such additional information which the Department finds to be reasonably necessary for review of the application.
 - (4) The Department shall protect as confidential any information other than effluent data, submitted to it as part of an application for certification.

(b) Departmental Review of Water Quality Certification Applications.

(1) The Department shall, within 60 days of receipt of the complete application, determine whether it has reasonable assurance that the proposed activity will:

(A) Result in any discharge; and

(B) Comply with the following water quality standards:

(i) Oneida Nation Water Quality Standards as adopted by the Oneida Nation pursuant to Section 303 of the Clean Water Act (33 U.S.C. §1313);

(ii) All additional federal standards required to be met under the Clean Water Act, including;

(I) Effluent limitations under Section 301 of the Clean Water Act (33 U.S.C. §1311);

(II) Water based related effluent limitations under Section 302 of the Clean Water Act (33 U.S.C. §1312);

(III) Standards of performance under Section 306 of the Clean Water Act (33 U.S.C. §1316);

(IV) Toxic and pretreatment effluent standards under Section 307 of the Clean Water Act (33 U.S.C. §1317); and

(iii) Any other appropriate requirements of tribal law as provided in Section 401(d) of the Clean Water Act (33 U.S.C. §1341(d)).

(c) Preliminary and Final Department Action.

(1) The Department shall notify the applicant, the federal permitting or licensing agency, and the Regional Administrator within 120 days of receipt of the complete application of its determination to deny the certification, grant or conditionally grant the certification, or waive certification.

(2) The Department's determination shall be in writing and shall explain the

reasons for granting, granting conditionally, denying or waiving certification.

(3) The Department's decision concerning a certification shall include the following:

(A) The name and address of the applicant; and

(B) A statement that the Department has made its decision about compliance with tribal water quality standards and denies, grants, grants conditionally or waives certification consistent with that decision.

(C) A waiver of certification shall include:

(i) A statement explaining the determination that no discharge will result from the activity or that the activity does not fall within the purview of the Department's authority;

(ii) A statement advising the licensing or permitting agency and the applicant if the activity proposed requires authorization under requirements of tribal law administered by the Department which are not related to water quality, and, where applicable,

(iii) Specific recommendations to the federal permitting authority and the applicant for avoidance of Waters of the Reservation. When all reasonable alternatives necessarily result in adverse impacts on Waters of the Reservation a waiver may recommend specific project locations, and design and construction techniques which minimize adverse impacts on Waters of the Reservation and which minimize overall environmental impacts.

(D) A grant or conditional grant of certification shall include:

(i) A statement that there is a reasonable assurance the activity will be conducted in a manner which will comply with tribal water quality standards, and, if appropriate,

(ii) A statement of conditions which the Department deems necessary with respect to the discharge including necessary monitoring requirements. Monitoring requirements shall

include, but not be limited to, provisions that:

- (I) At least 5 business days prior to the beginning of the discharge, the applicant shall notify the Department of its intent to commence the discharge;
 - (II) Within 5 business days after the completion of the discharge, the applicant shall notify the Department of the completion of the discharge; and
 - (III) The applicant shall allow the Department reasonable entry and access to the discharge site in order to inspect the discharge for compliance with the certification and applicable laws.
- (iii) A statement advising the licensing or permitting agency and the applicant if the activity proposed may require additional authorization under requirements of tribal law which are not related to water quality.
- (E) A denial of certification shall include a detailed statement explaining why the Department does not have reasonable assurance that the discharge will comply with the tribal water quality standards.
- (F) All grants, conditional grants or denials of certification shall include a statement that unless a written request for a hearing is filed with the Department within 30 days after mailing of the notice, the Department's decision will become final without public hearing at the end of the 30-day period.
- (G) All such decisions may also include other information which the Department determines to be appropriate.
- (4) The Department shall, in the case of a grant or conditional grant of certification:
- (A) Notify the applicant, the licensing or permitting agency and known interested persons of its decision.
 - (B) Publish notice of its decision in the *Kalihwisaks*, the *Green Bay Press Gazette* and the *Appleton Post Crescent*. Notice under this subsection shall identify the applicant and his or her address, describe the activity and its location, state the Department's

determination, and apprise the public of the opportunity to request a hearing under this Ordinance.

- (5) Any person whose substantial interests may be affected by the Department's determination may, within 30 days after publication of the notice required in Section 14-2(c)(4)(B), request in writing a hearing before the Board.
- (6) Hearings requested under this section shall be conducted in accordance with the procedures outlined in the Oneida Administrative Procedure Act. The hearing shall be a de novo hearing on the issue of whether the Department should grant, grant with conditions, deny or waive water quality certification.
- (7) Final Department Action
 - (A) The Department's determination shall become final:
 - (i) Upon issuance of the Department's decision where no public notice is required, or
 - (ii) Upon the expiration of the 30-day period provided under Section 14-2(c)(5) if no person has requested a hearing under that section, or
 - (iii) Upon issuance of the Board's decision after hearing.
 - (B) If a hearing is held under Section 14-2(c)(5), the Board shall make findings of fact, conclusions of law and a decision, which shall become final when issued in accordance with the procedures in the Oneida Administrative Procedure Act and this section. Said decision shall be reviewable as provided for under the Oneida Administrative Procedure Act.