



# Saint Regis Mohawk Tribe

Chief Ron LaFrance Jr.

Chief Eric Thompson

Chief Beverly Cook

Sub-Chief Michael L. Conners

Sub-Chief Cheryl Jacobs

Sub-Chief Shelley Jacobs

## Tribal Council Resolution

2017-29

### AMBIENT AIR STANDARDS ON THE SAINT REGIS MOHAWK INDIAN RESERVATION - AMENDED

**WHEREAS**, the Saint Regis Mohawk Tribal Council (the “Tribal Council”) is the duly recognized governing body of the Saint Regis Mohawk Tribe (the “Tribe”) and is responsible for the health, safety, education and welfare of all community members; and

**WHEREAS**, the Tribal Council has been authorized to act on the Tribe’s behalf to protect the natural resources and the environment through enactment of laws, ordinances and regulations, and program development through its Environment Division; and

**WHEREAS**, it is the policy of the Tribe to maintain a reasonable degree of purity of Tribal Air Resources that is consistent with the public health and welfare and public enjoyment thereof, the industrial development of the Reservation, the propagation and protection of flora and fauna, and the protection of physical property and other resources, and to that end to require the use of all available methods to prevent and control air pollution; and

**WHEREAS**, the Tribe desires to accomplish this policy through the adoption of tribal laws, rules and regulations under its Tribal Implementation Plan (“TIP”) wherein the Tribe has been delegated primary authority under the Clean Air Act (“CAA”) to be treated in the same manner as a State under the CAA; and

**WHEREAS**, the Tribe’s TIP includes standards for polychlorinated biphenyls (“PCBs”) adopted by Tribal Council Resolution (“TCR”) 1989-19 (Appendix C of the TIP) that are designated “ambient levels” and “clean-up standards” for soils, lands, vegetation, air, sediment, surface waters or ground waters of the Reservation; and

**WHEREAS**, EPA’s Revised Interim Final Guidance on Indian Involvement in the Superfund Program, OSWER Directive 9375.5-02A (Nov. 28, 1989), provides for recognition of Tribal laws and regulations as Applicable or Relevant and Appropriate Requirements (“ARARs”); and

**WHEREAS**, the PCB standards set forth in TCR 1989-19 were recognized by the U.S. Environmental Protection Agency as ARARs for purposes of remediation of the General Motors Massena Superfund Site; and

**WHEREAS**, TCR 1989-19 established an ambient air standard for PCBs of background or 5 ng/m<sup>3</sup>; and

**WHEREAS**, PCBs are classified by the International Agency for Research on Cancer as known human carcinogens; are documented to cause a reduction in IQ, shorter attention span and ADHD-like symptoms; reduce thyroid function, increasing risk of hypothyroidism; interfere with sex hormones; and increase risk of cardiovascular disease, hypertension and diabetes; and

**WHEREAS**, scientific health studies conducted on the Reservation have shown PCB exposure among Tribal members to be correlated with reduced memory function in adolescents and adults; reduced thyroid function in adolescents and adults; altered growth and development in children and adolescents; increases in obesity; increased production of serum cholesterol and triglycerides, which are major risk factors for cardiovascular disease; and rates of type 2 diabetes; and

**WHEREAS**, a major route of exposure to PCBs for persons residing on the Reservation is inhalation of vapor-phase PCB congeners; and

**WHEREAS**, over the past twenty-seven (27) years since adoption of these standards, the Tribe has learned through studies and research, most recently through a Report prepared by Dr. David O. Carpenter, "Scientific Support Summary for Saint Regis Mohawk Tribe Air Quality Standards for PCBs" (a copy of which is attached to this TCR) that the Tribe's members have been exposed to potentially significant levels of PCBs for many years through a variety of exposure pathways; and


**WHEREAS**, there is a need to adopt updated ambient air standards for PCBs on the Reservation to take into account information developed since 1989 concerning the adverse human health effects of PCBs, the documented adverse human health effects on Tribal members correlated with past and ongoing PCB exposure on the Reservation, and the identification of inhalation as a major route of potential exposure to PCBs for Tribal members;

**NOW, THEREFORE, BE IT RESOLVED**, that the Saint Regis Mohawk Tribal Council hereby amends the Ambient Air Standards on the Saint Regis Mohawk Indian Reservation, as attached; and

**BE IT FURTHER RESOLVED**, the ambient air quality standards for PCBs set forth in this TCR are in addition to and supplement the PCB air quality standard in Appendix C (TCR 1989-19) to the Tribal Implementation Plan and that standard remains in full force and effect; and

**BE IT FINALLY RESOLVED**, this Tribal Council Resolution hereby supersedes TCR 2017-24.


**THE SAINT REGIS MOHAWK TRIBAL COUNCIL**

  
\_\_\_\_\_  
Ron LaFrance, Jr.  
Tribal Chief

  
\_\_\_\_\_  
Eric Thompson  
Tribal Chief

  
\_\_\_\_\_  
Beverly Cook  
Tribal Chief

**CERTIFICATION:** This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

  
\_\_\_\_\_  
Betty Roundpoint, Tribal Clerk

  
\_\_\_\_\_  
Date

**SAINT REGIS MOHAWK TRIBE  
AMBIENT AIR STANDARDS ON  
THE SAINT REGIS MOHAWK INDIAN RESERVATION**

**I. AMBIENT AIR QUALITY STANDARDS FOR PCBs**

**A. Annual Standard**

The concentration of polychlorinated biphenyls (PCBs) in ambient air on the Reservation shall not exceed 0.5 ng/m<sup>3</sup> as measured on a rolling 12-month basis. Exceedance of this standard during any 12-month period shall be a violation of this standard.

**B. Short-Term Standard**

The concentration of PCBs in ambient air on the Reservation shall not exceed 5 ng/m<sup>3</sup> during any 24-hour period.

**II. PROHIBITIONS**

**A.** No person shall cause or contribute to a violation of either the annual standard or the short-term standard.

**B.** No person shall undertake, create, or maintain a condition, operation, or activity that causes or contributes to a violation of either the annual standard or the short-term standard.

**III. ENFORCEMENT AND PENALTIES**

**A. Notice of Violation**

1. Upon determining that reasonable grounds exist for believing that a person may be causing or contributing to a violation of the annual standard, the short-term standard, or both, the Tribe shall issue a written Notice of Violation to such person.

2. The Notice of Violation shall specify the standard or standards alleged to have been violated; the date or dates upon which such alleged violation(s) occurred; and the grounds for determining that the recipient of the Notice has caused or contributed to such alleged violation(s).

3. Except as provided in section IV below (Emergency Abatement Orders), the Notice of Violation shall provide the alleged violator with at least ten (10) business days in which to submit a written response to the Notice.

4. The Notice shall also state that the alleged violator may request a hearing in the Tribal Court or may waive a hearing and resolve the alleged violation by entering into a voluntary Administrative Consent Order with the Tribe. The recipient of a Notice of Violation must specify in the

written response to the Notice whether the recipient requests a Tribal Court hearing or resolution through a voluntary Administrative Consent Order.

5. Failure to provide a written response to a Notice of Violation within the time period specified in the Notice shall be deemed an admission of the violations alleged in the Notice.

6. Failure to request either a Tribal Court hearing or resolution through a voluntary Administrative Consent Order within the time period specified in the Notice of Violation shall be deemed a waiver of both and grounds for issuance of a Unilateral Administrative Order as provided for in section III. C.

#### B. Administrative Consent Order

1. Violations of the PCB ambient air quality standards may be resolved through an Administrative Consent Order, which is a written order executed by a person alleged to have violated a standard and the Tribe which resolves the violation by imposing corrective measures, requiring payment of a civil penalty, or both.

2. In the event that the Tribe and alleged violator fail to agree on the terms of, and execute, an Administrative Consent Order, the alleged violator may request a Tribal Court hearing concerning the alleged violation(s).

#### C. Unilateral Administrative Order

1. In the event that a person issued a Notice of Violation fails to provide a written response to the Notice within the time period specified in the Notice, or fails to request either a Tribal Court hearing or resolution through a voluntary Administrative Consent Order, the Tribe may issue a Unilateral Administrative Order.

2. A Unilateral Administrative Order shall specify the corrective actions to be taken by the recipient of the Notice of Violation, require payment of a civil penalty, or both.

3. The terms of a Unilateral Administrative Order shall be enforceable in Tribal Court.

#### D. Penalties

1. Either the Tribal Court, after a finding that a violation has occurred, or the Tribe, in an Administrative Consent Order or Unilateral Administrative Order, may impose a civil penalty for each violation.

2. For a violation of the annual standard, the civil penalty shall not exceed two hundred fifty thousand dollars (\$250,000) for each 12-month period during which the annual standard was violated.

3. For a violation of the short-term standard, the civil penalty shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

#### **IV. EMERGENCY ABATEMENT ORDER**

##### **A. Emergency Finding**

Upon finding that reasonable grounds exist for believing that a violation or violations of a PCB standard may pose an imminent and substantial endangerment to public health or the environment, the Tribe may issue a written emergency abatement order to any person causing or contributing to such violation(s).

##### **B. Emergency Abatement Order**

An emergency abatement order shall include the information contained in a Notice of Violation issued pursuant to section III. A. An emergency abatement order shall also identify:

1. The grounds for believing that the violation or violations may pose an imminent and substantial endangerment to public health or the environment;

2. The actions to be taken by the person issued the order to cease, control, or abate emissions of PCBs that may pose an imminent and substantial endangerment to public health or the environment and the date or other deadline for such actions to be taken or completed; and

3. The date, which shall be no later than ten (10) business days after the date the emergency abatement order is issued, when the person issued the order may appear at a hearing in Tribal Court and offer proof that the violation or violations do not pose an imminent and substantial endangerment to public health or the environment.

4. A person duly served with an emergency abatement order who refuses or fails to comply with the terms of such order shall be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day of such refusal or failure to comply with the order.

5. The terms of an emergency abatement order shall be enforceable in Tribal Court.

6. In addition to the civil penalty for refusal or failure to comply with the terms of an emergency abatement order specified in paragraph 4, failure to comply with an order of the Tribal Court concerning an emergency abatement order shall be punishable as a contempt of court.

#### **V. TRIBAL IMPLEMENTATION PLAN**

The ambient air quality standards for PCBs set forth are in addition to and supplement the PCB air quality standard in Appendix C (TCR 1989-19) to the Tribal Implementation Plan and that standard remains in full force and effect.

**VI. DEFINITIONS**

- A. “Tribe” means the Saint Regis Mohawk Tribe and its departments, divisions and agencies.
- B. “Person” means an individual, corporation, authority, trust, government agency, or any other entity.
- C. “Tribal Court” means the Saint Regis Mohawk Tribal Court as established under the Saint Regis Mohawk Tribal Court and Judiciary Code (TCR 2008-22, as amended by TCR 2012-13), or any successor tribal court of competent jurisdiction.

# SCIENTIFIC SUPPORT SUMMARY FOR ST. REGIS MOHAWK TRIBE AIR QUALITY STANDARDS FOR PCBs by

David O. Carpenter, M.D.

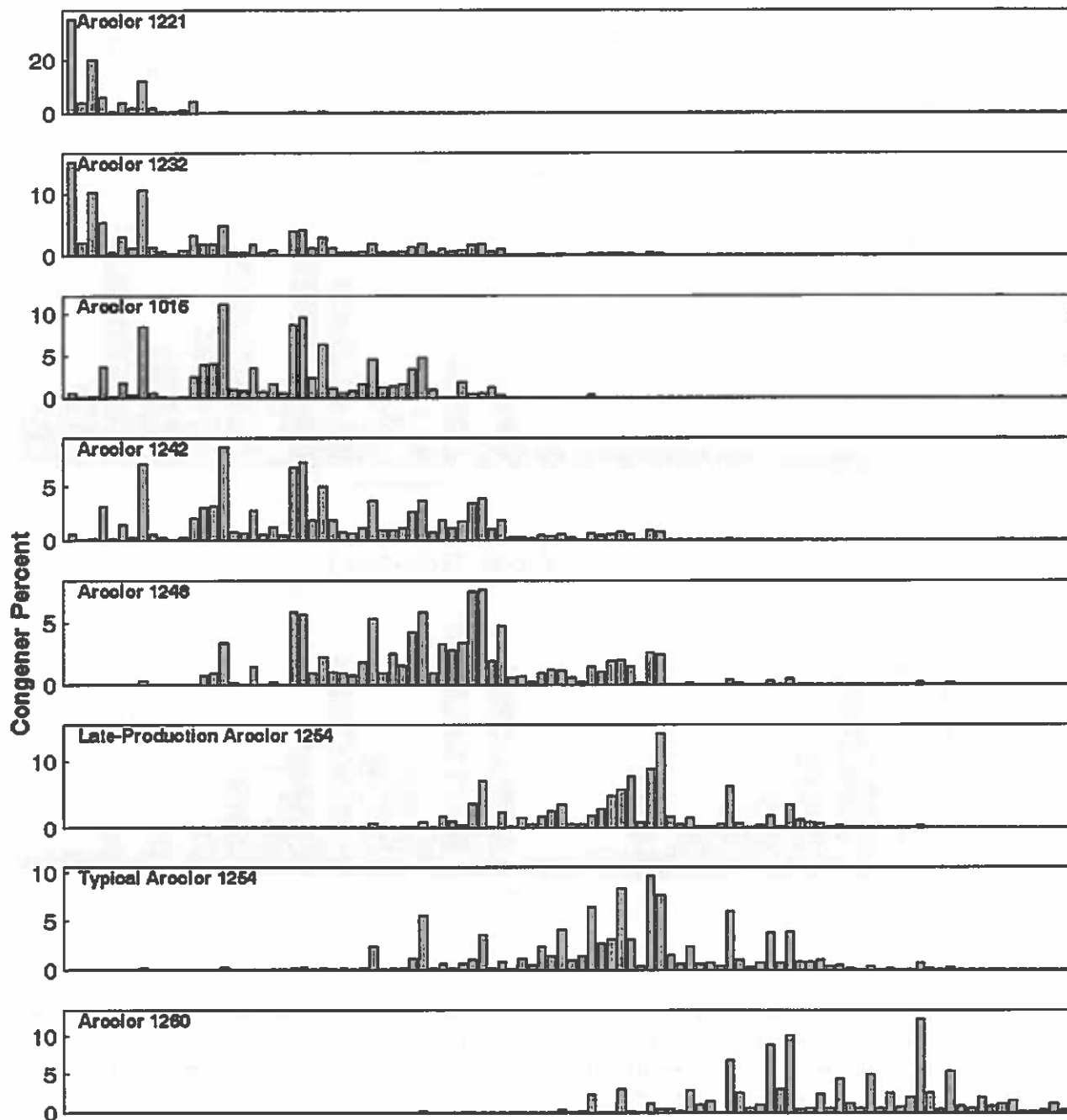
## Introduction

This report was prepared to assist the St. Regis Mohawk Tribe (SRMT) in developing and adopting new and updated tribal air quality standards for polychlorinated biphenyls (PCBs). Concern about levels of airborne PCBs in the air at the SRMT reservation, known as Akwesasne, and their potentially significant adverse health impacts on SRMT members has led the Tribe to request this report. Airborne PCBs at Akwesasne are a result both of ongoing volatilization of PCBs from the landfills and other sites of contamination and are significantly increased as a result of remediation activities conducted at the General Motors Superfund site (GM Site), which directly adjoins and is located upwind of the SRMT reservation. As discussed below, inhalation of airborne PCBs is a significant route of exposure for individuals living at Akwesasne. Air quality monitoring has shown that levels of airborne PCBs at Akwesasne during remediation activities at the GM Site often exceed the current SRMT air standard of 5 ng/m<sup>3</sup>. These monitoring results are cause for concern because, as discussed below, the measured levels are associated with adverse health impacts. Moreover, the Akwesasne population already has been subjected to potentially significant levels of PCB exposure via air and other routes such as consumption of contaminated fish and water. Accordingly, the updated standards recommended in this report are health-based standards derived from the scientific literature, with a margin of safety added to account for the prior exposure history of the Akwesasne population.

## Air Concentrations at Akwesasne

Chiarenzelli et al. (2000) monitored air concentrations at Akwesasne at four sites in 1993 prior to commencement of remediation activities at the GM Site. Three monitoring locations were on Cornwall Island (the southern span of the international bridge, the school and the church) and one monitoring location was at Contaminant Cove. Samples were collected for a period of 28 days each month from February, 1993 to January, 1994. Levels measured at the four sites in February, 1993, were less than 1.0 ng/m<sup>3</sup> (1,000 pg/m<sup>3</sup>), then rose to peak levels in the months of May and June, 1994 (Table 1). The congeners present in air were predominantly those with three or four chlorines (Table 2). These are the more volatile chlorines. The levels measured at St. Lawrence University were supposed to be a control site, but the monitor was placed on a roof that was contaminated with PCB-containing tar, and therefore does not serve as an adequate control. The method used was that reported by DeCaprio et al. (2000), where 101 individual congeners are measured, which includes the great majority of congeners present in environmental samples, including most of the lower chlorinated congeners, but does not measure most of the planar congeners that have dioxin-like activity.

Figure 1 Patterns of congeners in commercial Aroclor products:



There are several problems with Aroclor analysis. In the real world the congener profile of the commercial mixture is rarely maintained over time due to at least two independent mechanisms. Those congeners with fewer chlorines are both more water soluble and more volatile than those with more chlorines. This is shown in Figure 2 (unpublished) in an experiment where air was blown over a commercial Aroclor 1260 mixture, and those congeners that volatilized were captured and monitored. What is apparent is that there is the appearance of many lower chlorinated congeners that were not



Additional air sampling at Akwesasne has been done subsequent to commencement of remediation activities at the GM Site using EPA Method TO-4A and reported on the RACER website. This method reports concentrations as Aroclors. One example of the report is shown below. They report a concentration of 1.6ng/m<sup>3</sup> for Aroclor 1242, but concentrations below the level of detection for all other Aroclors, including Aroclor 1016.

Client Sample Results									
Client: ARCADIS U.S. Inc					TestAmerica Job ID: 200-33612-1				
Project/Site: Massena Central Foundry					SDG: 200-33612-1				
Client Sample ID: AIR1-052016					Lab Sample ID: 200-33612-1				
Date Collected: 05/20/16 07:20					Matrix: Air				
Date Received: 05/20/16 12:05									
Sample Container: PUF									
<b>Method: TO-4A - Determination of Pesticides and Polychlorinated Biphenyls in Ambient Air</b>									
Analyte	Result	Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Aroclor-1016	0.00030	U	0.00030	0.00021	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1221	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1232	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
<b>Aroclor 1242</b>	<b>0.0016</b>	<b>p</b>	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1248	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1254	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1260	0.00030	U *	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1262	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Aroclor 1268	0.00030	U	0.00030	0.00022	ug/m3 PUF		05/20/16 12:48	05/23/16 09:53	1
Surrogate	%Recovery	Qualifier	Limits				Prepared	Analyzed	Dil Fac
DCB Decachlorobiphenyl	50		45 - 125				05/20/16 12:48	05/23/16 09:53	1
DCB Decachlorobiphenyl	57		45 - 125				05/20/16 12:48	05/23/16 09:53	1
Tetrachloro-m-xylene	61		30 - 130				05/20/16 12:48	05/23/16 09:53	1
Tetrachloro-m-xylene	61		30 - 130				05/20/16 12:48	05/23/16 09:53	1

These data show clearly the limitations of the Aroclor analysis. The congeners patterns of Aroclor 1016 and 1242 are almost identical. Therefore it is just not possible to have significant concentrations of Aroclor 1242 but none for Aroclor 1016. Furthermore Aroclor 1242 was not used at any of the three aluminum foundry sites, although it is not surprising that the PCB concentrations in air would show more lower chlorinated congeners that that of the commercial Aroclor 1248 that was used.

The concentrations of air PCBs determined as Aroclor 1242 were compared to the SRMT air standard of 5 ng/ m<sup>3</sup>. Daily 24 hour samples were collected between July through November, 2011. Of the samples taken, 5.2% exceeded the SRMT standard in January, 4.7% in February, 9.3% in April, 17.8% in May, 34% in June, 39.3% in July, 60.1% in August, 69.2% in September, 46.5% in October, 38.8% in November and 10.9% in December. In 2012 some individual measurements exceed 180 ng/ m<sup>3</sup>, and one 24 hour average was 272 ng/ m<sup>3</sup>.

These results suggest that even when dredging, demolition or remediation activities are not occurring on the GM Site (*i.e.*, winter months), the Site continues to emit PCBs into the air at concentrations that result in exceedances of the SRMT PCB air standard. In addition, the highest PCB air concentrations have been measured during, and are correlated with, periods of remedial work at the GM site.

#### Comparison of PCB Concentrations at Akwesasne With Background

Measurements of ambient, or "background," concentrations of PCBs have been determined at various other sites. Concentrations over the Atlantic Ocean ranged from 0.054 to 1.29 ng/ m<sup>3</sup> (Dachs et al., 2002). Total PCBs in the atmosphere of the San Francisco Estuary were 0.21 to 0.28 ng/ m<sup>3</sup>, with 83-99%

Anniston. They reported high concentrations of PCBs in tree bark lipids (171,927 ng/g lipid) near the plant site and landfill, which then declined exponentially to 35 ng/g lipid at a distance of about 7 km.

These data show that air concentrations of PCBs at Akwesasne are elevated compared to those from other contaminated sites such as the Great Lakes and Hudson River. Peak airborne PCB concentrations at Contaminant Cove at Akwesasne are comparable to those at the most contaminated sites in Anniston, Alabama.

#### **Inhalation as a Route of PCB Exposure to Humans and Associated Health Risks**

While ingestion of animal fats, especially fish from contaminated bodies of water, is widely known to be an important route of exposure to PCBs, recent studies show that inhalation is also an important route of exposure, and in some cases may be even more important than ingestion (Casey et al., 1999). Study of inhalation exposure is complicated, because the more volatile congeners are those with fewer chlorines, and PCB congeners with fewer chlorines are much less persistent in the human body (Ritter et al., 2011; Hu et al., 2010). Thus more highly chlorinated congeners that come primarily from ingestion remain in the body for periods of many years, while those that are inhaled are less persistent. However, breathing lower chlorinated congeners continuously results in ongoing exposure even if it is not reflected in total serum PCB concentrations.

There is clear evidence of this conclusion from studies of serum concentrations in adult Mohawks. DeCaprio et al. (2005) identified several patterns of PCB congeners in Mohawks. In younger persons a lower congener pattern was seen that was similar to that found in the air at Contaminant Cove. This pattern was obscured in older persons who had much higher total PCB concentrations. A dominant pattern of lower chlorinated PCB congeners associated with exposure to airborne PCBs was also seen in Swedish construction workers who had removed elastic sealants containing PCBs (Wingfors et al., 2006). Ampleman et al. (2015) monitored indoor and outdoor PCBs in air, and concluded that among adolescent children and their mothers inhalation contributed as much as one third of total PCB exposure. Carpenter (2014) reported serum results from two persons who required as part of their job to “smell” transformer oils in order to determine whether or not they contained PCBs. Both individuals, who developed multiple cancers, exhibited strikingly elevated serum levels of low chlorinated congeners but did not exhibit elevated levels of the more highly chlorinated congeners.

There is strong evidence that inhalation of PCBs increases risk of disease. Codru et al. (2007) reported that serum PCB concentrations were directly associated with risk of diabetes in Akwesasne Mohawks, and Aminov et al. (2016) found that this was primarily due to lower chlorinated, non-dioxin like PCBs. This indicates that inhalation was the major route of exposure. Gallo et al. (2016) have found similar associations with lower chlorinated congeners in a study of menstrual cycle irregularities and infertility in young Mohawk women of reproductive age at Akwesasne.

Our group has performed a number of studies of diseases people are hospitalized for in New York State and examined the correlation with residence near a hazardous waste site containing PCBs. These are important studies because the only reasonable route of exposure from simply living near to a PCB-contaminated site is inhalation. We have reported elevations in rates of hospitalization for cardiovascular disease (Sergeev et al., 2005), diabetes (Kouznetsova et al., 2007), hypertension (Huang et al., 2006) and respiratory infections and asthma (Ma et al., 2007). While in ecologic studies such as these it is difficult to control for socio-economic status, we have used people living near to the Hudson River as a partial control, as they have on average higher income, smoke less, exercise more and eat

Advanced publication retrieved from <http://ehp.niehs.nih.gov/wp-content/uploads/advpub/2016/4/ehp.1509902.acco.pdf>.

Ampleman, M. D., Martinez, A., DeWall, J., Rawn, D. F., Hornbuckle, K. C., & Thorne, P. S. (2015). Inhalation and dietary exposure to PCBs in urban and rural cohorts via congener-specific measurements. *Environmental Science & Technology*, *49*: 1156–1164.

ATSDR (Agency for Toxic Substances and Disease Registry, Division of Community Health Investigations, US Department of Health and Human Services). (2013). Anniston PCB Air Sampling. Anniston PCB Site, Aniston, Calhoun County, Alabama. EPA Facility ID: ALD000400123. Atlanta, Georgia.

Birgül, A., & Tasdemir, Y. (2010). Seasonal atmospheric deposition variations of polychlorinated biphenyls (PCBs) and comparison of some deposition sampling techniques. *Environmental Science and Pollution Research*, *18*: 396–406.

Bogdal, C., Scheringer, M., Abad, E., Abalos, M., Van Bavel, B., Hagberg, J., & Fiedler, H. (2012). Worldwide distribution of persistent organic pollutants in air, including results of air monitoring by passive air sampling in five continents. *TrAC Trends in Analytical Chemistry*, *46*: 150–161.

Boon JP, van der Meer J, Allchin CR, Law RJ, Klungsoyr J, Leonards PEG, Spliid H et al. (1999) Concentration-dependent changes of PCB patterns in fish-eating mammals: Structural evidence for induction of cytochrome P450. *Arch Environ Contam Toxicol* 33: 298-311.

Bremle, G., & Larsson, P. (1998). PCB in the air during landfilling of a contaminated lake sediment. *Atmospheric Environment*, *32*: 1011–1019.

Carpenter, D. O. (2015). Exposure to and health effects of volatile PCBs. *Reviews on Environmental Health*, *30*: 81–92.

Casey, A. C., Berger DF, Lombardo JP, Hunt A and Quimby F (1999). Aroclor 1242 inhalation and ingestion by Sprague-Dawley rats. *Journal of Toxicology and Environmental Health Part A*, *56*: 311–342.

Chiarenzelli, J., Bush, B., Casey, A., Barnard, E., Smith, B., O'Keefe, P. et al. (2000). Defining the sources of airborne polychlorinated biphenyls: evidence for the influence of microbially dechlorinated congeners from river sediment? *Canadian Journal of Fisheries and Aquatic Sciences*, *57*: 86–94.

Codru, N., Schymura, M. J., Negoita, S., Environment, Akwesasne Task Force on the Environment, Rej, R., Carpenter, D. O. (2007). Diabetes in relation to serum levels of polychlorinated biphenyls and chlorinated pesticides in adult Native Americans. *Environmental Health Perspectives*, *115*: 1442–1447.

Dachs, J., Lohmann, R., Ockenden, W. A., Méjanelle, L., Eisenreich, S. J., & Jones, K. C. (2002). Oceanic biogeochemical controls on global dynamics of persistent organic pollutants. *Environmental Science & Technology*, *36*: 4229–4237.

DeCaprio, A. P., Johnson, G. W., Tarbell, A. M., Carpenter, D. O., Chiarenzelli, J. R., Morse, G. S., et al. (2005). Polychlorinated biphenyl (PCB) exposure assessment by multivariate statistical analysis of serum congener profiles in an adult Native American population. *Environmental Research*, *98*: 284–302.

DeCaprio AP, Tarbell AM, Bott A, Wagemaker DL, Williams RL and O'Hehir CM (2000) Routine analysis of 101 polychlorinated biphenyl congeners in human serum by parallel dual-column gas chromatography with electron capture detection. *J Anal Toxicol* 24: 403-420.

Li, Y.-F., Harner, T., Liu, L., Zhang, Z., Ren, N.-Q., Jia, H., et al. (2010). Polychlorinated Biphenyls in Global Air and Surface Soil: Distributions, Air- Soil Exchange, and Fractionation Effect†. *Environmental Science & Technology*, 44: 2784–2790.

Ma J, Kouznetsova M, Lessner L, Carpenter DO. (2007). Asthma and infectious respiratory disease in children – correlation to residence near hazardous waste sites. *Paediatr Respirat Rev*, 8:292-298.

Matthews HB and Anderson MW (1975) Effect of chlorination on the distribution and excretion of polychlorinated biphenyls. *Drug Metab Disp* 3: 371-380.

Matthews HB and Tuey DB (1980) The effect of chlorine position on the distribution and excretion of four hexachlorobiphenyl isomers. *Toxicol Appl Pharmacol* 53: 377-388.

Newman J, Aucompaugh AG, Schell LM, Denham M, DeCaprio AP, et al. (2006). PCBs and cognitive functioning of Mohawk adolescents. *Neurotoxicol Teratol*, 28:439-445.

Palmer, P. M., Belanger, E. E., Wilson, L. R., Hwang, S.-A. A., Narang, R. S., Gomez, M. I. et al. (2008). Outdoor air PCB concentrations in three communities along the Upper Hudson River, New York. *Archives of Environmental Contamination and Toxicology*, 54: 363–371.

Pawelczyk A (2013) Assessment of health risk associated with persistent organic pollutants in water. *Environ Monit Assess* 185: 497-508.

Ritter R, Scheringer M, MacLeod M, Moeckel C, Jones KC et al. (2010) Intrinsic human elimination half-lives of polychlorinated biphenyls derived from the temporal evolution of cross-sectional biomonitoring data from the United Kingdom. *Environ Health Perspect* 119: 225-231.

San Francisco Estuary Regional Monitoring Program for Trace Substances. (2005). *San Francisco Bay Atmospheric Deposition Pilot Study Part 3: Dry Deposition of PAHs and PCBs*. San Francisco Estuary Institute. Retrieved from [http://www.sfei.org/sites/default/files/biblio\\_files/AD\\_TMFinalReport\\_Part3.pdf](http://www.sfei.org/sites/default/files/biblio_files/AD_TMFinalReport_Part3.pdf).

Schell, L. M., Gallo, M. V., Denham, M., Ravenscroft, J., DeCaprio, A. P., & Carpenter, D. O. (2008). Relationship of thyroid hormone levels to levels of polychlorinated biphenyls, lead, p, p'-DDE, and other toxicants in Akwesasne Mohawk youth. *Environmental Health Perspectives*, 116: 806-813.

Sergeev AV, Carpenter DO. (2005). Hospitalization rates for coronary heart disease in relation to residence near areas contaminated with persistent organic pollutants and other pollutants. *Environ Health Perspect*, 113:756-761.

Sokol RC, Kwon OS, Bethoney CM and Rhee GY (1994) Reductive dechlorination of polychlorinated biphenyls in St. Lawrence River sediments and variations in dechlorination characteristics. *Environ Sci Technol* 28: 2054-2064.

Sun, P., Basu, I., Blanchard, P., Brice, K. A., & Hites, R. A. (2007). Temporal and spatial trends of atmospheric polychlorinated biphenyl concentrations near the Great Lakes. *Environmental Science & Technology*, 41: 1131–1136.



# Saint Regis Mohawk Tribe

## Tribal Council Resolution #2009 - 33

Chief Barbara A. Lazore  
Chief James W. Ransom  
Chief Monica M. Jacobs  
Sub-Chief Stacy A. Adams  
Sub-Chief Ronald LaFrance Jr.  
Sub-Chief Pamela D. Brown

### Adoption of St. Regis Mohawk Tribe, Tribal Implementation Plan

**WHEREAS**, The St. Regis Mohawk Tribe Council is the duly recognized governing body of the St. Regis Mohawk Tribe and is responsible for the health, safety, education, and welfare of all community members; and

**WHEREAS**, the natural resources of the Tribe are essential to the health, welfare, and sovereignty of our Tribe; and

**WHEREAS**, the St. Regis Mohawk Tribe, Integrated Resource Management Plan (IRMP) was developed through community survey, focus group discussion and research by the Tribe's Environment Division; and

**WHEREAS**, the IRMP articulates the community's vision for its Land, Fish & Wildlife, Water, Woodlands & Traditional Plants and Alternative Energy resources

**THEREFORE, BE IT HEREBY RESOLVED** by the Tribal Council that the Tribe shall adopt the Integrated Resource Management Plan (IRMP).

**BE IT FURTHER RESOLVED** that the IRMP shall govern actions by the Tribe, its Departments, Divisions and Sub-Divisions in performance of their duties to support achievement of community natural resource visions, goals and objectives

### THE SAINT REGIS MOHAWK TRIBAL COUNCIL

\_\_\_\_\_  
Chief Barbara A. Lazore

James W. Ransom  
Chief James W. Ransom

Monica M. Jacobs  
Chief Monica M. Jacobs

**Certification:** This is to certify that the St. Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

Corleen Jacco  
Corleen Jacco  
Tribal Clerk

5/18/09  
Date

412 State Route 37  
Akwesasne, New York 13655  
Phone: 518-558-2272  
Fax: 518-558-5205

# St. Regis Mohawk Tribe Tribal Implementation Plan



**Developed for:**  
**St. Regis Mohawk Tribe**  
**By the SRMT Environment Division**  
**Air Quality Program**

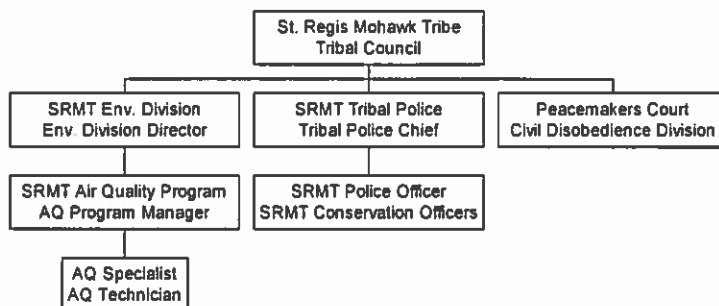
Date: February 2004

Revision: 003

## Declaration of Policy

It is declared to be the policy of the St. Regis Mohawk Tribe (SRMT) to maintain a reasonable degree of purity of Tribal Air Resources, which shall be consistent with the public health and welfare and the public enjoyment thereof, the industrial development of the Reservation, the propagation and protection of flora and fauna, and the protection of physical property and other resources, and to that end to require the use of all available practical and reasonable methods to prevent and control air pollution on the Reservation. It is further declared that this can be done most effectively by focusing on goals to be achieved by a maximum of cooperation among all parties concerned and that rules and regulations established under the provisions of this Plan should be clearly premised upon scientific knowledge of causes as well as of the facts.

## Section 1.0 St. Regis Mohawk Tribe (SRMT) Organizational Structure



## Section 2.0 Legal Authority

### 2.1 Purpose

### 2.2 Applicability

#### 2.1 Purpose

It is the purpose of this TIP to safeguard the air resources of the Tribe from pollution by: (1) controlling or abating air pollution which shall exist when this Plan shall be enacted; and (2) preventing new air pollution, under a program which shall be consistent with the declaration of policy stated below and in accordance with the provisions of this Plan.

Tribal Council Resolution, TCR 99-43, was signed on December 3, 1999 (Appendix B). TCR 99-43 expressly states that the Tribe authorizes the SRMT's Air Quality Program to submit applications for federal assistance and to receive delegation of the federal CAA authority, as allowed by law under the CAA of 1970 and Amendments to the act thereafter. Furthermore, the SRMT has signed into effect Tribal Resolutions: TCR 89-19, *To Adopt Ambient Standards for PCBs on the St. Regis Mohawk Reservation*, (appendix C) and TCR 89-34, *Tribal Emergency Pollution Authority* (appendix D).

The TIP shall become effective 30 days from St. Regis Mohawk Tribal Council approval. The Tribal Council Resolution for the TIP, TCR-2002-183 (appendix E) was adopted October 3, 2002.

Support staff for the Air Quality Program includes two Conservation Officers, Environmental Lawyers, an on-site legal advisor, technical support through the Tribal Air Monitoring Center, Las Vegas, and maintenance personnel.

### 3.2 Applicability

The SRMT Air Quality Program reserves the right to apply for additional CAA Section 105/103 grants and expand its resources as necessary to conduct research, investigations, experiments, demonstrations, surveys and/or studies relating to the causes, effects, extent, prevention and control of air pollution within the exterior boundaries of the SRM reservation.

## Section 4.0 Severability

If any Section of this Plan is considered invalid and as such cannot be approved, such invalidity shall not affect other Sections of the Plan that can be given effect without the invalid Section.

## Section 5.0 Definitions

### 5.1 Purpose

### 5.2 Definitions

#### 5.1 Purpose

As used in this TIP, all terms not defined herein will have the meaning given them in the CAA (42 U.S.C. 7401 et seq., as amended by Pub. L. 91-604, 84 Stat. 1676 Pubs. L. 95-95, 91 Stat., 685 and Pub. L. 95-190, 91 Stat., 1399.)

#### 5.2 Definitions

*Administrator* means the Administrator of the Environmental Protection Agency (EPA) or an authorized representative.

*Air Quality Program* means the legal body within the St. Regis Mohawk Tribe, Environment Division.

*Area source* means any small residential, governmental, institutional, commercial, or industrial fuel combustion operations; onsite solid waste disposal facility; motor vehicles, aircraft vessels, or other transportation facilities or other miscellaneous sources identified through inventory techniques similar to those described in the "AEROS Manual series, Vol. II AEROS User's Manual," EPA-450/2-76-029 December 1976.

*Begin actual construction* means, in general, initiation of physical, on-site construction, reconstruction, or modification activities on an emissions unit, which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, lying of underground pipe work, and construction of permanent storage structures. Such activities do not include site clearing and grading or entering into binding agreements or contractual obligations. With respect to a change in method of operating, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. Owners or operators that undertake these activities prior to obtaining any required permits do so at their own risk; a permit may not be issued or may not contain the terms the applicant desires.



*Emission limitation and emission standard* mean a requirement established by the SRMT Air Quality Program which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

*Excess emissions* means emissions of an air pollutant in excess of an emission standard.

*Existing facility* means an emission facility at which construction, modification, or reconstruction was commenced before the effective date of the applicable Tribal air pollution control rule.

*Fossil fuel-fired steam generator* means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

*Fugitive emission* means emissions of an air contaminant, which could not reasonably pass through a stack, vent, chimney or other functionally equivalent opening.

*Hazardous Air Pollutant* is any one of the compounds listed in 40 CFR Section 61. Note: For all listings which contain the word “compounds”, and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as that chemical’s infrastructure.

*Modification* means any physical change or change in the method of operation of an emissions unit, emission facility, or stationary source that results in an increase in the emission of a regulated air pollutant. Emissions are considered to increase if there is an increase in the rate of emissions of any regulated air pollutant, or new emissions of a regulated air pollutant not previously emitted, from any unit at the source. To determine if there is an increase in the rate of emissions, the Air Quality Program shall compare the pounds per hour of emissions at maximum capacity before and after the physical or operational change.

*New facility* means an emission facility on which construction, modification, or reconstruction was commenced after the effective date of the applicable tribal air pollution control rule.

*Owner or operator* means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation, which directly or indirectly result or may result in emissions of any air pollutant for which a national standard is in effect.

*Point source* means the following:

(1) For Particulate matter, sulfur oxides, carbon monoxide, volatile organic compounds (VOC) and nitrogen dioxide-

Any stationary source the actual emissions of which are in excess of 90.7 metric tons (100 tons) per year of the criteria pollutant; or

(2) For lead or lead compounds measured as elemental lead, any stationary source that actually emits a total of 4.5 metric tons (5 tons) per year or more.

*Reasonably available control technology (RACT)* means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

- a. Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and the agency's analysis of the effect on air quality;
- b. A 30-day period for submittal of public comment;
- c. A notice by prominent advertisement in the area affected of the location of the source information;
- d. A copy of the notice required must also be sent to the Administrator through the appropriate Regional Office. The Air Quality Program shall provide 30 days for EPA review of the proposed permit prior to final action; and
- e. The Air Quality Program will provide EPA with a final permit.

(2)The SRMT Air Quality Program is to provide opportunity for public comment on plan revisions and schedule changes.

Opportunity for public comment shall include, as a minimum:

- a. Availability for public inspection in at least one location in the area by the plan revision or schedule change;
- b. A 30-day period for submittal of public comment;
- c. A notice by prominent advertisement in the area affected of the location of the source information; end
- d. A copy of the notice required must also be sent to the Administrator through the appropriate Regional Office. The Air Quality Program shall provide 30 days for EPA review.

(3)The SRMT Air Quality Program shall notify the public on a regular basis:

- a. Instances or areas in which any primary standard was exceeded during any portion of the preceding calendar year;
- b. Advising the public of the health hazards associated with such an exceedance of a primary standard,
- c. Increase public awareness of measures that can be taken to prevent exceedances and ways in which the public can participate in regulatory and other efforts to improve air quality.

## **Section 7.0 Revisions**

### **7.1 Purpose**

### **7.2 Applicability**

#### **7.1 Purpose**

The SRMT Air Quality Program may revise the plan from time to time consistent with the requirements applicable to implementation plans under 40 CFR Section 51. The Tribe must submit any revision of any regulation or any compliance schedule to the Regional Administrator no later than 60 days after its adoption by Tribal Council.

### 8.3 Applicability

The SRMT Air Quality Program will perform ambient monitoring for sulfur dioxide, heavy metals, particulate matter (10 and 2.5 microns), ozone and nitrogen dioxide.

## **Section 9.0 Air Quality Standards**

### **9.1 General**

### **9.2 Sulfur Dioxide**

### **9.3 Particulate Matter**

### **9.4 Nitrogen Dioxide**

### **9.5 Ozone**

### **9.6 Fluorides**

### **9.7 Heavy Metals**

#### 9.1 General

(1) Air quality standards are designed to provide protection from the adverse health effects of air contamination and they are intended further to protect and conserve the natural resources and environment and to promote maximum comfort and enjoyment and use of property consistent with the economic and social well-being of the community.

(2) The provisions of this section shall apply to all areas within the exterior boundaries of the St. Regis Mohawk Reservation and any other areas that the SRMT can show jurisdiction over.

(3) No person shall permit, suffer or allow the emission of contaminants from an emission source, which alone or in combination with emissions from other sources cause contravention of air quality standards promulgated in this Section.

(4) Notwithstanding the existence of specific standards, emissions of odorous, toxic or deleterious substances in concentrations or of such duration that will affect human health or well-being or unreasonably interfere with the enjoyment of property or unreasonably and adversely affect plant or animal life shall not be permitted.

#### 9.2 Sulfur Dioxide

##### (1) Definitions

(a) Sulfur Dioxide (SO<sub>2</sub>). A nonflammable, nonexplosive, colorless gas, having a pungent, irritating odor. For the purpose of this subsection, this term shall also include other material that may test as sulfur dioxide by the specified method of measurement.

(b) ug/m<sup>3</sup>. Micrograms of contaminant per cubic meter of air.

##### (2) Standards

(a) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in 40 CFR Part 50 Appendix A or by an equivalent method designated in accordance with 40 CFR Part 53.

(b) To demonstrate attainment, the second-highest 3-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (2)(b)(i) of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by 3.

### 9.3 Particulate Matter

#### (1) Definition.

Particulate is any matter dispersed in the atmosphere, whether solid or liquid, in which the individual particles are larger than single molecules (about 0.0002  $\mu$  in diameter), but smaller than about 500  $\mu$ . Suspended particulates range below 10  $\mu$  in diameter. For the purposes of this subsection, the suspended particulates are as collected and measured by the method specified.

#### (2) Standards.

##### (a) Primary and secondary ambient air quality standards for PM10.

(i) The level of the primary and secondary 24-hour ambient air quality standards for particulate matter is 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150  $\mu\text{g}/\text{m}^3$ , as determined in accordance with 40 CFR 50 Appendix J, is equal to or less than one.

(ii) The level of the primary and secondary annual standards for particulate matter is 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR Appendix J, is less than or equal to 50  $\mu\text{g}/\text{m}^3$ .

##### (b) Primary and secondary ambient air quality standards for PM2.5

(i) The standards for PM 2.5 are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50 Appendix L, is less than or equal to 15.0

(b) An equivalent method designated in accordance with 40 CFR Part 53.

(c) The standards are attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

## 9.5 Ozone

### (1) Definition

Ozone can cause irritation of the mucous membranes, damage to vegetation and deterioration of materials. They affect the clearance mechanism of the lungs and later resistance to bacterial infection.

### (2) Standards

(a) For 1-hour primary and secondary ambient air quality standards for ozone.

(i) The level of the national 1-hour primary and secondary ambient air quality standards for ozone measured by a reference method based on 40 CFR Part 50 Appendix D and designated in accordance with 40 CFR Part 53, is 0.12 parts per million (235 ug/m<sup>3</sup>).

(ii) The 1-hour standards set forth in this section will remain applicable to all areas notwithstanding the promulgation of 8-hour ozone standard. In addition, after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standards set forth in this section will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard. Area designations and classifications with respect to the 1-hour standards are codified in 40 CFR part 81.

(b) For 8-hour primary and secondary ambient air quality standards for ozone.

(i) The level of the national 8-hour primary and secondary ambient air quality standards for ozone, measured by a reference method based on 40 CFR Part 50 Appendix D and designated in accordance with 40 CFR Part 53, is 0.08 parts per million (ppm), daily maximum 8-hour average.

(ii) The 8-hour primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the average of the

(iv) One month averages to be less than 0.25 ppb.

(4) Measurement

(a) Compliance with standards. When requested by the Air Quality Program, persons emitting fluorides to the ambient air shall demonstrate their compliance with Section 9.6.2 and 9.6.3 by conducting a monitoring program approved in writing by the Air Quality Program. All monitoring data shall be submitted to the Air Quality Program monthly.

(b) Total fluorides in and on forage is determined by current scientifically acceptable measurement practices that are considered to be standard methods or other methods acceptable to the Director of the Environment Division.

9.7 Heavy Metals

(1) Definitions

All metals shall include the metallic form and metallic compounds that may test as those metals by the acceptable analytical method.

(2) Standards

Applicable in all levels during any month, the average concentration shall not exceed:

- (a) Beryllium (Be) 4.2E-4 ug/m<sup>3</sup>
- (b) Cadmium (Cd) 2.4E-2 ug/m<sup>3</sup>
- (c) Chromium (Cr) 1.2 ug/m<sup>3</sup>
- (d) Lead (Pb) 7.5E-1 ug/m<sup>3</sup>
- (e) Nickel (Ni) 4.0E-3 ug/m<sup>3</sup>
- (f) Zinc (Zn) 50.0 ug/m<sup>3</sup>

(3) Measurement

Metals in air will be sampled according to 40 CFR 50 Appendix B, Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method). The concentration of metals in the ambient air will be analyzed using EPA Method IO-3.5, Inductively Coupled Plasma/Mass Spectrometry (ICP/MS).

9.8 Monitoring Instruments

POLLUTANT	PREVENTION and CONTROL	MONITORING EQUIPMENT and SCHEDULE
Ozone	Reduce motor vehicle reactive organic gas (ROG) and nitrogen oxide	Air Pollution Instrumentation Incorporated (API).

The purpose of the emissions inventory is to establish a baseline for air pollutants impacting the reservation. It is a means to compare impacts that might arise from development and industrialization. It will also document improvements to air quality as a result of emissions reductions through treatment or pollution prevention activities at local neighboring industries.

## 10.2 Applicability

An initial emissions inventory was produced in 1999 utilizing a baseline year of 1995 and the St. Regis Mohawk Reservation's exterior boundaries over which the SRMT has jurisdiction. The land base used for calculations was 14,600 acres. The population was estimated at 6000 residents. These figures will be used until more current information is available. A summary of sources found on the reservation is noted in Table 10.1.

Table 10.1 Emissions Inventory Report Summary

Stationary Source-Fuel Combustion	Commercial Institutional Residential
Stationary Source-Solvent Utilization	Automobile Refinishing Pesticide Application Asphalt Application Tank Drum Cleaning
Stationary Source-Gasoline Marketing	Stage I-underground tank filling Stage II-vehicle refueling
Stationary Source-Petroleum Product Transport	Marine Vessel Truck
Stationary Source-Waste Disposal, Treatment and Recovery	Open burning Solid Waste Transfer Station
On-Road Mobile Sources	Automobiles Buses Sport Utility Vehicles Vans Motorcycles
Non-Road Mobile Sources	Locomotives Lawn and Garden Equipment Agricultural Equipment Commercial Equipment Construction Equipment Recreational Vehicles Recreational Marine Vehicles Commercial Marine Vehicles

## 10.3 Procedure

The emissions inventory will be based on documentation and guidance established by the United States Environmental Protection Agency: Procedures for Emission Inventory Preparation, Volumes I-VII, AP-42 and MOBILE 5/6 (software developed by EPA for estimating emissions from mobile sources).

## 10.4 Schedule

The emissions inventory will be updated in 2004 and every 3-5 years thereafter.

- (e) a list of Criteria and Hazardous Air Pollutants emitted at the facility, including quantity and rate of emissions; the emissions shall be based upon actual test data or in the absence of such data upon estimations acceptable to the Air Quality Program.
- (f) a listing of the applicable Tribal requirements in this Plan;
- (g) a listing of the applicable Federal requirements;
- (h) proposed start-up date or phased dates when applicable;
- (i) revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

## (2) Application Fees

An application will be assessed a one-time fee that must accompany the application. Applications received without appropriate fees are incomplete. Fees must be paid by check or money order made payable to *St. Regis Mohawk Tribe* in accordance with the following fee schedule:

- (a) Construction permit application fees.
  - (i) Emissions of any regulated air pollutant over 40 up to and including 99 tons per year - \$500
  - (ii) Emissions of any regulated air pollutant 5 up to and including 40 tons per year - \$300
  - (iii) Emissions of any air pollutant applicable to Sections 9.6 and 9.7 - \$300
  - (iv) Extension of time and transfer of ownership – no fee
- (b) Operating permit application fees.
  - (i) Minor permit - \$300
  - (ii) Modification of permit - \$200
  - (iii) Relocation - \$100

## 11.5 Review

The Air Quality Program will make a determination of facility status within 60 days of receipt of a complete application. The Air Quality Program will publish the notice of complete application in accordance with Section 6.2.a.

## 11.6 Renewal

Renewal of minor source permits shall occur every 5 years from the date of original issuance. Owners or operators of affected facilities must submit their application no later than 180 days before the date of expiration.

## 11.7 Change in Ownership.

A minor source permit is valid only for the emission unit(s), owner and/or operator, facility, mode of operation and special conditions stated in the application, or permit. The owner and/or operator can transfer the permit to a new owner and/or operator if the mode of operation and emissions do not change.



(c) During the period of the emergency the facility owner and/or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; or

(d) The facility owner and/or operator notified the Air Quality Program within two working days after the event occurred. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(2) In any enforcement proceeding, the facility owner and/or operator seeking to establish the occurrence of an emergency has the burden of proof.

#### 11.10 Prohibition of Reintroduction of Collected Contaminants to the Air.

No person shall unnecessarily remove, handle, or cause to be handled, collected air contaminants from an air cleaning device for recycling, salvage or disposal in a manner that would reintroduce them to the outdoor atmosphere.

## **Section 12.0 Permits for Minor Facilities**

### **12.1 Purpose**

### **12.2 Applicability**

### **12.3 Construction Permits**

### **12.4 Operating Permits**

### **12.5 Monitoring, Record Keeping, Reporting**

#### 12.1 Purpose

The purpose of this Section is to regulate the operation and modification of new and existing stationary sources, area sources and devices in order to achieve and maintain the ambient air quality standards established pursuant to Section 109 and 112 of the CAA and Section 9 of this Plan.

#### 12.2 Applicability

(1) Except as provided in this section, no person may commence construction or modification of any minor facility, may operate any new minor facility or may relocate any minor portable source without obtaining a permit from the Air Quality Program.

(2) Sources that meet the following criteria are required to register with the Air Quality Program, as specified in this paragraph:

(a) Facilities with existing stationary sources that are in industrial categories to which a New Source Performance Standard (NSPS) applies, with potential emissions of regulated contaminants below the applicability thresholds of 40 CFR Section 60,

(b) Facilities with existing stationary sources, which emit any contaminant listed as a hazardous air pollutant under Section 112 of the CAA with a potential to emit below the applicability thresholds of 40 CFR Section 61 and 40 CFR Section 63 or which have been deferred from the requirement for obtaining a Title V permit pursuant to 40 CFR Section 71,

this Plan, in designated non-attainment areas, permits shall be issued if the Air Quality Program determines that (RACT) will be applied and the applicant has adequately demonstrated that reasonable further progress toward the attainment of the NAAQS will not be impaired.

(6) A violation by the owner or operator of the limitations or conditions contained in the construction permit shall subject the owner or operator to any or all enforcement penalties, including permit revocation, available under this TIP. No operating permit will be issued until the violation has been resolved to the satisfaction of the Air Quality Program.

(7) A duly issued permit to construct or modify will terminate and become null and void if the construction is not commenced within 18 months of the permit issuance date, or if work is suspended for more than 18 months after it has commenced.

#### 12.4 Operating permits

(1) No person shall cause or authorize the operation of a new or modified minor facility for more than a 60-day period without applying for a minor permit to operate. Owners and operators of registered facilities must notify the Air Quality Program 30 days in advance of undertaking modifications to the facility that will make the facility subject to additional tribal or federal requirements.

(2) Emission limitations established and made a part of the construction permit are incorporated into and become enforceable limitations of the subsequently issued operating permit. Permit limitations in adjustment of or in addition to the facility's construction permit limitations may be made a condition of the facility's operating permit issuance.

#### 12.5 Monitoring, Record Keeping, Reporting

(1) Monitoring requirements must specify the type, interval, and frequency of monitoring activities that are sufficient to yield representative data to determine whether there is compliance with the terms and conditions of the permit or compliance with Tribal and federal pollution control statutes and rules. As appropriate, the permit must contain requirements for the proper use, maintenance, and installation of monitoring equipment or methods. The permit must require the permittee to keep accurate records of monitoring activities and to submit to the Air Quality Program periodic reports of monitoring results required by the permit and, as requested by the Air Quality Program, the results of other monitoring undertaken by the permittee that are related to compliance with the terms and conditions of the permit or compliance with Tribal and federal pollution control statutes and rules.

(2) The permittee shall retain the following items for at least five years from the date of the sample, measurement, report, certification, or application, after which time this period must be automatically extended during the course of an unresolved enforcement action or at the request of the Air Quality Program:

- (a) copies of all reports required by the conditions of the permit;

- (a) The identification and description of all existing emission units at the source;
  - (b) The calculation of each emission unit's maximum annual and maximum monthly emissions of regulated air pollutants for all operating scenarios to be permitted, including any existing federally-enforceable limits established by a mechanism other than this rule;
  - (c) Proposed federally enforceable conditions which:
    - (i) Limit source-wide emissions to below major source thresholds; and
    - (ii) Are permanent, quantifiable, and otherwise enforceable as a practical matter;
  - (d) Proposed federally enforceable conditions to impose monitoring, record keeping, and reporting requirements sufficient to determine compliance;
  - (e) Any additional information requested by the Air Quality Program; and
  - (f) Certification by a responsible official that the contents of the request are true, accurate, and complete.
- (2) The owner or operator of a major source who chooses to request synthetic minor source status shall make such a request within the following timeframes:
- (a) For any major source that is operating or is scheduled to commence operating on the effective date of this TIP, the owner or operator shall request synthetic minor source status no later than 60 days from the effective date of this Plan.
  - (b) For any major source that commences operating after the effective date of this TIP, the owner or operator shall request synthetic minor source status no later than 180 days prior to commencing operation.
- (3) The Air Quality Program shall determine if the request for synthetic minor status is complete within 30 days of receipt, unless a longer period of time is agreed upon by the Air Quality Program and the source's owner or operator.
- (4) Federally-enforceable conditions enabling a source to become a synthetic minor source shall be identified as federally enforceable and included in a source's operating permit issued by the Air Quality Program, and shall be:
- (a) Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit to below major source thresholds;
  - (b) Monitoring, record keeping, and reporting conditions sufficient to determine on-going compliance with the emission limits; and
  - (c) Subject to public notice and U.S. EPA review pursuant to Sections 6.0 of this rule. Permits that do not conform to the requirements of this Section, and other requirements of this Plan, or any underlying federal regulations that set forth

**(1) Emission Reports shall include the following:**

**(a) Certification by a duly authorized representative. A duly authorized representative must sign a form provided by the Department to verify the truth, accuracy, and completeness of the emission statement. This certification shall state that, based on information and belief formed after reasonable inquiry by the duly authorized representative, the statements and information in the document are true, accurate, and complete. The certification shall include the full name, title, original signature, date of signature and telephone number of the duly authorized representative.**

**(b) Facility level information, consisting of:**

- (i) verification of full name of facility;**
- (ii) verification of parent company name;**
- (iii) verification of street address (physical location) of the facility;**
- (iv) verification of four digit SIC Plan(s) for the facility;**
- (v) calendar year reportable emissions;**
- (vi) total facility fuel use and fuel sulfur content and heat value (for combustion installations); and**
- (vii) fugitive emissions.**

**(c) Emission point level information, consisting of:**

- (i) average hours of operation per day (peak ozone and carbon monoxide seasons);**
- (ii) average days of operation per week (peak ozone and carbon monoxide seasons);**
- (iii) weeks of operation per year (seasonal and annual);**
- (iv) hours of operation per year;**
- (v) percentage annual throughput (percentage of annual activity by season); and**
- (vi) verification of latitude and longitude.**

**(d) Process level information, consisting of:**

- (i) maximum heat input (for combustion installations);**
- (ii) quantity of fuels consumed (for combustion installations);**
- (iii) estimated actual annual reportable emissions, for each air regulated air pollutant emitted, (in units of pounds per year);**
- (iv) estimated emissions method (see subdivision 202-2.4(b) of this subsection);**
- (v) emission factor(s) (if used to determine actual emissions);**
- (vi) primary and secondary control equipment identification Plan(s);**

The source owner or operator shall bear the cost of measurement and preparing the report of measured emissions. Failure of such person to submit a report acceptable to the Air Quality Program within the stated time shall be sufficient reason for the Air Quality Program to suspend or deny an operating permit. In the event a source owner or operator can demonstrate to the Air Quality Program such time is not sufficient, he may request an extension in writing and be granted a 30-day extension.

(2) A source owner or operator who is required to submit a stack test report shall notify the Air Quality Program, in writing, not less than 30 days prior to the test, of the time and date of the test. Such notification shall also include the acceptable procedures to be used for the stack test including sampling and analytical procedures. The source owner or operator shall allow the Air Quality Program, or a representative, free access to observe the stack testing being conducted. No person shall conceal an emission by the use of air or other gaseous diluent to achieve compliance with an emission standard, which is based on the concentration of a contaminant in the gases, emitted through a stack.

(3) Emission testing, sampling and analytical determinations to ascertain compliance with this Section shall be conducted in accordance with test methods acceptable to the Air Quality Program. The Reference Methods contained in 40 CFR Section 60 Appendix A and 40 CFR Section 61 Appendix B shall be considered as acceptable test methods for those sources and contaminants for which they are expressly applicable.

(4) Enforcement of these rules and regulations shall be performed by the St. Regis Mohawk Conservation Officers. The Conservation Officers will also be responsible for inspecting the facilities based on any complaints received. Findings shall be recorded and a copy given to both the facility and the Air Quality Program. Air Quality Program representatives will be responsible for annual facility inspections and any unannounced audits.

(5) For the purpose of ascertaining compliance or noncompliance with any air pollution control Plan, rule or regulation, the Air Quality Program may conduct separate or additional emission tests on behalf of the Tribe. A source owner or operator shall provide sampling holes, scaffolding and other pertinent equipment required for emission testing. The facility shall bear the costs of such equipment.

### 14.3 Continuous Emissions Monitoring

(1) The owner and operator of any source subject to this section shall be required to install and operate CEMS on each affected unit at the source, and to quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow at each such unit.

(2) CEM is the continuous measurement of pollutants emitted into the atmosphere in exhaust gases from combustion or industrial processes. CEM systems include:

- (a) An SO<sub>2</sub> pollutant concentration monitor;
- (b) A NO<sub>x</sub> pollutant concentration monitor;
- (c) A volumetric flow monitor;

keep records and reports in accordance with the regulations issued under subsections 13.3.1, 13.3.4, 13.3.5, and 13.3.6 of this Section.

**(4) Emissions Calculated for Periods of Missing Data**

Annual Availability (%) of Monitor or System*	Number of Hours Missing (N)	Value Substituted for Each Missing Hour
Greater than or equal to 95%	N is less than or equal to 24 hours	Average of the hours recorded before and after missing period
	N is greater than 24 hours	90th percentile value recorded in previous 30 days of service or the before/after value, whichever is greater
Less than 95% but greater than or equal to 90%	N is less than or equal to 8 hours	Average of the hours recorded before and after missing period
	N is greater than 8 hours	95th percentile value recorded in previous 30 days of service or the before/after value, whichever is greater
Less than 90%	N is greater than 0 hours	Maximum value recorded in previous 30** days of service

**(5) Certification Requirements**

The TIP requires the following performance certification tests for CEM systems:

- (a) A 7-day calibration error test for each monitor;
- (b) A linearity check for each pollutant concentration monitor;
- (c) A relative accuracy test audit for each monitor;
- (d) A bias test for each SO<sub>2</sub> pollutant concentration monitor, flow monitor, and the NO<sub>x</sub> CEM system;
- (e) A cycle time test for each pollutant concentration monitor;
- (f) A daily interference test for flow monitors;
- (g) An accuracy test is required for fuel flow meters; and
- (h) A stack test is required for a NO<sub>x</sub> emission correlation for gas- and oil-fired peaking unit.

**(6) Quality Assurance/Quality Control**

The operator must perform periodic performance evaluations of the equipment, including daily calibration error tests, daily interference tests for flow monitors, and semi-annual relative accuracy test audit and bias tests.

## **Section 18.0 Enforcement**

### **18.1 Applicability**

### **18.2 Compliance**

#### **18.1 Applicability**

Through the Safety and Civil Obedience Plan (Appendix L, Appendix M and Appendix N) the St. Regis Mohawk Tribal Police are hereby authorized and given jurisdiction within the external boundaries of the Mohawk Territory to respond to complaints, requests for assistance, reports of problems and/or any other type of inquiry reasonably related to their official duties as police officers.

#### **18.2 Compliance**

(1)The St. Regis Mohawk Tribal Police and Conservation Officers will assume enforcement activities for the purposes of air regulations compliance.

(a) Any individual or owner of an air contamination source will be advised of their conduct-giving rise to the violation. After being so advised, the violator will be issued a summons. The summons must contain a minimum sufficient detail to advise the violator of the exact provision of the TIP, which was allegedly violated, the date and time of the violation.

(b) It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(2)The Peacemakers Court, Civil Disobedience Division shall be the arbiter of all summons and complaints filed under this Plan.

(a) The Peacemakers Court may seal an air contamination source to prevent its operation if compliance with this Chapter is not met within the time provided by an order of the Court issued in the case of the violation. Sealing means labeling or tagging a source to notify any person that operation of the source is prohibited, and also includes physical means of preventing the operation of an air contamination source without resulting in destruction of any equipment associated with such source, and includes, but is not limited to, bolting, chaining or wiring shut control panels, apertures or conduits associated with such source.

(b) No person shall operate any air contamination source sealed by the Court in accordance with this section unless a modification has been made which enables such source to comply with all requirements applicable to such modification.

(c) Unless authorized by the Court, no person shall remove or alter any seal affixed to any air contamination source in accordance with this section.

improved visibility not only in parks and wilderness areas, but in many other areas of the ozone transport region as well.

## **Section 21.0 Reports**

### **21.1 Purpose**

### **21.2 Reportable Emissions Data and Information**

### **21.3 Reporting Format**

#### **21.1 Purpose**

On an annual basis beginning with calendar year 2005, the Air Quality Program shall report to the Administrator (through the appropriate Regional Office) and the SRMT Environmental Director information as specified in Section 21.2 through 21.3. Reports must be submitted by April 15 of each year for data collected and actions, which took place during the period January 1 to December 31 of the previous year.

#### **21.2 Reportable Emissions Data and Information**

The Air Quality Program shall submit in the annual report, the following emissions data and information:

- (1) Emissions of Particulate matter (PM10/2.5), sulfur oxides, nitrogen oxides and volatile organic compounds,
- (2) Emissions of lead or lead compounds measured as elemental lead,
- (3) Air toxics in the form of metals-beryllium, cadmium, chromium and nickel,
- (4) Any enforcement action taken or court order,
- (5) Any new construction or modifications approved under Section 12 of this Plan,
- (6) Any source that ceases operation during the reporting period

#### **21.3 Reporting Format**

The Air Quality Program will submit the annual report on paper forms and electronic copies.



Christiano da Matta knows driving oval isn't that easy. If it was, he'd be running away with the CART FedEx Championship series.

As it is, da Matta owns a 20-point lead over fellow Brazilian Bruno Junqueira and Michel Pirat in the No. 2.

Racing gets underway today with practice and qualifying at Chicago Motor Speedway. Da Matta's lead was built on road courses. Dating to last fall, he has won five of the last eight races on the circuits where you must turn left and right.

That includes three wins in six starts this season. Da Matta also finished eighth on the street circuit in Long Beach in April, but has been 11th and 14th in the oval events in Michigan and the Newman-Haas Racing driver faces

Both laps made easy work of Jacques Lazier's qualifying speed of 160.417 of a year ago. The

Both laps made easy work of Jacques Lazier's qualifying speed of 160.417 of a year ago. The

Both laps made easy work of Jacques Lazier's qualifying speed of 160.417 of a year ago. The

strategies showed that perhaps the only

ng in the IRL capable of outturning a Roger

take-own car might be another one.

De Ferran timed a lap at 168.705 mph Fri-

y might in qualifying for tonight's SunTrust

by Challenge. He obliterated teammate Cas-

over's record lap at 168.013 and earned the

on the short-track in the series.

The Marlboro-sponsored drivers, very popu-

in a city that also is home to Marlboro maker

hip Morris' biggest cigarette factory, drew

average beam does," she snapped when asked if

the goal for the race was chasing the Penske

teams. "They're testing every week. If we had a

\$20 million budget, I'm sure we could do 168,

too. Unfortunately, we only have three."

Because no driver came within 2 mph of de

Ferran and Castrovets, the field might be

striving to prevent a run-away

**CON TECH Building Systems Inc.** is currently filling a position for "Supervisor/Lead Carpenter" for a one-year project in Canton NY as well as other projects in St. Lawrence and Jefferson counties. Must be experienced in all phases of commercial construction carpentry and trades. Interested candidates will apply in person at 4524 State Highway 58, Gouverneur NY. Daytime phone 315-287-0135, nighttime phone 315-771-8999. Con Tech Building Systems Inc. is an Equal Opportunity Employer and offers a comprehensive 401K and health benefit package. Rate of pay and expense reimbursement are commensurate on experience.

**P/T Wait Staff**, full & part-time cook positions available. Apply in person Ann's Restaurant, Arsenal St. Watertown.

**RESIDENCE AIDE:** Halfway House for chemically dependent individuals, knowledge of addiction helpful; must have clean valid NYS driver's license and be at least 21 years of age to drive our vans. 2-12 shifts at various times per week including weekends. \$5.64 per hour. Male/female. EOE. Send resume to North Country Freedom Homes, 25 Dies St., Canton, NY 13617. No walk-ins or calls please. This is not a counseling position.

**SUCCESSFUL 30+ years** contractor looking for FT employees who take pride in and want to work. Experience is not as important as willingness to work and learn. Call for interview, 493-1778 be-

**420 Office Help**

**ENTHUSIASTIC, MOTIVATED,** hard worker, organized, computer literate, staff member for a chiropractic office 30-40 hours per week. Please drop resumes off at Northern Lights Chiropractic, 1118 Arsenal St., Watertown.

**OFFICE CLERK** needed by local trucking company. Filing, billing, some dispatching. Must be willing to work evenings. Send resume to: Ad #253, Watertown Daily Times, 260 Washington St., Watertown, NY 13601.

**425 Sales Help**

**REAL ESTATES Sales & Brokers** Courses- Sales Course NYS Cert. 3 Wkends (Aug-

# Clas

782-0400 or TOLI

**DENTAL PRACTICE** Seeking individual to assist chair side. Copenhagen Central School has an opening for the following two track teaching positions: Special Education (full time) Elementary (full time)

**VACANCY ANNO** Colton-Pierre School announcing for a full-time certified English teacher

**St. Mary's School - Potsdam**  
A Place Where Faith and Knowledge Meet

**PRINCIPAL OPENING**

St. Mary's Catholic School in Potsdam is seeking a qualified person for the position of Principal.

**QUALIFICATIONS:**

- Practicing Roman Catholic
- MS degree in Elementary Education or Administration
- Working knowledge of elementary curriculum and the NYS learning standards
- At least 5 years of teaching/administrative experience
- Ability to lead staff and students both academically and spiritually
- Ability to foster a positive home-school relationship

Please send letters of interest, copy of credentials and a resume to:

Principal Search  
Rev. John P. Kennahan  
St. Mary's Church  
17 Lawrence Avenue  
Potsdam, NY 13676

**Notice of Public Comment**  
**St. Regis Mohawk Tribe-Environment Division**  
**Air Quality Program**  
June 29, 2002

The Air Quality Code is being enacted to ensure a high quality of life for the St. Regis Mohawk community by preserving, sustaining, protecting, and enhancing the air environment. Air quality across the reservations should be healthful for all its members and of sufficient purity to preserve the quality of life and prevent undue economic loss.

Through rules and standards, this Air Quality Code will provide a means for the community to become involved in maintaining and improving the Mohawk air shed. Before these rules can become effective, the Air Quality Program will submit the Code before the community of Akwesasne and surrounding communities of St. Lawrence and Franklin counties. Copies of the Code can be obtained at the Environment Division office in Raquette Point and at the Akwesasne Library or on the web at [www.northnet.org/earth](http://www.northnet.org/earth).

All people within St. Lawrence and Franklin counties are encouraged to comment on the contents of the Air Quality Code. Each comment will be carefully considered and addressed, and if appropriate, incorporated into the Code. The deadline for the comment period will be July 29, 2002. Comments can be sent to the:

St. Regis Mohawk Tribe  
Environment Division  
412 State Route 37  
Hogansburg, NY 13655

**654**

**ACRYLIC-HOT** t sealing. Quick d no odor. Free et Enterprises 493-

**ALDRICH SEAL** asphalt repairs, filled and pot bc Call 315-489-437

**660**

**A CERTIFIED** For 1st. Hanflinger's Insured & reliable J & R Constructured, Free Esting & Siding, Cal

**ROOFING:** New & Call 232-2210 C ing. 30 years ex



---

Saint Regis Mohawk Tribe

**Tribal Chief Tribal Chief Tribal Chief**  
Hilda E. Smoke Alma Ransom Paul Thompson

---

**Rt. 37 Box 8A**  
Hogansburg, New York 13655  
Tel. 518-358-2272  
Fax 518-358-3203

**Tribal Sub Chief Tribal Sub Chief Tribal Sub Chief**  
Richard A. Terrance John Bigtree Jr. Harry Benedict

---

**TRIBAL COUNCIL RESOLUTION**

**TCR 99-43**

**Clean Air Quality Program Authority**

**WHEREAS,** The St. Regis Mohawk Tribal Council (Tribal Council) acting as the recognized governing body on behalf of the St. Regis Mohawk Tribe (Tribe) has the authority to govern environmental matters within its territory, and

**WHEREAS,** The St. Regis Mohawk Tribe has the authority to delegate authority to a designated Tribal office or department, and

**WHEREAS,** The St. Regis Mohawk Tribe, Environment Division, Clean Air Quality Program, is primarily responsible for the protection and enhancement of the Tribes air quality, through monitoring, studies and development of air quality legislation, and

**WHEREAS,** The Tribal Council is acting in the best interest of the Tribe,

**NOW THEREFORE BE IT RESOLVED,** that the Tribe authorizes the St. Regis Mohawk Tribe, Clean Air Quality Program to submit applications for federal assistance and to receive delegation of federal Clean Air Act authority, as allowed by law under the Clean Air Act of 1970 and Clean Air Amendments of 1990.

Signed By: Signed by: Hilda E. Smoke, Tribal Chief, Alma Ransom, Tribal Chief, Paul O. Thompson, Tribal Chief, Richard A. Terrance, Sub Chief, John Bigtree Jr., Sub Chief, and Harry Benedict, Sub Chief.  
Certified By: Angus McDonald

## SAINT REGIS MOHAWK TRIBE

TRIBAL COUNCIL CHIEFS  
BRENDA LAFRANCE  
HAROLD TARBELL  
L. DAVID JACOBS

COMMUNITY BUILDING  
HOOANSBURG, NEW YORK 13655  
518-358-2272

TRIBAL CLERK  
CAROL HERNE  
TRIBAL ADMINISTRATOR  
SAKAKOHE PEMBLETON

PCB APARS

### SAINT REGIS MOHAWK TRIBAL COUNCIL RESOLUTION NO. 89-19

#### A RESOLUTION OF THE SAINT REGIS MOHAWK TRIBAL COUNCIL ADOPTING AMBIENT STANDARDS FOR PCBs ON THE SAINT REGIS MOHAWK RESERVATION.

- WHEREAS, the Saint Regis Mohawk Tribe a federally recognized Indian Government, in conjunction with the Mohawk Nation Council of Chiefs of the Iroquois Confederacy, and the Mohawk Council of Akwesasne, comprise part of the independent sovereign Mohawk Indian Nation. The Mohawk Nation has existed since time immemorial as the aboriginal people who are the custodians and guardians of their air, lands, surface waters, ground waters, and living resources, and;
- WHEREAS, the Tribal Council of the Saint Regis Mohawk Tribe is empowered by the people to act as the governing body of the Saint Regis Mohawk Tribe within the borders of the United States of America and is authorized to act on the Tribe's behalf to enhance Tribal culture, maintain law and order, protect health and welfare, and preserve the living and non-living resources of Akwesasne, and;
- WHEREAS, the Tribal Council is authorized to protect these interests and values for the next seven generations of Tribal members through the enactment of ordinances, adoption of resolutions, negotiation of intergovernmental agreements, development of studies, and such further actions as may be necessary to protect public health, the environment and the resources upon which the Tribe relies, and;
- WHEREAS, the Saint Regis Mohawk Tribe has a primary interest in protecting the health and welfare of all people who reside or do business on the Saint Regis Mohawk Reservation and in preserving the quality of the Reservation Environment. The natural resources, including the Tribe's fishing and hunting rights, habitat values, and waters, are integral components of the Tribe's economic, social, cultural and spiritual life, and;



AKWESASNE "LAND WHERE THE PARTRIDGE DRUMS"

which comprises the Saint Regis Mohawk Reservation shall occur, moreover, it is the further policy of the Tribe that the Tribe and its members shall enjoy the resources of Akwesasne, and be free to consume fish, plants, and other wildlife free of contamination, as they have in the past, and in furtherance of these policies, the Tribal Council, and its subordinate agencies, shall do all within their power to maintain, enhance and restore the quality of the Reservation Environment so that the fish, plants and other wildlife as well as the air, soils, surface waters, and ground waters are free from contamination and suitable for eating, drinking, swimming, religious and ceremonial use, and;

BE IT FURTHER RESOLVED, that we, the Tribal Council of the Saint Regis Mohawk Tribe in furtherance of these policies, do on this date, hereby promulgate the enact the following PCB ambient levels and PCB clean-up standards into Tribal law.

The clean-up standards for PCBs found in or upon the soils, lands, vegetation, air, sediment, surface waters or ground waters of the Saint Regis Mohawk Reservation shall not exceed: A) the current background level of PCBs for areas where the level of PCB contamination is less than the numerical PCB levels set forth below; or B) the concentrations set forth below where the current level of PCB contamination exceeds these standards:

<u>Media</u>	<u>PCB Level</u>
Sediments	.1 parts per million
For Soils	1 parts per million
For Surface Waters	1 parts per trillion
For Groundwaters	10 parts per trillion
For Air	5 nanograms per cubic meter

BE IT FINALLY RESOLVED, that we the Tribal Council of the Saint Regis Mohawk Tribe, in furtherance of our government-to-government relationship with EPA, hereby request that EPA act in accordance with applicable law and policy, and take such action as may be necessary to protect and further the interests of the Saint Regis Mohawk Tribe as set forth in this Resolution, and that EPA take immediate action to:

- \* Acknowledge the Tribe's authority as a sovereign government to establish ARARs to protect human health and the quality of the Reservation Environment, and that EPA further acknowledge that

## **Appendix D-TCR89-34**

BE IT FURTHER RESOLVED, the Tribal Council may act, without prior notice or hearing, to further protect the public's health, safety or welfare by issuing written orders to the person or persons responsible for the discharge or threatened discharge requiring that the person or persons causing such pollution immediately discontinue such discharge and appear before the Tribal Council at the time and place specified in such written order and provide information pertaining to the violations and conditions alleged in such order.

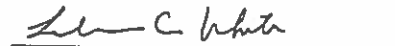
BE IT FURTHER RESOLVED, that the Tribal Council upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the wildlife, or other products or goods, may bring suit on behalf of the St. Regis Mohawk Tribe in the appropriate U. S. District Court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

BE IT FINALLY RESOLVED, that in addition to other civil fines and remedies, the Tribal Council may assess the owners or operators of the pollution source (s) for all governmental and administrative costs incurred, including legal fees and expenses related to the Tribe's response to such discharge or threatened discharge of pollution into the Reservation environment.

SAINT REGIS MOHAWK TRIBE

  
\_\_\_\_\_  
Chief Harold Tarbell

\_\_\_\_\_  
Chief L. David Jacobs

  
\_\_\_\_\_  
Chief Lincoln C. White

## **Appendix E-TCR2002-183**

**Appendix F-Eligibility Determination,  
September 2000 Letter**



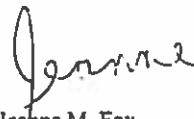
Although the Tribe also applied for an eligibility determination for the purposes of establishing a minor source permitting program, EPA is not making an eligibility determination on that aspect of the program at this time. This is the first request for permitting eligibility nationwide and is potentially precedent setting. Consequently, EPA needs additional time to complete the review process. Nevertheless, we look forward to the timely completion of action on the minor source permitting program and will continue to work cooperatively with the Tribe's Environment Division toward this end.

Finally, there is a conflicting jurisdictional claim filed by the State of New York regarding the area known as the Hogansburg Triangle. Under EPA's regulations 40 CFR 49.9(e), if a conflicting claim cannot be readily resolved, the EPA may make a determination of eligibility for the undisputed areas. Therefore, I am making the determination of eligibility for the geographic areas described in the Tribe's application, excluding the Hogansburg Triangle.

Enclosed for your records is a copy of the signed document entitled, "Eligibility Determination for the Saint Regis Mohawk Tribe for Treatment in the Same Manner as a State Under the Clean Air Act" and its attachments.

Congratulations on this achievement! The Saint Regis Mohawk Tribe is the first Indian nation in EPA Region 2 to receive a CAA eligibility determination. I am confident that today's action will provide for the enhanced protection of air quality on your lands and look forward to continuing our longstanding productive working relationship.

Sincerely,



Jeanne M. Fox  
Regional Administrator

Enclosure

cc: John P. Cahill, Commissioner, NYSDEC  
Bob Warland, Director, NYSDEC  
Patrick Kehoe, New York Office of the Attorney General  
✓ Les Benedict, Saint Regis Mohawk Tribe  
Joyce Barkley, Saint Regis Mohawk Tribe

- (a) The applicant is an Indian Tribe recognized by the Secretary of the Interior;
- (b) The Indian Tribe has a governing body carrying out substantial governmental duties and functions;
- (c) The functions to be exercised by the Indian Tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction; and
- (d) The Indian Tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

#### STATE AND PUBLIC REVIEW

The TAR at § 49.9(b) provides that the Regional Administrator shall notify appropriate governmental entities of an Indian tribe's initial, complete application under the CAA. For applications addressing air resources within reservations, the notification "shall specify the geographic boundaries of the reservation." 40 C.F.R. § 49.9(b)(1). For applications addressing non-reservation areas, the notification "shall include the substance and bases of the tribe's jurisdictional assertions." 40 C.F.R. § 49.9(b)(2). Under the regulations, "governmental entities shall have 30 days to provide written comments to EPA's Regional Administrator regarding any dispute concerning the boundary of the reservation." 40 C.F.R. § 49.9(c). The TAR further provides that when a tribal application addresses non-reservation areas, "appropriate governmental entities may request a single 30-day extension to the general 30-day comment period." 40 C.F.R. § 49.9(c). As of June 26, 2000, EPA had provided the State of New York the information required under TAR § 49.9(b)(1) and (2). EPA also provided notice of the application in local newspapers, and invited local governments and citizens to submit comments to the State of New York and EPA. On July 5, 2000, the State requested an additional 30-day extension to respond. EPA granted the State's request with the understanding that EPA would proceed with the Tribe's application for the undisputed Reservation area after the first 30-day period expires.

Tribe Environment Division. The Environment Division will therefore be the entity responsible for establishing and implementing a program under the CAA.

The application demonstrates that the Saint Regis Mohawk Tribe is an Indian Tribe with a governing body carrying out substantial governmental duties and functions.

**3. The functions to be exercised by the Indian Tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction.**

The Tribe is requesting an eligibility determination under §105 (grant), §505(a)(2) ("affected State") of the CAA for lands within the exterior boundaries of the Reservation. In order to clearly and precisely describe the Reservation boundaries, the Tribe included with its application legal descriptions and maps. The Tribe also later submitted the GIS coordinates. The maps and the GIS coordinates together clearly and precisely describe the boundaries of the Reservation, as required by EPA regulations at 40 CFR §49.7(a)(3).

The Tribe's application demonstrates that the functions to be exercised by the Tribe pertain to the management and protection of air resources within the exterior boundaries of the Reservation.

However, the Tribe's application includes an assertion of jurisdiction over an area known as the Hogansburg Triangle. The State of New York has notified EPA that it objects to the Tribe's claim of jurisdiction over this area. This conflicting claim cannot be resolved promptly. As such, the determinations made in this action only include the undisputed areas and do not include the Hogansburg Triangle area. Should any boundary changes occur in the future, ORC and DEPP will take appropriate action pursuant to this eligibility determination.

**4. The Indian Tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.**

The Tribe is seeking eligibility for purposes of CAA § 105 and § 505(a)(2). The two provisions are evaluated separately below.

- **§ 105.** The Tribe has submitted information showing successful management of EPA grants, including § 105 CAA grants, for ten continuous years. The Tribe uses the funds to support its development of enabling legislation, develop its air quality protection infrastructure (the Clean Air Program), adoption of air quality regulations, retention of qualified staff, and establishment of formal relationships

**DETERMINATION**

Based on the information provided to me by the Saint Regis Mohawk Tribal Council, the Division of Environmental Planning and Protection, and the Office of Regional Counsel, I have determined that the Saint Regis Mohawk Tribe meets the requirements of § 301(d) of the CAA (42 U.S.C. § 7601(d)) and 40 CFR § 49.6, for purposes of § 105 and § 505(a)(2) of the CAA.

Date: 9/19/05 Jeanne M. Fox  
Jeanne M. Fox  
Regional Administrator

**Appendix G-Eligibility Determination  
May 2001 Letter**

Congratulations on this achievement! The Saint Regis Mohawk Tribe is the first Indian nation nationwide to receive a CAA eligibility determination to establish a minor source permitting. I am confident that today's action will provide for the enhanced protection of air quality on your lands and look forward to continuing our longstanding productive working relationship.

Sincerely,

*Kathleen C. Callahan*

*WJM* William J. Muszynski  
Acting Regional Administrator

Enclosure

cc: Erin M. Crotty, Commissioner, NYSDEC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR - 5 2003

Hilda E. Smoke, Tribal Chief  
Alma Ransom, Tribal Chief  
Paul Thompson, Tribal Chief  
Route 37 Box 8A  
Hogansburg, NY 13655


Re: Application for Eligibility Determination for Portions of the Clean Air Act

Dear Ms. Smoke,  
Ms. Ransom,  
Mr. Thompson:

I am pleased to notify you that, based on the information provided to me by the Saint Regis Mohawk Tribal Council on December 10, 2001, I have concluded that the Tribe has met the eligibility requirements of section 301(d) of the CAA (42 U.S.C. § 7601(d)) and 40 C.F.R. section 49.6 for purposes of developing and carrying out an implementation plan under the Clean Air Act. This determination is based on the fact that the Tribe has met the criteria for program approval as described in the enclosed Eligibility Determination. Additionally, the decision to take favorable action is supported by the substantial expertise that the Tribe has demonstrated in successfully administering an air pollution control program for well over a decade. Therefore, consistent with Environmental Protection Agency requirements as described in 40 C.F.R. section 49, I am approving the Tribe's application to implement the provisions of the Clean Air Act pertaining to the development of a Tribal Implementation Plan for air quality.

Congratulations on this achievement! The Saint Regis Mohawk Tribe is the first in this Region to receive a Clean Air Act Eligibility Determination for a Tribal Implementation Plan. EPA Region 2 looks forward to a continuing productive working relationships in improving air quality on the Saint Regis Mohawk lands.

Sincerely,

  
Jane M. Kenny  
Regional Administrator

Enclosure

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

Sections 301(d)(2) and 302(r), 42 U.S.C. §§ 7601(d)(2) and 7602(r), authorize the Administrator to treat an Indian tribe in the same manner as a state for the Clean Air Act provisions identified in [40 C.F.R.] § 49.3 if the Indian tribe meets the following criteria:

- (a) The applicant is an Indian tribe recognized by the Secretary of the Interior;
- (b) The Indian tribe has a governing body carrying out substantial governmental duties and functions;
- (c) The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and
- (d) The Indian tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Air Act and all applicable regulations.

#### **STATE AND PUBLIC REVIEW**

The Regional Administrator notified appropriate governmental entities of the Tribe's application for purposes of section 110 of the CAA. In a notice published in local newspapers, EPA also invited local governments and citizens wishing to comment on the boundaries of the St. Regis Mohawk Reservation (the "Reservation") to submit their comments to the State of New York copying EPA.

By letter dated April 5, 2002 from Jan R. Farr of Hiscock & Barclay to Jane M. Kenny, Regional Administrator of EPA Region 2, the State of New York (State) agreed to the northern and western Reservation boundaries asserted by the Tribe, asked for further clarification regarding the eastern boundary and requested additional time to provide information regarding the southern boundary. By letter dated May 28, 2002 from Raymond Werner, Chief, Air Programs Branch of EPA Region 2 to Jan R. Farr of Hiscock & Barclay, EPA Region 2 responded by providing additional information regarding the eastern boundary and additional time for the State to submit any further information on the eastern and southern boundaries. By letter dated June 6, 2002 from Jan R. Farr of Hiscock & Barclay to Raymond Werner, Chief, Air Programs Branch of EPA Region 2, the State replied by agreeing to the description of the eastern boundary and seeking additional information regarding the southern boundary. By letter dated July 18, 2002 from Raymond Werner, Chief, Air Programs Branch of EPA Region 2 to Jan R. Farr of Hiscock & Barclay, EPA Region 2 responded by providing a map containing information regarding the Reservation boundaries, noting that EPA would proceed based upon those boundaries once confirmed by the U.S. Bureau of Indian Affairs and offering to consider further comments from the State. EPA received confirming boundary information from BIA on September 9, 2002. No further clarification was requested by the State. No other comments were received on the application.



**4. The Indian tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Air Act and all applicable regulations.**

The application is seeking approval under §301(d) of the CAA (42 U.S.C. §7601(d)) to develop and carry out a TIP. The SRMT Air Quality Program has increased its capabilities, skills, and knowledge since it began in 1990. The Air Quality Program employs three technicians and one program manager. The educational background ranges from Associates in Science to a Masters Degree. Each technician is cross-trained to perform monitoring for atmospheric deposition, polychlorinated biphenyls, polycyclic aromatic hydrocarbons, sulfur dioxide, nitrogen oxides, heavy metals, particulate matter and styrene. All equipment used for monitoring is owned by the Air Quality Program and is maintained and calibrated on-site.

The SRMT Air Quality staff has acquired technical training through the TIP series offered by Northern Arizona University's Instituted for Tribal Environmental Professionals. The SRMT Air Quality Program Manager has spent a total of six-weeks with Region 2 staff training in areas of TIP development, permitting issuance, review, and instrumentation.

Support staff for the Air Quality Program includes two Conservation Officers, environmental attorneys, an on-site legal advisor, maintenance personnel and technical support through EPA's Tribal Air Monitoring Center in Las Vegas.

In addition to the technical skills of its staff, as an organization the SRMT's Air Quality Program has demonstrated considerable capabilities in the programmatic, administrative, and legal spheres that contribute to the preparation and implementation a comprehensive TIP. Specifically, the SRMT has demonstrated a working understanding and/or significant skills in the following areas:

- air quality standards, including recommending attainment designations
- air quality monitoring and data interpretation
- air quality modeling and impact assessment
- air pollution control regulation development
- air pollution control permitting
- enforcement, including the existence of a tribal court system
- program implementation, including obtaining staff and financial resources
- public participation, public notification, and public hearings

The DEPP has evaluated the capability of the Saint Regis Mohawk Tribe (Attachment 2) Based on EPA's evaluation, the Tribe is capable of developing and carrying out a TIP under the Clean Air Act.

## **Appendix I-TCR2002-59**

## **Appendix J-Tribal Burn Regulations**

**Sec.**

- 1.1 Definitions**
- 1.2 Prohibitions**
- 1.3 Burning Allowed by Permit Issued by Environment Division**
- 1.4 Burning Without a Permit Allowed**
- 1.5 Burning Permits**
- 1.6 Enforcement**
- 1.7 Burn Bans**
- 1.8 Penalties/Fines**

**1.1 Definitions.**

(1)Solid Waste. Any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial mining, and agricultural operations, and from community activities. For the purposes of hazardous waste regulation, a solid waste is a material that is discarded by being either abandoned, inherently waste-like; a certain military munitions, or recycled.

Includes refuse, or all waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

Includes rubbish, defined as, solid or liquid waste material, including but not limited to, paper and paper products; rags; furniture; cans; crockery; plastics; cartons; chemicals; paint, grease; sludge; oils and other petroleum products; chemically treated wood; demolition materials; tires; and automobiles and other vehicles and parts, for junk, salvage or disposal. Rubbish shall not include food garbage, incinerator residue, street sweepings, dead animals or offal.

(2)Food Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

(3)Open Burning. Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Includes burn barrels, or any other device used to burn solid waste, food garbage, municipal solid waste or hazardous waste.

(4)Enclosed Burning. Any fire that takes place within the confines of an enclosed structure. Does not include combustion reactions contained in an enclosed device where controls are used to maintain efficient combustion and reduce emissions.

- (f) of refuse at a refuse disposal area (See Tribal Solid Waste Plan);
- (g) of rubbish for salvage;
- (h) of rubbish generated by residential activities as a means of on-site disposal;
- (i) of rubbish generated by industrial or commercial activities other than agricultural as a means of on-site disposal;
- (j) of rubbish generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, power or communication line, or pipeline; or for the development or modification of a recreational area or park;
- (k) Broadcast Fire, an area with continuous fuel cover, including but not limited to hayfields, crop-fields, grasslands, and lawns;
- (l) of refuse during an air pollution episode, in an area for which such air pollution has been designated. The Environment Division will, from time to time, inform the Community of air pollution episodes to which this section applies; or
- (m) of tires for any reason, including night-time shoreline fishing.

(2) **Creation of Nuisances Not Allowed.** No entity may cause the emission, from any source whatsoever, of air pollutants, contaminants or other substances that cause injury or detriment to any person, persons, property or the public, nor may any entity cause or contribute to emissions that create or constitute a nuisance.

**1.3 Burning Allowed by Permit Issued by the Environment Division.** Burning in an open fire is allowed as follows only in accordance with a permit issued by the Director after written application as provided in Section 1.5 of this regulation, provided it is not contrary to other Tribal law:

(1) **Land Clearing Materials.** Burning of organic, non-hazardous material generated by land clearing or demolition; for the construction or modification of, including but not limited to, any highway, railroad, pipeline, or power or communication line; or for the development or modification of a recreational area or park; provided that such burning is done on-site or at an appropriate designated burning area;

(2) **Community Burning Allowed by Permit.** Burning of yard wastes consisting of trees, tree trimmings, leaves, and brush;

(3) **Specifically Designated Burning Areas.** Burning at an appropriate designated burning area serving the community, of tree trimmings, leaves, or lawn and garden debris in areas of the reservation to be designated by the Director.

(a) **Residents' Request.** The Director will consider whether to designate such an area only after receiving a request by residents of the area within which such burning would be conducted. The request must include a general description of the geographical boundaries of the area, the names of all residents within ½ mile;

(1) Burning Permit Applications. An application for a burning permit shall include the reasons why such burning should be permitted and such other information as may be required by the Director to insure that such burning will be unlikely to result in the violation of Tribal air quality standards or to cause unreasonable air pollution. Burning Permit Application forms are available from the Environment Division, and at the Tribal Offices.

(a) If the Director approves such application he will issue a permit that shall be for a specified period and shall contain such conditions as are deemed necessary to prevent unreasonable air pollution and the contravention of Tribal air quality standards.

(2) Revocation of Permit. The permit may be revoked by the Director if there is:

- (a) failure to comply with its conditions;
- (b) a violation of Tribal law in connection with the burning;
- (c) the burning creates a public nuisance; or
- (d) the burning is found to cause or contribute to a contravention of Tribal air quality standards.
- (e) High fire danger as determined by the Environment Division by humidity, temperature, precipitation and other factors.

(3) Right to a Hearing. Before revocation of a permit, the permittee shall have the right to be heard; but where, in the opinion of the Director, prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing. In the event that the Director is required to revoke a permit without a hearing, he/she will explain to the permittee, in writing, the reasons supporting such immediate action;

(4) All Burning Permits are valid for dates specified on permit.

(5) Three (3) copies of the permit will be made:

- (a) the original will be kept by the Environment Division;
- (b) a copy will be retained by the permittee for the duration of the permitted burn and must be made available at the burn site upon demand by appropriate officials;
- (c) a copy will be forwarded to the Hogansburg Akwesasne Volunteer Fire Department.

(6) All permits for burns will have conditions that must be met otherwise the burn must not be set or must be extinguished. All permitted burning activities must conform to the guidelines that are issued with the permit.

1.6 **Enforcement.** In concert with community values, efforts to educate people with regard to the many hazards associated with open burning and the benefits of proper waste disposal to the greatest extent possible will be made prior to initiating enforcement

**Appendix K-TCR2003-06**  
**Appendix A-Tribal Burn Regulation-TCR2002-59**



## Saint Regis Mohawk Tribe

412 State Rt. 37  
Akwesasne, New York 13655  
Tel. 518-358-2272  
Fax 518-358-3203

CIVIL PENALTIES AND FINES

ST. REGIS MOHAWK TRIBE  
TRIBAL COURT

### APPENDIX A TRIBAL BURN REGULATION, TCR 2002-59

Congruent with the Tribal Burn Regulation Tribal Council Resolution 2002-59 the following civil penalties and fines will be implemented for residential and commercial violations associated with the non-compliance of this regulation including \*violations of the Burn Permit Conditions, pg.2.

#### Residential Violations of Prohibited Burning

**First Violation** – Education, awareness and counseling with regard to waste disposal practices and open burning as arranged with the Clean Air Program, no less than 2-hours in duration. After completing the Clean Air Program Education Session, a site visit to area of violation to see if education awareness and counseling is complied with and noted as to the degree of compliance. In the event of non-compliance, the violation will be returned to the Tribal Court calendar and the defendant will be subject to reappear by written notification. *Court Fees/Surcharges per ticket may apply.*

**Second Violation** – No less than 4 hours community service with the Environment Division, court fees and proper clean up and disposal of materials.

**Third Violation** - \$150, plus no less than 4 hours community service with the Environment Division, court fees and proper clean up and disposal of materials and court fees.

**Subsequent Violations** – Fine in an amount that is at least equal to the estimated cost for disposal of waste materials burned as estimated by the Environment Division, no less than 4 hours community service with the Environment Division and proper clean up and disposal of materials and court fees.

**Any Residential or Commercial Violations** resulting in damages to another persons' property shall require restitution of damages to the satisfaction of the Tribal Court and property owner who incurred damages and will be determined case-by-case.

**ADDITIONALLY, Uncontrollable Fire:** *Any violation of the ordinance that results in an Uncontrollable Fire that requires the response of the fire department(s) will result in penalties and fines that are no less than the costs incurred by the fire department(s) for their response, payable directly to the fire department(s); and/or restitution of any property damaged by such fire.*



## **Appendix L-TCR2001-04**

## **Appendix M-TCR2001-26**

## **Appendix N- Safety and Civil Obedience Plan**

**(B) Harassment:** Intentional conduct which harasses, annoys or alarms another person, which in character or circumstances involves striking, kicking, subjecting another person to unconsented physical contact or attempts or threatens to do same, or conduct involving repeated acts which alarm or annoy another and which serve no legitimate purpose.

**(C) Disorderly Conduct:** Verbal or physical conduct intending to cause public or individual inconvenience, annoyance or alarm by means of violent, tumultuous, or threatening behavior, unreasonable noise, abusive or obscene language or gestures, impeding vehicular or pedestrian traffic, disruptive public congregation, failure to comply with lawful police orders, creating hazardous or physically offensive condition by any act serving no legitimate purpose.

**(D) Trespass:** Conduct wherein a person knowingly enters and remains unlawfully in or upon premises

**(E) Dangerous and/or Feral Animals:** The inadequate, improper, negligent or abusive care and maintenance of domestic or Feral animals that adversely effect or threatens to adversely effect the health, safety or well-being of individuals or the community at large.

**(F) Disturbing the Peace:** Intentional conduct which in character or circumstances results or threatens to result in the disruption of the general peace and quiet enjoyment of individuals or the public in their privacy and properties, or which results or threatens to result in causing unlawful assembly.

**(G) Dangerous or Noxious Materials:** Any negligent or inadequate use, storage or disposal of dangerous or noxious materials or substances that effect or may affect the health, safety or general well-being of individuals or the community.

**(H) Littering:** The unlawful disposal or dumping of trash or unwanted materials in or upon public or private lands or roadways.

**(I) Profusion of Garbage or Trash:** The inadequate and/or improper containment or storage of common garbage, trash or debris generated from the day by day household business or commercial activities of an individual, family or organization<sup>1</sup>

#### **PROCEDURE:**

- 1. Authorized Enforcement Agency:** The St. Regis Mohawk Tribal Police are the only Tribal entity authorized to execute and enforce this Tribal Code.
- 2. Procedure on Violation:** Any person charged with violating a provision(s) of this act must first be advised of their conduct giving rise to the violation. After being so advised, the violator will be issued a Civil Disobedience summons in the form prescribed by the St. Regis Mohawk Tribal Police Commission. The summons must contain at a minimum sufficient detail to advise the violator of the exact provision of this Code which was allegedly violated, the date and time of the violation, an exact date and time the

Persons elected to this position shall be entitled to monetary compensation set by the St. Regis Mohawk Tribal Council.

*(C) Hearing and deciding a summons and/or long form complaint filed pursuant to this Act:*

1. Order of presentation.

The complainant, after being administered an oath by the Peacemaker, shall be the first to address the Peacemakers Court Civil Disobedience Division. The complainant shall describe to the Peacemaker the violation of this Act and the conduct engaged in which resulted in the person violating this act. The complainant may also submit additional relevant evidence to support the charge(s). Upon finishing this presentation, the alleged violator shall then be given the opportunity to rebut the evidence presented in support of the summons and/or long form complaint, and the presentation made by the complainant.

2. Burden of Proof.

It is the burden of the complainant officer to prove by a preponderance of evidence, the allegations made in the summons and/or complaint.

3. Evidentiary issues.

The Peacemaker is free to accept or deny the presentation of any relevant material evidence or testimony to be presented to the Peacemakers Court Civil Disobedience Division by either the complainant officer or the alleged violator.

4. Decision Making.

The Peacemaker shall make a determination only after an adequate period of time to review all the material before him or her and upon testimony given to him or her. The Peacemaker shall then make a determination either written or orally to the complainant and the alleged violator.

*4a. Determination in favor of Complainant Officer*

After making this determination the Peacemakers Court Civil Disobedience Division may assess a monetary judgment, within the parameters provided for in this act, upon the violator and based solely upon the evidence before it.

The violator has the opportunity to appeal this decision to the St. Regis Mohawk Tribal Council by delivering within thirty days to the St. Regis Mohawk Tribal Council a copy of all

*(F) Failure to satisfy judgment, or if applicable, judgments:*

Should a violator fail to satisfy a judgment lawfully issued by the Peacemakers Court Civil Disobedience Division, the St. Regis Mohawk Tribal Council shall, by written notice, notify the violator that the St. Regis Mohawk Tribal Council is pursuing their claim against the violator by all lawful means available to the St. Regis Mohawk Tribe.

*(G) Alternative Civil Judgment and Sentencing:*

After presentation of a matter pursuant to the above procedure and after the peacemakers Court Civil Disobedience Division, has made its decision, in appropriate circumstances a request can be made by the presenting officer or the respondent violator for an alternative sentence of counseling, rehabilitation, treatment or community service.

If such request is made the Peacemakers Court Civil Disobedience Division shall make a factual determination on the record whether such alternative is appropriate or not. If such alternative is found appropriate then any fine imposed shall be suspended and an appropriate alternative sentence of counseling, rehabilitation, treatment, or community service may be imposed and monitored by the Court. Written evidence of successful completion of any alternative sentence shall be required and upon receipt the Judgment of the Peacemakers Court Civil Disobedience Division shall be deemed satisfied.

### **MONETARY JUDGMENT**

Upon a finding by the Peacemaker's Court Civil Disobedience Division that a person violated one or more applicable provisions of this Act a Peacemaker is hereby authorized to levy a civil monetary judgment against such violator in an amount of at least fifty (\$50.00) dollars but in no case more than two hundred fifty (\$250.00) dollars.

### **AMENDMENTS**

This act may be amended pursuant to the regulatory procedures of the St. Regis Mohawk Tribe at any time the Tribal Council deems such amendments to be necessary for the proper function of the governmental and administrative entities of the Tribe.

FOR IMMEDIATE RELEASE  
Tuesday, July 24, 2001

For additional information, contact:  
Bruce S. Carhart  
(202) 508-3840

## IMPROVED VISIBILITY IS FOCUS OF NEW EFFORT BY STATES AND TRIBES IN MID-ATLANTIC AND NORTHEAST REGION

(Newport, Rhode Island) Eleven States, the District of Columbia, and two Indian Tribes, today announced they would work together to reduce regional haze, which adversely affects national parks and wilderness areas. The newly organized Mid-Atlantic/Northeast Visibility Union (MANE-VU) will address the causes of regional haze and ways to reduce related pollutants, thereby improving visibility in the atmosphere.

“Regional haze is a major air quality problem in our region,” stated Christopher Recchia, new Chair of the organization and Deputy Commissioner of the Vermont Department of Environmental Conservation. “Improving visibility by reducing air pollution will have public health and economic benefits as well as improving scenic vistas.”

Regional haze limits visibility in the most scenic areas of the country, as well as in urban areas. It is caused by fine particles suspended in the air that at high concentrations can cause significant detrimental human health effects. Sources of pollution contributing to regional haze include burning of fossil fuels and emissions of volatile organics. Current data suggests that the pollutants that cause regional haze can be transported long distances over State and Tribal borders, thereby making regional cooperation essential. The pollutants that cause regional haze are also linked to other regional air pollution problems, such as ground-level ozone, acid and nutrient deposition, as well as fine Particles. MANE-VU has been established to support its members as they address the requirements of the Federal regional haze rule, finalized in 1999, to improve visibility at national parks and wilderness areas.

As a Section of its first meeting, MANE-VU released a new report, entitled “A Basis for Control of BART-Eligible Sources,” produced by the Northeast States for Coordinated Air Use Management (NESCAUM) to support MANE-VU. In this report, NESCAUM analyzes potential sources of air pollution which may contribute to regional haze in the Mid-Atlantic and Northeast region, and which could be the subject of a rule proposed by the U.S. Environmental Protection Agency (EPA) to reduce emissions from such sources. The report can be found at [www.nescaum.org](http://www.nescaum.org).

Participating State and Tribal members include Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, the Penobscot Indian Nation, Rhode Island, the St. Regis Mohawk Tribe, and Vermont. Participating Federal members include the U.S. Environmental Protection Agency, National Park Service, U.S. Fish and Wildlife Service, and U.S. Forest Service.



# Saint Regis Mohawk Tribe

Chief Ron LaFrance Jr.  
Chief Eric Thompson  
Chief Beverly Cook  
Sub-Chief Michael L. Conners  
Sub-Chief Cheryl Jacobs  
Sub-Chief Shelley Jacobs

## Tribal Council Resolution

2017-24

### RESOLUTION OF THE SAINT REGIS MOHAWK TRIBE TO ADOPT UPDATED AMBIENT AIR STANDARDS ON THE SAINT REGIS MOHAWK INDIAN RESERVATION

**WHEREAS**, the Saint Regis Mohawk Tribal Council (the "Tribal Council") is the duly recognized governing body of the Saint Regis Mohawk Tribe (the "Tribe") and is responsible for the health, safety, education and welfare of all community members; and

**WHEREAS**, the Tribal Council has been authorized to act on the Tribe's behalf to protect the natural resources and the environment through enactment of laws, ordinances and regulations, and program development through its Environment Division; and

**WHEREAS**, it is the policy of the Tribe to maintain a reasonable degree of purity of Tribal Air Resources that is consistent with the public health and welfare and public enjoyment thereof, the industrial development of the Reservation, the propagation and protection of flora and fauna, and the protection of physical property and other resources, and to that end to require the use of all available methods to prevent and control air pollution; and

**WHEREAS**, the Tribe desires to accomplish this policy through the adoption of tribal laws, rules and regulations under its Tribal Implementation Plan ("TIP") wherein the Tribe has been delegated primary authority under the Clean Air Act ("CAA") to be treated in the same manner as a State under the CAA; and

**WHEREAS**, the Tribe's TIP includes standards for polychlorinated biphenyls ("PCBs") adopted by Tribal Council Resolution ("TCR") 89-19 (Appendix C of the TIP) that are designated "ambient levels" and "clean-up standards" for soils, lands, vegetation, air, sediment, surface waters or ground waters of the Reservation; and

**WHEREAS**, EPA's Revised Interim Final Guidance on Indian Involvement in the Superfund Program, OSWER Directive 9375.5-02A (Nov. 28, 1989), provides for recognition of Tribal laws and regulations as Applicable or Relevant and Appropriate Requirements ("ARARs"); and

**WHEREAS**, the PCB standards set forth in TCR 89-19 were recognized by the U.S. Environmental Protection Agency as ARARs for purposes of remediation of the General Motors Massena Superfund Site; and



**WHEREAS**, TCR 89-19 established an ambient air standard for PCBs of background or 5 ng/m<sup>3</sup>;  
and

**WHEREAS**, PCBs are classified by the International Agency for Research on Cancer as known human carcinogens; are documented to cause a reduction in IQ, shorter attention span and ADHD-like symptoms; reduce thyroid function, increasing risk of hypothyroidism; interfere with sex hormones; and increase risk of cardiovascular disease, hypertension and diabetes; and

**WHEREAS**, scientific health studies conducted on the Reservation have shown PCB exposure among Tribal members to be correlated with reduced memory function in adolescents and adults; reduced thyroid function in adolescents and adults; altered growth and development in children and adolescents; increases in obesity; increased production of serum cholesterol and triglycerides, which are major risk factors for cardiovascular disease; and rates of type 2 diabetes; and

**WHEREAS**, a major route of exposure to PCBs for persons residing on the Reservation is inhalation of vapor-phase PCB congeners; and

**WHEREAS**, over the past twenty-seven (27) years since adoption of these standards, the Tribe has learned through studies and research, most recently through a Report prepared by Dr. David O. Carpenter, "Scientific Support Summary for Saint Regis Mohawk Tribe Air Quality Standards for PCBs" (a copy of which is attached to this TCR) that the Tribe's members have been exposed to potentially significant levels of PCBs for many years through a variety of exposure pathways; and

**WHEREAS**, there is a need to adopt updated ambient air standards for PCBs on the Reservation to take into account information developed since 1989 concerning the adverse human health effects of PCBs, the documented adverse human health effects on Tribal members correlated with past and ongoing PCB exposure on the Reservation, and the identification of inhalation as a major route of potential exposure to PCBs for Tribal members, now, therefore be it

**RESOLVED**, that the Saint Regis Mohawk Tribal Council by this resolution hereby approves adoption of the following Tribal law governing PCBs in the ambient air:

## **I. AMBIENT AIR QUALITY STANDARDS FOR PCBs**

### **A. Annual Standard**

The concentration of PCBs in ambient air on the Reservation shall not exceed 0.5 ng/m<sup>3</sup> as measured on a rolling 12-month basis. Exceedance of this standard during any 12-month period shall be a violation of this standard.

### **B. Short-Term Standard**

The concentration of PCBs in ambient air on the Reservation shall not exceed 5 ng/m<sup>3</sup> during any 24-hour period.

## **II. PROHIBITIONS**

A. No person shall cause or contribute to a violation of either the annual standard or the short-term standard.

B. No person shall undertake, create, or maintain a condition, operation, or activity that causes or contributes to a violation of either the annual standard or the short-term standard.

### **III. ENFORCEMENT AND PENALTIES**

#### **A. Notice of Violation**

1. Upon determining that reasonable grounds exist for believing that a person may be causing or contributing to a violation of the annual standard, the short-term standard, or both, the Tribe shall issue a written Notice of Violation to such person.

2. The Notice of Violation shall specify the standard or standards alleged to have been violated; the date or dates upon which such alleged violation(s) occurred; and the grounds for determining that the recipient of the Notice has caused or contributed to such alleged violation(s).

3. Except as provided in section IV below (Emergency Abatement Orders), the Notice of Violation shall provide the alleged violator with at least ten (10) business days in which to submit a written response to the Notice.

4. The Notice shall also state that the alleged violator may request a hearing in the Tribal Court or may waive a hearing and resolve the alleged violation by entering into a voluntary Administrative Consent Order with the Tribe. The recipient of a Notice of Violation must specify in the written response to the Notice whether the recipient requests a Tribal Court hearing or resolution through a voluntary Administrative Consent Order.

5. Failure to provide a written response to a Notice of Violation within the time period specified in the Notice shall be deemed an admission of the violations alleged in the Notice.

6. Failure to request either a Tribal Court hearing or resolution through a voluntary Administrative Consent Order within the time period specified in the Notice of Violation shall be deemed a waiver of both and grounds for issuance of a Unilateral Administrative Order as provided for in section III.C.

#### **B. Administrative Consent Order**

1. Violations of the PCB ambient air quality standards may be resolved through an Administrative Consent Order, which is a written order executed by a person alleged to have violated a standard and the Tribe which resolves the violation by imposing corrective measures, requiring payment of a civil penalty, or both.

2. In the event that the Tribe and alleged violator fail to agree on the terms of, and execute, an Administrative Consent Order, the alleged violator may request a Tribal Court hearing concerning the alleged violation(s).

**C. Unilateral Administrative Order**

1. In the event that a person issued a Notice of Violation fails to provide a written response to the Notice within the time period specified in the Notice, or fails to request either a Tribal Court hearing or resolution through a voluntary Administrative Consent Order, the Tribe may issue a Unilateral Administrative Order.

2. A Unilateral Administrative Order shall specify the corrective actions to be taken by the recipient of the Notice of Violation, require payment of a civil penalty, or both.

3. The terms of a Unilateral Administrative Order shall be enforceable in Tribal Court.

**D. Penalties**

1. Either the Tribal Court, after a finding that a violation has occurred, or the Tribe, in an Administrative Consent Order or Unilateral Administrative Order, may impose a civil penalty for each violation.

2. For a violation of the annual standard, the civil penalty shall not exceed two hundred fifty thousand dollars (\$250,000) for each 12-month period during which the annual standard was violated.

3. For a violation of the short-term standard, the civil penalty shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

**IV. EMERGENCY ABATEMENT ORDER**

**A. Emergency Finding**

Upon finding that reasonable grounds exist for believing that a violation or violations of a PCB standard may pose an imminent and substantial endangerment to public health or the environment, the Tribe may issue a written emergency abatement order to any person causing or contributing to such violation(s).

**B. Emergency Abatement Order**

An emergency abatement order shall include the information contained in a Notice of Violation issued pursuant to section III.A. An emergency abatement order shall also identify:

1. The grounds for believing that the violation or violations may pose an imminent and substantial endangerment to public health or the environment;

2. The actions to be taken by the person issued the order to cease, control, or abate emissions of PCBs that may pose an imminent and substantial endangerment to public health or the environment and the date or other deadline for such actions to be taken or completed; and

3. The date, which shall be no later than ten (10) business days after the date the emergency abatement order is issued, when the person issued the order may appear at a hearing in Tribal Court and offer proof that the violation or violations do not pose an imminent and substantial endangerment to public health or the environment.

4. A person duly served with an emergency abatement order who refuses or fails to comply with the terms of such order shall be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day of such refusal or failure to comply with the order.

5. The terms of an emergency abatement order shall be enforceable in Tribal Court.

6. In addition to the civil penalty for refusal or failure to comply with the terms of an emergency abatement order specified in paragraph 4, failure to comply with an order of the Tribal Court concerning an emergency abatement order shall be punishable as a contempt of court.


#### V. DEFINITIONS

A. "Tribe" means the Saint Regis Mohawk Tribe and its departments, divisions and agencies.

B. "Person" means an individual, corporation, authority, trust, government agency, or any other entity.

C. "Tribal Court" means the Saint Regis Mohawk Tribal Court as established under the Saint Regis Mohawk Tribal Court and Judiciary Code (TRC 2008-22, as amended by TRC 2012-13), or any successor tribal court of competent jurisdiction.

#### THE SAINT REGIS MOHAWK TRIBAL COUNCIL

  
\_\_\_\_\_  
Ron LaFrance, Jr.  
Tribal Chief

\_\_\_\_\_  
Eric Thompson  
Tribal Chief

  
\_\_\_\_\_  
Beverly Cook  
Tribal Chief

**CERTIFICATION:** This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

  
\_\_\_\_\_  
Betty Roundpoint, Tribal Clerk

  
\_\_\_\_\_  
Date