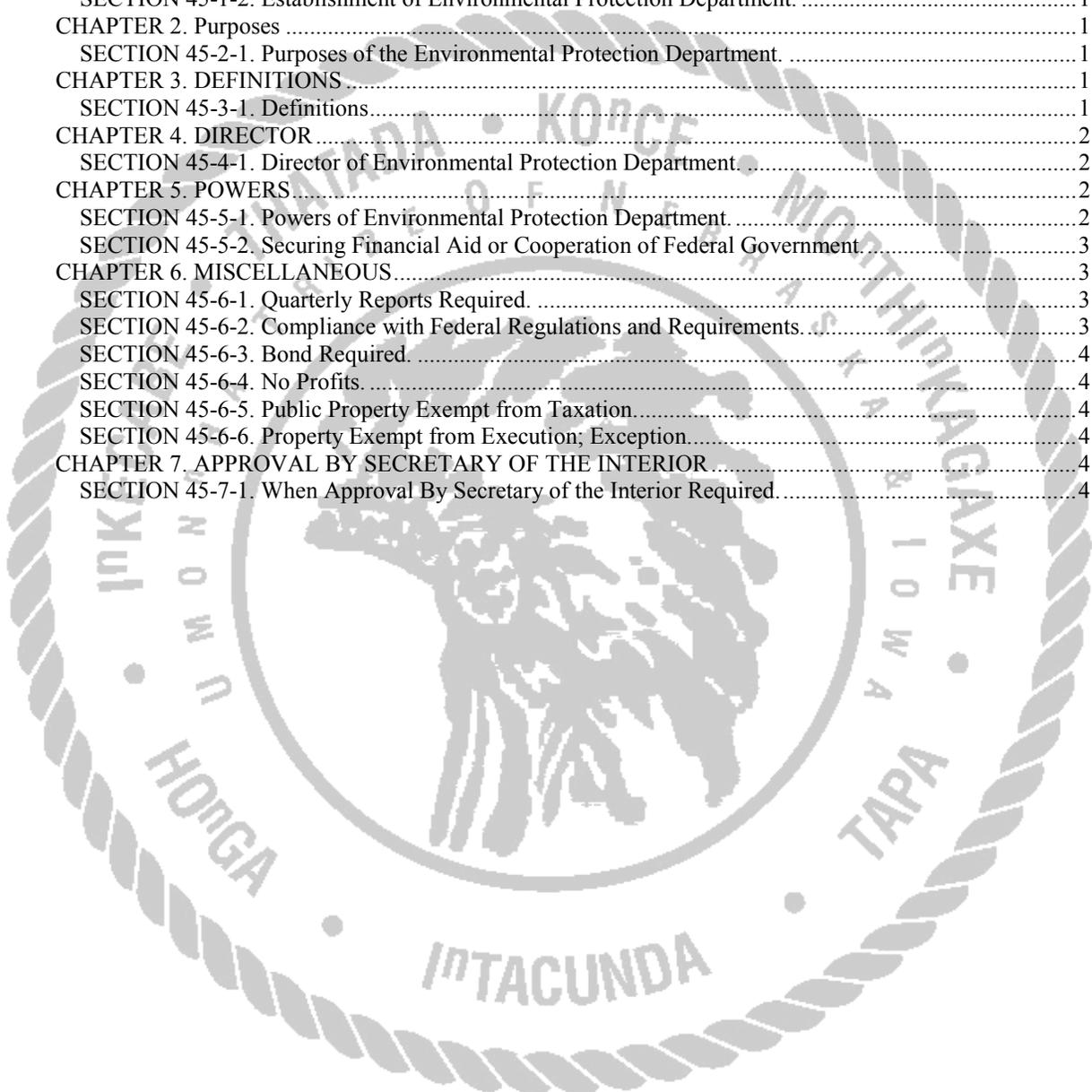


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TITLE 45. ENVIRONMENTAL PROTECTION DEPARTMENT

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TITLE 45. ENVIRONMENTAL PROTECTION DEPARTMENT

CHAPTER 1. GENERAL PROVISIONS

SECTION 45-1-1. Declaration of Need.

The Tribal Council of the Omaha Tribe hereby declares that:

- (a) There exist on the Omaha Indian Reservation complex and ongoing conditions that threaten the natural resources and environment within the Reservation and cause and continue a menace to the health, safety, and general welfare of the Reservation's residents;
- (b) Many of these conditions are caused by human activities that often contaminate and degrade the quality of the water, air or soil with substances toxic to humans, other living creatures and the natural environment;
- (c) The need to address the conditions that unreasonably annoy, injure or endanger the comfort, repose, health, welfare, property or safety of any person within the Reservation requires the Tribe to develop the capacity to respond to actual or probable threats to the natural resources and environment within the Reservation, whenever and wherever those threats might occur; and
- (d) The future economic development and prosperity of the Tribe is critically linked to the successful conservation and wise use of the natural resources and environment and requires the Tribe to act to protect and safeguard its remaining natural resources to the furthest extent allowable by law.

SECTION 45-1-2. Establishment of Environmental Protection Department.

Pursuant to the authority vested in the Omaha Tribal Council by Article IV, Section 1 of the Omaha Tribe Constitution, and particularly by subsections (j), (m), (p), and (q) thereof, the Omaha Tribal Council hereby establishes the Omaha Tribal Environmental Protection Department ("Department"), and enacts this Title, which shall establish the purposes, powers and duties of the Department.

CHAPTER 2. PURPOSES

SECTION 45-2-1. Purposes of the Environmental Protection Department.

The Department shall be organized and operated for the purposes of:

- (a) Locating and obtaining funding from public and private sources for the protection of the natural resources and environment within the Reservation;
- (b) Monitoring the quality of the water, air and soil within the Reservation;
- (c) Promulgating and enforcing environmental standards based on scientific bases for the protection of the natural resources and environment within the Reservation; and
- (d) Coordinating with other federal, state, and tribal entities to fulfill these purposes.

CHAPTER 3. DEFINITIONS

SECTION 45-3-1. Definitions

The following terms wherever used or referred to in this Title, shall have the following respective meaning, unless a different meaning clearly appears from the context:

- (a) "Area of Operation" means all area within the jurisdiction of the Tribe.

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- (b) "Council" means the Omaha Tribal Council
- (c) "Director" means the Director of the Tribal Environmental Protection Department.
- (d) "Federal Government" includes the United States of America, including the Environmental Protection Agency and the Bureau of Indian Affairs and any other agency or instrumentality, corporate or otherwise of the United States of America.
- (e) "Reservation" means the Omaha Indian Reservation.

CHAPTER 4. DIRECTOR

SECTION 45-4-1. Director of Environmental Protection Department.

- (a) The affairs of the Department shall be managed and directed by its Director.
 - (1) The Director shall be appointed and may be reappointed by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of the Director shall be conclusive evidence of the due and proper appointment of the Director.
 - (2) The Director may be a member or non-member of the Tribe, but the Director may not be a member of the Council.
- (b) The Director's term of office shall be at will. The Director shall hold office until his successor has been appointed and has qualified.

CHAPTER 5. POWERS

SECTION 45-5-1. Powers of Environmental Protection Department.

The Department shall have the following powers which it may exercise consistent with the purposes for which it is established:

- (a) To adopt and use a public seal;
- (b) To enter into agreements, contracts and understandings with any governmental agency, federal, state, local or tribal, or with any person, partnership, or corporation;
- (c) To lease property and obtain easements and rights-of-way from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same;
- (d) To undertake and carry out studies and analysis of water, air and soil quality within the Reservation, and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof;
- (e) To promulgate standards for the protection of the natural resources and environment within the Reservation, which standards shall be codified in the Omaha Tribal Code and published upon promulgation and amendment so the public may have notice of the same;
- (f) To determine the permissible uses of land within the Reservation consistent with a zoning plan approved by the Omaha Tribal Council and published upon promulgation and amendment so the public may have notice of the same;
- (g) To enforce any standards, rules or regulations promulgated pursuant to this Title, provided that enforcement actions shall be conducted in accordance with notions of due process, including notice, an opportunity to be heard, and an opportunity for review;
- (h) To purchase insurance from any stock or mutual company for any property or against any risk or hazards;
- (i) To invest such funds as are not required for immediate disbursement;
- (j) To establish and maintain such bank accounts as may be necessary or convenient;

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(k) To employ technical and maintenance personnel and such other offices and employees, permanent or temporary, as the Department may require; and to delegate to such officers and employees such powers or duties as the Director shall deem proper;

(l) To take such further actions as are commonly engaged in by public bodies of this character as the Department may deem necessary and desirable to effectuate the purposes of the Department;

(m) To adopt such departmental policies as the Department deems necessary and appropriate;

(n) To employ professional financial, engineering and legal counsel;

(o) To agree to any conditions attached to federal financial assistance;

(p) To agree, notwithstanding anything to the contrary contained in this Title or in any other provision of law, to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, the development or operation of projects; and the Department may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid to the project;

(q) To obligate itself, in any contract with the federal government for contributions to the Department, to convey to the federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Department is subject; and such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: Provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Department the project as then constituted;

SECTION 45-5-2. Securing Financial Aid or Cooperation of Federal Government.

It is the purpose and intent of this Title to authorize the Department to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by the Department.

CHAPTER 6. MISCELLANEOUS

SECTION 45-6-1. Quarterly Reports Required.

The Department shall submit reports at the end of every quarter, signed by the Director, to the Council showing:

- (a) A summary of the year's activities.
- (b) The financial condition of the Department, including the sources of all funding.
- (c) The status of any ongoing projects.
- (d) Any significant problems and accomplishments.
- (e) Plans for the future.
- (f) Such other information as the Department or the Council deem pertinent.

SECTION 45-6-2. Compliance with Federal Regulations and Requirements.

Each project developed or operated under a contract providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable federal

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legislation, and with all regulations and requirements prescribed from time to time by the federal government in connection with such assistance.

SECTION 45-6-3. Bond Required.

The Department shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

SECTION 45-6-4. No Profits.

The Department shall not construct or operate any project for profit.

SECTION 45-6-5. Public Property Exempt from Taxation.

The property of the Department is declared to be public property used for essential public and governmental purposes and such property and the Department are exempt from all taxes and special assessments of the Tribe.

SECTION 45-6-6. Property Exempt from Execution; Exception.

All property including funds acquired or held by the Department pursuant to this Title shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Department be a charge or upon such property. However, the provisions of this section shall not apply to or limit the right of the federal government to pursue any remedies conferred upon it pursuant to the provision of this Title.

CHAPTER 7. APPROVAL BY SECRETARY OF THE INTERIOR

SECTION 45-7-1. When Approval By Secretary of the Interior Required.

With respect to any financial assistance contract between the Department and the federal government, the Department shall obtain the approval of the Secretary of the Interior or his designee.