

HEALTH & SAFETY CODE

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ARTICLE 4. COLORADO RIVER FLOODING

[NOTE: Except as otherwise noted, the provisions of Article 4 of the Health and Safety Code were enacted on November 10, 1983 by Section 2 of Ordinance No. 83-8.]

CHAPTER 1. GENERAL PROVISIONS.

Section 4-101. Findings and Purpose.

(A) A state of emergency has existed within the Colorado River Indian Reservation due to excessive water flows in the Colorado River, which flows have caused severe erosion damage to the banks of the Colorado River and adjacent property.

(B) There is a continuing threat that excessive water flows will resume in the future.

(C) Water flows within the Colorado River in excess of 30,000 CFS have resulted in and can be expected to result in severe erosion damage to the banks of the Colorado River and adjacent property within the Reservation.

(D) The operation of motorized watercraft during a time of water flows in excess of 30,000 CFS has caused and can be expected to cause immediate, severe and irreparable damage to the banks of the Colorado River and adjacent property due to the increased water turbulence.

(E) The operation of motorized watercraft within certain areas of the Colorado River within the Reservation during a period in which water flows do not exceed 30,000 CFS may cause immediate, severe and irreparable damage to portions of the banks of the Colorado River and to adjacent property.

(F) The Tribal Council has the authority pursuant to Article VI of the Constitution of the Colorado River Indian Tribes to adopt laws in the exercise of the police power of the Tribes whenever necessary or convenient for the protection of the health, education and welfare of the members of the Tribes and the safeguarding of the peace, order, safety and welfare of the Reservation public.

(G) The Tribal Council has the authority pursuant to Article VI of the Constitution of the Colorado River Indian Tribes to delegate authority to subordinate bodies.

(H) By the adoption of the provisions of this Article, the Tribal Council intends to exercise to the fullest extent its Constitutional authority to protect Tribal property and the property of the Reservation public from damage caused by excessive water flows in the Colorado River.

Section 4-102. Definitions.

Unless the context otherwise requires, in this Article:

(1) "CFS" means cubic feet per second.

(2) "Reservation" means all territory within the exterior boundaries of the Colorado River Indian Reservation.

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Section 4-103. Severability.

If any provision of this Article, or its application to any person or class of persons, or to any circumstances, is held invalid for any reason whatsoever the remainder of its provisions shall not be affected and shall remain in full force and effect.

CHAPTER 2. EMERGENCY DECLARATIONS

Section 4-201. Delegation.

There is hereby delegated to the Administrative Committee of the Tribal Council the authority to declare a state of emergency with respect to all or any part of the Colorado River and adjacent areas which are contained within the Reservation. There is further delegated the Administrative Committee of the Tribal Council the authority to order remedial or protective action during the pendency of any declared emergency.

Section 4-202. Declaration of Emergency.

(A) A state of emergency may be declared pursuant to this Chapter with respect to all or any part of the Colorado River and adjacent areas within the Reservation whenever:

- (1) The Administrative Committee shall find that water flow in the River is in excess of 30,000 CFS; or
- (2) The Administrative Committee shall find that water flow in the River of less than 30,000 CFS is likely to cause substantial property damage along some, but not all, portions of the River contained within the Reservation.

(B) Whenever the Administrative Committee shall find that the conditions warranting an emergency declaration have ceased to exist with respect to all or any part of the River, it shall rescind its emergency declaration with respect to affected areas.

CHAPTER 3. REMEDIAL OR PROTECTIVE ACTION

Section 4-301. Remedial or Protective Action.

During the pendency of any emergency declared pursuant to Chapter 2 of this Article, the Administrative Committee may order that remedial and protective action be taken. Such action may include but not be limited to, closure of all boat ramps within areas subject to the declaration of emergency and the total closure of all or any part of the Colorado River which is within the Reservation.

Section 4-302. Exceptions.

Section 4-301 of this Article shall not be construed to prevent law enforcement officials of the Tribal, federal, state or local governments from launching or operating any motorized watercraft in the performance of their official duties.

CHAPTER 4. UNLAWFUL ACTS; PENALTIES

Section 4-401. Unlawful Acts.

It shall be unlawful:

- (1) For any person to violate, or attempt to violate, any remedial or protective order made pursuant to Chapter 3 of this Article.
- (2) For any person to interfere, or attempt to interfere, with a law enforcement official in his enforcement of any remedial or protective order made pursuant to Chapter 3 of this Article.

Section 4-402. Penalties.

Any person violating any provision of Section 4-401 of this Article shall be liable to the Colorado River Indian Tribes in a civil action for a civil penalty not to exceed Two Hundred Fifty Dollars (\$250.00) for each violation. In addition, such person shall be liable to the Tribes for the amount of actual damage caused to Tribal property as a result of such violation.

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