

CHAPTER 34

**HEALTH AND ENVIRONMENT**

**HOUSE BILL 00-1325**

BY REPRESENTATIVES Larson, Alexander, Allen, Chavez, Coleman, Fairbank, Gagliardi, George, Gotlieb, Hefley, Hoppe, Kaufman, Kester, Mace, May, Miller, Mitchell, Ragsdale, Scott, Spradley, Stengel, Tapia, Tate, Taylor, Webster, S. Williams, T. Williams, and Young;  
also SENATORS Dyer, Anderson, Congrove, Feeley, Hernandez, Musgrave, Reeves, Tebedo, and Wham.

**AN ACT**

CONCERNING THE CREATION OF THE SOUTHERN UTE INDIAN TRIBE/STATE OF COLORADO ENVIRONMENTAL COMMISSION, AND, IN CONNECTION THEREWITH, SETTING FORTH THE AUTHORITY OF THE COMMISSION TO ESTABLISH AND ADMINISTER AN AIR QUALITY PROGRAM FOR ALL LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 7 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 13  
THE SOUTHERN UTE INDIAN TRIBE/  
STATE OF COLORADO ENVIRONMENTAL COMMISSION**

**25-7-1301. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE SOUTHERN UTE INDIAN TRIBE AND THE STATE OF COLORADO HAVE ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT, AS SET FORTH IN HOUSE BILL 00-1324, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY AND FOUND AT 24-62-101, C.R.S.;

(b) PURSUANT TO SAID INTERGOVERNMENTAL AGREEMENT, THE TRIBE AND THE STATE HAVE AGREED TO CREATE A TRIBAL/STATE ENVIRONMENTAL COMMISSION WITH THE AUTHORITY TO PROMULGATE RULES AND REGULATIONS FOR ONE AIR QUALITY PROGRAM FOR ALL LANDS, ALL PERSONS, AND ALL AIR POLLUTION SOURCES WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION;

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(c) AS GOVERNMENTS THAT SHARE CONTIGUOUS PHYSICAL BOUNDARIES, IT IS IN THE INTEREST OF THE ENVIRONMENT AND ALL RESIDENTS OF THE RESERVATION AND THE STATE OF COLORADO TO WORK TOGETHER TO ENSURE CONSISTENT AND COMPREHENSIVE AIR QUALITY REGULATION ON THE RESERVATION;

(d) THE ESTABLISHMENT OF A SINGLE COLLABORATIVE AUTHORITY FOR ALL LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION BEST ADVANCES RATIONAL, SOUND, AIR QUALITY MANAGEMENT AND WILL MINIMIZE DUPLICATIVE EFFORTS AND EXPENDITURES OF MONETARY AND PROGRAM RESOURCES BY THE TRIBE AND THE STATE;

(e) PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT, THE TRIBE WILL SEEK DELEGATION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO ADMINISTER CERTAIN PROGRAMS UNDER THE FEDERAL "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET SEQ. (1970), AS THE SAME IS IN EFFECT ON NOVEMBER 15, 1990, SUCH DELEGATION BEING CONTINGENT UPON THE EXISTENCE OF THE TRIBAL/STATE COMMISSION AND THE INTERGOVERNMENTAL AGREEMENT.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS PART 13 TO ESTABLISH STATE AUTHORITY FOR THE CREATION OF A COMMISSION THAT WILL ESTABLISH A SEPARATE RESERVATION AIR PROGRAM FOR ALL LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION, AS PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT. THEREFORE, FOR THE DURATION OF THE INTERGOVERNMENTAL AGREEMENT, ALL LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION SHALL BE SUBJECT TO THE AUTHORITY OF THE COMMISSION AND THE PROVISIONS OF THE RESERVATION AIR PROGRAM, AS DESCRIBED IN THIS PART 13 AND IN THE INTERGOVERNMENTAL AGREEMENT, AND SHALL NOT BE SUBJECT TO THE AUTHORITY OF THE COLORADO AIR QUALITY CONTROL COMMISSION OR THE PROVISIONS OF PARTS 1 TO 12 OF THIS ARTICLE, EXCEPT AS OTHERWISE PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT AND IN THIS PART 13.

(3) IN ARTICLE IV OF THE INTERGOVERNMENTAL AGREEMENT, THE TRIBE AND THE STATE AGREED THAT NEITHER PARTY INTENDED TO ALTER THE EXISTING SOVEREIGNTY OR JURISDICTION OF ANY PARTY, AND BY APPROVING THE INTERGOVERNMENTAL AGREEMENT, NEITHER PARTY CONCEDED OR AGREED TO ANY JURISDICTION OF THE OTHER PARTY THAT WOULD NOT OTHERWISE EXIST. TO THE EXTENT THE STATE HAS JURISDICTION OVER NON-INDIANS ON FEE LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION, IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS PART 13 THAT THE COMMISSION SHALL EXERCISE SUCH AUTHORITY FOR THE PURPOSES SET FORTH IN THIS PART 13.

(4) THE GENERAL ASSEMBLY ENACTS THIS PART 13 WITH THE UNDERSTANDING THAT THE TRIBE HAS ALSO ADOPTED TRIBAL LEGISLATION THAT WILL CARRY OUT THE TERMS OF THE INTERGOVERNMENTAL AGREEMENT WITH RESPECT TO PERSONS, AIR POLLUTION SOURCES, AND LANDS WITHIN THE RESERVATION THAT ARE SUBJECT TO THE JURISDICTION OF THE TRIBE.

**25-7-1302. Definitions.** (1) "COMMISSION" MEANS THE SOUTHERN UTE INDIAN TRIBE/STATE OF COLORADO ENVIRONMENTAL COMMISSION ESTABLISHED BY THIS PART 13.

(2) "DIVISION" MEANS THE DIVISION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT PERTAINS TO AIR POLLUTION CONTROL.

(3) "EPA" MEANS THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(4) "FEE LAND" MEANS REAL PROPERTY LOCATED WITHIN THE RESERVATION THAT IS OWNED IN FEE BY NON-INDIANS.

(5) "INTERGOVERNMENTAL AGREEMENT" MEANS THE AGREEMENT ENTERED INTO BY THE SOUTHER UTE INDIAN TRIBE AND THE STATE OF COLORADO, AS SET FORTH IN HOUSE BILL 00-1324, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY.

(6) "RESERVATION" MEANS THE SOUTHERN UTE INDIAN RESERVATION, THE EXTERIOR BOUNDARIES OF WHICH WERE CONFIRMED IN THE ACT OF MAY 21, 1984, P.L. 98-290, 98 STAT. 201, 202 (FOUND AT "OTHER PROVISIONS" NOTE TO 25 U.S.C.S. SEC. 668).

(7) "RESERVATION AIR PROGRAM" MEANS THE REGULATORY AIR QUALITY PROGRAM ESTABLISHED BY THE COMMISSION FOR ALL PERSONS, LANDS, AND AIR POLLUTION SOURCES WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION.

(8) "STATE" MEANS THE STATE OF COLORADO.

(9) "TRIBE" MEANS THE SOUTHERN UTE INDIAN TRIBE.

(10) "TRUST LAND" MEANS LAND WITHIN THE RESERVATION HELD IN TRUST BY THE UNITED STATES OF AMERICA FOR THE BENEFIT OF THE TRIBE OR INDIVIDUAL INDIANS.

**25-7-1303. Southern Ute Indian tribe/state of Colorado environmental commission created.** (1) THERE IS HEREBY CREATED THE SOUTHERN UTE INDIAN TRIBE/STATE OF COLORADO ENVIRONMENTAL COMMISSION. THE COMMISSION IS NOT AN AGENCY OF THE STATE, BUT IS AN AUTHORITY CREATED PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT. THE COMMISSION'S ACTIONS ARE NOT SUBJECT TO THE PROVISIONS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., BUT RATHER ARE SUBJECT TO PROCEDURAL RULES ADOPTED BY THE COMMISSION.

(2) THE COMMISSION SHALL HAVE AUTHORITY TO ADOPT AIR QUALITY STANDARDS, PROMULGATE RULES AND REGULATIONS, AND REVIEW APPEALABLE ADMINISTRATIVE ACTIONS PERTAINING TO THE RESERVATION AIR PROGRAM.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMISSION'S RULES, REGULATIONS, AND ORDERS SHALL BE EFFECTIVE AGAINST ALL PERSONS LOCATED WITHIN THE RESERVATION OVER WHOM THE STATE WOULD OTHERWISE HAVE JURISDICTION AS PROVIDED BY STATE OR FEDERAL LAW.

(4) THE COMMISSION SHALL CONSIST OF THREE MEMBERS APPOINTED BY THE TRIBE AND THREE MEMBERS APPOINTED BY THE GOVERNOR. THE INITIAL MEMBERS APPOINTED BY THE GOVERNOR SHALL SERVE TERMS AS FOLLOWS: ONE MEMBER SHALL SERVE UNTIL JULY 1, 2001, ONE MEMBER SHALL SERVE UNTIL JULY 1, 2002,

AND ONE MEMBER SHALL SERVE UNTIL JULY 1, 2003. ALL SUBSEQUENT APPOINTMENTS BY THE GOVERNOR SHALL BE FOR TERMS OF THREE YEARS. NO MEMBER APPOINTED BY THE GOVERNOR SHALL BE ELIGIBLE TO SERVE MORE THAN TWO TERMS.

(5) THE GOVERNOR MAY REMOVE ANY MEMBER APPOINTED BY THE GOVERNOR AT ANY TIME. THE GOVERNOR MAY NOT REMOVE ANY MEMBER APPOINTED BY THE TRIBE.

(6) EXCEPT AS PROVIDED IN SECTION 25-7-1307, COMMISSION MEMBERS SHALL NOT RECEIVE ANY COMPENSATION FROM THE STATE OF COLORADO FOR THEIR SERVICES IN THE CONDUCT OF COMMISSION BUSINESS. COMMISSION MEMBERS MAY BE REIMBURSED FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES OUT OF FUNDS COLLECTED OR RECEIVED BY THE TRIBE.

(7) EACH MEMBER SHALL HAVE ONE VOTE. THE AFFIRMATIVE VOTE OF A MAJORITY OF ALL MEMBERS OF THE COMMISSION ON ANY MATTER WITHIN ITS POWERS AND DUTIES SHALL BE REQUIRED FOR ANY FINAL DETERMINATION MADE BY THE COMMISSION.

(8) THE COMMISSION SHALL ANNUALLY ELECT A MEMBER TO PRESIDE AS CHAIR. THE CHAIR SHALL ALTERNATE ANNUALLY BETWEEN A TRIBAL AND A STATE MEMBER.

**25-7-1304. Commission - powers and duties.** (1) THE COMMISSION SHALL BE THE AIR QUALITY POLICY-MAKING AND THE ADMINISTRATIVE REVIEW ENTITY FOR THE RESERVATION AIR PROGRAM.

(2) THE DUTIES OF THE COMMISSION SHALL INCLUDE THE RESPONSIBILITY TO:

(a) DETERMINE THE SPECIFIC AIR QUALITY PROGRAMS UNDER THE FEDERAL "CLEAN AIR ACT", OR OTHER AIR QUALITY PROGRAMS, THAT SHOULD APPLY TO THE RESERVATION, TAKING INTO ACCOUNT THE SPECIFIC ENVIRONMENTAL, ECONOMIC, GEOGRAPHIC, AND CULTURAL NEEDS OF THE RESERVATION;

(b) PROMULGATE RULES AND REGULATIONS THAT ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION OF THOSE PROGRAMS, INCLUDING DETERMINING WHICH ADMINISTRATIVE ACTIONS ARE APPEALABLE TO THE COMMISSION;

(c) ESTABLISH PROCEDURES THE COMMISSION WILL FOLLOW IN PROMULGATING RULES AND REGULATIONS AND FOR ADMINISTRATIVE REVIEW OF ACTIONS TAKEN BY THE TRIBE;

(d) REVIEW AND APPROVE OF A LONG-TERM PLAN, INITIALLY PREPARED BY THE TRIBE, TO IMPROVE AND MAINTAIN AIR QUALITY WITHIN THE RESERVATION, WHICH ALSO TAKES INTO ACCOUNT REGIONAL PLANNING IN THE LA PLATA AND ARCHULETA COUNTY REGION;

(e) MONITOR THE RELATIONSHIPS AMONG THE STATE AND TRIBAL ENVIRONMENTAL PROTECTION AGENCIES TO FACILITATE COOPERATION, INFORMATION SHARING,

TECHNICAL ASSISTANCE, AND TRAINING;

(f) REVIEW ENFORCEMENT ACTIONS ACCORDING TO THE COMMISSION'S ADOPTED ADMINISTRATIVE PROCEDURES;

(g) APPROVE AND ADOPT FEES FOR PERMITS AND OTHER REGULATORY SERVICES CONDUCTED BY THE TRIBE OR THE STATE, AFTER CONSIDERING A PROPOSED FEE SCHEDULE PREPARED BY THE TRIBE, AND DIRECT PAYMENT BY AIR POLLUTION SOURCES TO THE TRIBE;

(h) ENSURE CONSISTENCY AND ADHERENCE TO APPLICABLE STANDARDS AND RESOLVING DISPUTES INVOLVING THIRD PARTIES;

(i) REVIEW EMISSION INVENTORIES AS DEVELOPED BY THE TRIBE AND STATE;

(j) CONDUCT PUBLIC HEARINGS PERTAINING TO THE ADOPTION OF RULES AND REGULATIONS, OR RELATING TO ENFORCEMENT AND PERMIT APPEALS, AND TO ISSUE ORDERS RESULTING FROM THOSE PROCEEDINGS;

(k) REQUEST TRIBAL STAFF TO PERFORM ANY ADMINISTRATIVE OR CLERICAL FUNCTIONS NECESSARY TO ISSUE ORDERS AND CONDUCT COMMISSION BUSINESS, OR THE COMMISSION, AT ITS OPTION, MAY APPOINT A TECHNICAL SECRETARY TO PERFORM SUCH DUTIES; EXCEPT THAT NO AUTHORITY SHALL BE DELEGATED TO ADOPT, PROMULGATE, AMEND, OR REPEAL STANDARDS OR REGULATIONS, OR TO MAKE DETERMINATIONS, OR TO ISSUE OR COUNTERMAND ORDERS OF THE COMMISSION;

(l) ANY OTHER DUTIES NECESSARY TO ACCOMPLISH THE PURPOSES OF THE INTERGOVERNMENTAL AGREEMENT, AND AS AUTHORIZED BY THE STATE AND TRIBAL ENABLING LEGISLATION.

**25-7-1305. Administration of the reservation air program.** (1) AFTER THE COMMISSION HAS ADOPTED RULES AND REGULATIONS FOR THE RESERVATION AIR PROGRAM AND AFTER THE EPA HAS DELEGATED TO THE TRIBE ADMINISTRATION OF PROGRAMS UNDER THE FEDERAL "CLEAN AIR ACT", THE TRIBE SHALL ADMINISTER AND ENFORCE THE STANDARDS, RULES AND REGULATIONS ADOPTED BY THE COMMISSION FOR THE RESERVATION AIR PROGRAM. THE ACTIONS OF THE TRIBE PURSUANT TO THIS SECTION AND THIS PART 13 SHALL APPLY TO ANY NON-INDIAN AIR POLLUTION SOURCE WITHIN THE RESERVATION AS IF THE STATE HAD TAKEN THE SAME ACTION.

(2) UNTIL THE EPA DELEGATES TO THE TRIBE THE AUTHORITY TO ADMINISTER FEDERAL "CLEAN AIR ACT" PROGRAMS, THE COLORADO AIR QUALITY CONTROL COMMISSION AND THE DIVISION SHALL HAVE AUTHORITY UNDER THIS ARTICLE TO CONTINUE TO ENFORCE ANY STATE PROGRAM OR PERMITS, LAWS, AND REGULATIONS FOR ANY NON-INDIAN OWNED AIR POLLUTION SOURCES ON FEE LAND WITHIN THE RESERVATION. THE DIVISION SHALL AFFORD THE TRIBE THE OPPORTUNITY TO PARTICIPATE IN ITS REGULATORY ACTIVITIES INVOLVING SUCH SOURCES, INCLUDING THE REVIEW OF PERMIT APPLICATIONS, NOTICES OF VIOLATIONS OR OTHER ORDERS, INSPECTIONS, AND OTHER ENFORCEMENT ACTIONS.

**25-7-1306. Agencies of the state to cooperate.** (1) AGENCIES OF THE STATE,

INCLUDING BUT NOT LIMITED TO THE DIVISION, MAY PROVIDE TECHNICAL ASSISTANCE, TRAINING, AND CONSULTATION TO THE TRIBE TO CARRY OUT THE PURPOSES OF THE INTERGOVERNMENTAL AGREEMENT AND THIS PART 13.

(2) THE GENERAL ASSEMBLY AUTHORIZES STATE AGENCIES TO PERFORM DUTIES ON BEHALF OF THE COMMISSION TO ADMINISTER THE RESERVATION AIR PROGRAM. STATE AGENCIES MAY CONTRACT WITH THE TRIBE TO RECEIVE PAYMENT FOR THE REASONABLE COST OF THE SERVICES STATE EMPLOYEES PERFORM FOR THE TRIBE OR THE COMMISSION.

**25-7-1307. Funding for staff and program costs.** (1) THE COMMISSION SHALL ESTABLISH FEES FOR PERMITS AND OTHER REGULATORY SERVICES PROVIDED BY THE DIVISION OR THE TRIBE UNDER THIS PART 13. THE COMMISSION SHALL DIRECT AIR POLLUTION SOURCES TO PAY SAID FEES TO THE TRIBE. THE TRIBE MAY ALSO APPLY FOR AND RECEIVE EPA GRANTS FOR THE ADMINISTRATION OF THE RESERVATION AIR PROGRAM.

(2) FROM THE FEES AND GRANTS, THE TRIBE SHALL FUND THE STAFF AND PROGRAM COSTS NECESSARY TO PERFORM THE TRIBE'S DUTIES UNDER THE INTERGOVERNMENTAL AGREEMENT AND THIS PART 13. THE TRIBE SHALL PAY THE STATE FOR THE PERSONAL SERVICES COSTS, AT A RATE OF COMPENSATION DETERMINED BY CONTRACT, OF ANY STATE EMPLOYEE WHO PARTICIPATES IN THE ADMINISTRATION OF THE RESERVATION AIR PROGRAM PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT OR THIS PART 13.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FEES AND GRANTS SHALL PAY THE NECESSARY EXPENSES OF THE COMMISSION. IF THE FEES AND GRANTS ARE NOT SUFFICIENT TO PAY THE COMMISSION'S EXPENSES, THEN THE STATE AND THE TRIBE SHALL BE RESPONSIBLE FOR FUNDING ASSOCIATED WITH THE PARTICIPATION OF THEIR RESPECTIVE REPRESENTATIVES ON THE COMMISSION. STATE FUNDING FOR ITS EXPENSES MUST COME FROM EITHER A SEPARATE APPROPRIATION TO THE DIVISION OR FROM FUNDS OTHERWISE AVAILABLE THAT THE STATE IS AUTHORIZED TO USE FOR SUCH A PURPOSE.

(4) PRIOR TO THE ESTABLISHMENT AND COLLECTION OF FEES FROM AIR POLLUTION SOURCES UNDER THE RESERVATION AIR PROGRAM, THE TRIBE MAY HAVE EXPENSES ASSOCIATED WITH ITS ADMINISTRATION OF PERMITS FOR NON-INDIAN OWNED SOURCES ON FEE LAND. IF THE STATE CONTINUES TO COLLECT FEES UNDER SECTION 25-7-114.7 FROM AIR POLLUTION SOURCES ON FEE LANDS, AND IF THE TRIBE HAS EXPENSES ASSOCIATED WITH THE ADMINISTRATION OF A STATE-ISSUED PERMIT, THEN THE DIVISION IS AUTHORIZED TO USE SUCH PERMIT AND OTHER FEES TO PAY FOR THE TRIBE'S PERSONAL SERVICES COSTS. THE STATE IS AUTHORIZED TO CONTRACT WITH THE TRIBE SETTING FORTH THE REASONABLE COST FOR SUCH SERVICES PERFORMED BY THE TRIBE.

**25-7-1308. Administrative and judicial review of commission actions.** (1) PRIOR TO THE FORMATION OF THE COMMISSION, THE ADOPTION OF THE FEDERAL LEGISLATION CONTEMPLATED IN THE INTERGOVERNMENTAL AGREEMENT AND ACTUAL EPA DELEGATION OF FEDERAL "CLEAN AIR ACT" PROGRAMS:

(a) THE STATE, THROUGH THE COLORADO AIR QUALITY CONTROL COMMISSION AND THE DIVISION, SHALL EXERCISE CIVIL AND CRIMINAL ENFORCEMENT JURISDICTION

OVER NON-INDIANS ON FEE LANDS WITHIN RESERVATION BOUNDARIES FOR VIOLATIONS OF APPLICABLE AIR QUALITY PERMITS, LAWS, AND REGULATIONS.

(b) APPEALS OF STATE AIR ENFORCEMENT ACTION AND OTHER AIR QUALITY-RELATED DECISIONS MAY BE BROUGHT IN STATE COURT CONSISTENT WITH STATE LAW AND REGULATION.

(c) THE TRIBE SHALL EXERCISE JURISDICTION OVER INDIANS, ON ALL LANDS WITHIN THE BOUNDARIES OF THE RESERVATION, AND OVER NON-INDIANS ON TRUST LAND, FOR VIOLATIONS OF APPLICABLE TRIBAL AIR QUALITY REGULATIONS.

(d) NOTHING IN THIS PART 13 IS INTENDED TO RESTRICT, DIMINISH, OR DEFINE THE JURISDICTION OF THE EPA.

(2) FOLLOWING THE ADOPTION OF THE FEDERAL LEGISLATION AND THE EPA DELEGATION OF FEDERAL "CLEAN AIR ACT" PROGRAMS:

(a) THE TRIBE SHALL EXERCISE CIVIL ENFORCEMENT JURISDICTION OVER ALL PERSONS AND AIR POLLUTION SOURCES ON ALL LANDS WITHIN RESERVATION BOUNDARIES FOR VIOLATIONS OF THE RESERVATION AIR PROGRAM, SUBJECT TO ADMINISTRATIVE REVIEW BY THE COMMISSION; AND

(b) CONSISTENT WITH THE FEDERAL LEGISLATION PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT, THE GENERAL ASSEMBLY INTENDS THAT FINAL DECISIONS OF THE COMMISSION SHALL BE SUBJECT TO REVIEW IN FEDERAL DISTRICT COURT IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL ADMINISTRATIVE PROCEDURE ACT.

(3) FOLLOWING THE FORMATION OF THE COMMISSION AND THE ADOPTION OF THE FEDERAL LEGISLATION PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE EPA WILL EXERCISE CRIMINAL ENFORCEMENT JURISDICTION OVER ANY PERSONS ON ALL LANDS WITHIN RESERVATION BOUNDARIES FOR CRIMINAL VIOLATIONS OF THE RESERVATION AIR PROGRAM.

**25-7-1309. Repeal.** (1) THIS PART 13 SHALL BE REPEALED ON THE OCCURRENCE OF ANY ONE OF THE FOLLOWING EVENTS:

(a) TERMINATION OF THE INTERGOVERNMENTAL AGREEMENT BY EITHER THE TRIBE OR THE STATE;

(b) ENACTMENT OF AN EXPLICIT REPEAL BY THE GENERAL ASSEMBLY, ACTING BY SEPARATE BILL; OR

(c) THE FAILURE OF THE UNITED STATES CONGRESS TO ENACT FEDERAL LEGISLATION BY DECEMBER 13, 2001, AS CALLED FOR IN THE INTERGOVERNMENTAL AGREEMENT.

**SECTION 2. Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid

provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 15, 2000