

Tribal Public Health Law:

NORTHWEST AREA

OVERVIEW

The Northwest Area of the National Congress of American Indians (NCAI) contains Oregon, Washington, and Idaho. To be fully representative, this memo sheds light on a diverse sample of public health codes from tribal nations whose lands lie within each of these states. Tribal nations from the Northwest Area that have given NCAI permission to share their codes through the database include: Nez Perce Tribe; Squaxin Island Tribe; Confederated Tribes of the Umatilla Indian Reservation; Jamestown S’Klallam Indian Tribe; Quinault Indian Nation; and Swinomish Indian Tribe. While these tribes have codified many laws in the interest of preventing community injury and harm, only those that carry unique insights for the broader field of public health are shared herein. For full access to codes from the Northwest region for which we have tribal consent to publicly share, please visit our new online Tribal Public Health Law Database at <http://www.ncai.org/policy-research-center/initiatives/projects/tribal-public-health-law>.

KEY THEMES

From the Northwest Area, we found a strong emphasis on the relationship between the health of the people and the land. Whether manifest in the understanding that “water is medicine” or the desire to protect subsistence rights to harvest marine resources, the environment occupied a prominent place in the tribal codes we reviewed. Beyond this, we found concerns for economic sustainability alongside the social and environmental. In codes aimed at preserving water quality, preventing fires, and regulating the sale of shellfish as well as tobacco and liquor, there is explicit interest in supporting bureaucracy or infrastructure to minimize economic losses to the Tribes and their members. Somewhat uniquely, the Jamestown S’Kllallam Tribe has implemented a stand-alone code focused on emergency management and training for the potential outbreak of infectious diseases and vectors.

SAMPLE CODES

* **Water.** The introduction to the Water Code of the Confederated Tribes of the Umatilla Indian Reservation is titled, “Płíx iwá čúuš” (Water is medicine). In it, is speaks of how the Tribes “think of fourteen generations of cold, clean, plentiful water”—seven generations back, and seven into the future. Speaking directly to the health, identity and survival of the people, “Water keeps all our bodies for us. *Čúuš* is a part of everything. It is within *natítayt* (Indian), it is within *tiičám* (land), and it is within *núsux* (salmon)…We drink water to remind us of who we are. *Čúuš* cleanses and heals our bodies.” The purpose of the code is to manage water use in a way that protects the exclusive fishing rights, cultural and religious integrity of tribal members.
* **Nuisance Abatement.** According to the code, “There currently exist within the Nez Perce Reservation unsanitary, unsafe, and uninhabitable dwellings, including eyesores as a result of abandoned materials or debris” and these nuisances “are causing an increase in crime and constitute a menace to the health and safety of surrounding neighbors and residents.” As such, the Reservation Sanitarian/Environmental Health Officer is charged with inspecting the property and reporting back to the Tribal Council how to abate, remedy, or remove the nuisance.
* **Shorelines & Sensitive Areas.** The Swinomish code explicitly links the health of shorelines to the health, welfare, political integrity, and economic security of the Tribe—willing that the reservation’s residents “may live in harmony with each other and the natural environment.” These sensitive areas are valued for reasons both cultural and economic, including: “(1) Traditional hunting, fishing, and gathering activities; (2) Traditional spiritual practices; (3) Protection of groundwater; (4) Protection of property from potential flood damage, soil erosion, and damage due to geologic hazards; (5) Viewing and appreciation of nature; and (6) Solitude and contemplation.” As the code further details, “fishing and hunting, including shellfish harvest, are a central focus of the Tribe’s culture and are of critical importance to the Tribe’s economy and the economic well-being of its members.” With respect to human injury prevention, the threat of landslides and earthquakes is cited as a side-effect of unregulated development of at-risk lands.
* **Fire Prevention**. The Confederated Tribes of the Umatilla Indian Reservation have crafted a fire prevention code that addresses not only the need “to protect the human and physical resources of the Reservation from damage due to fire or related hazards,” but also the need to conserve “human and financial resources” by stressing prevention programs and ensuring a self-sufficient Fire Department. To address the latter concern, the Fire Department is authorized to establish fees and subscription rates for the delivery of timely fire protection.
* **Control of Infectious Diseases & Vectors.** In accordance with the American Public Health Association and the Centers for Disease Control and Prevention, the Jamestown S’Kllallam Tribe has passed a code to “follow universal precautions when responding to, and disinfecting after, incidents involving blood or potentially infectious bodily fluids.” Continued training on infectious disease control and prevention is emphasized. For the control of vectors, “tribal staff will insure that all Tribal Facilities are free of insects, rodents, or other pests that may constitute a public health hazard”—providing periodic applications of pesticides, fungicides, and rodenticides, as required. The application of Regulated Control Agents is to be documented with records of contractual extermination services at the Tribal offices.
* **Tobacco & Liquor.** The Nez Perce Tribe has turned to the law to regulate the taxation and sale of tobacco and liquor products in all forms on its Reservation—requiring the licensing of all Indian-owned Tobacco and Liquor Outlets. For tobacco, a tribal tax is collected and the purchaser’s contact information is collected in an effort to track every tobacco-related transaction on the Reservation, with monthly sale reports due to the Tribe. For liquor, a monthly tax of 5 cents for every dollar collected in liquor sales is due to the Tribe. While sales to minors are prohibited, mention of the health impacts of the use of these substances is absent from the code.
* **Shellfish Sanitation.** Responding to a consent decree on shellfish sanitation in *United States v. Washington,* the Squaxin Island Tribe has implemented a code to control “all phases of the harvesting, processing, distribution, and shipping of shellfish” by both local and international merchants. This code details the depuration process; proper shucking, packing, and storage; and the sanitation needs for processing plants, which must be free of insects, rodents, vermin, and poisonous or toxic materials. As shellfish sales are a primary economic driver for the region, it is not surprising that tribes have adopted codes specifically regulating the harvest and cleaning of this food source.
* **Dog Control.** Wishing to control dogs that are jumping at vehicles, snapping at or threatening persons in public places, the Swinomish Tribal code levies fees from the owner for each violation, with the ultimate consequence of disposing of the animal. The Tribe also found there were “certain breeds of dogs within the exterior boundaries of the Reservation that have...dangerous traits and temperaments…such dogs constitute a serious threat to the public health and safety of the Village.” As found in the Great Plains region, a ban on the ownership of pit bull terrier breeds was put into effect.
* **Fireworks.** All licensed vendors of fireworks on the Nez Perce Indian Reservation must be tribal members operating on trust lands who can “demonstrate legal responsibility and protect the safety of the public.” The code bans the sale of fireworks to minors (under age 18) unless the fireworks “are of a nature that has been designated as ‘Safe and Sane,’”—e.g. do not explode or produce aerial effects. Licensees may not sell and purchasers may not buy fireworks if they are under the influence of alcohol or drugs.
* **Bed & Breakfast Food Sanitation.** In addition to its general Food Sanitation code, which adopts the recommendations of the U.S. Food and Drug Administration, the Umatilla Tribal code covers the business practices of bed & breakfast (B&B) establishments on the Reservation. With respect to specific foods, “the use of home canned goods and meat and dairy products from unapproved sources is prohibited.” And regarding animals on the premises, “aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.”
* **Wastewater.** In 1965, the Squaxin Island Tribe implemented a code to protect the health of the tribal community and environment (fish-bearing streams and shellfish growing areas in particular) from the adverse effects of exposure to sewage wastewater and treatment discharges. To support the enforcement of regulations contained in the code, a Tribal Utility Commission was established. As a part of their duties, the Commission must provide topographic evaluations and may revoke or deny a permit for a sewage system that threatens the public health.
* **Traffic.** Within its Traffic Code, the Swinomish Tribe has implemented laws banning texting and the use of wireless communications devices (unless hands-free) while driving; requiring the use of safety belts, child passenger restraints, life preservers (on boats), and helmets; and prohibiting driving under the influence of alcohol or with an open container in the vehicle. Littering is also identified as a threat to public health and safety, as “no person shall throw or deposit upon any roadway any glass, nails, tacks, wire, cans, bottle, or any other substance likely to injure any person or animal or vehicle.”