

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, the Tribal Council by Resolution No. 01-95-015 directed the Tribal Council Secretary to post the proposed amendments to the Game and Fish Code in each district for a minimum of 10 days as required by the Constitution; and

WHEREAS, the Council Secretary advised the Tribal Council that said proposed ordinance has been posted in accordance with that directive; and

WHEREAS, the Tribal Council having received no opposition to the proposed amendments to the Game and Fish Code concludes that the amendments should be enacted.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts Ordinance No. 196 amending the Game and Fish Code of the White Mountain Apache Tribe in the form and content attached to this resolution and incorporated by reference herein, to be effective immediately.

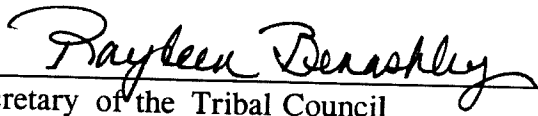
The foregoing resolution was on March 08, 1995, duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

APR 12 1995

FORT APACHE INDIAN AGENCY
WHITERIVER, ARIZONA


Chairman of the Tribal Council

Acting

Secretary of the Tribal Council

WHITE MOUNTAIN APACHE GAME AND FISH CODE

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13. "FISHING" means the act or sport of taking or attempting to take aquatic wildlife.
14. "FORT APACHE INDIAN RESERVATION" means the lands of the White Mountain Apache Tribe within the boundaries of the Fort Apache Indian Reservation and other lands held in trust for the Tribe.
15. "GAME AND FISH DEPARTMENT" means the White Mountain Apache Tribe Game and Fish Department.
16. "GUIDE" means a person who, for pay or other remuneration, aids or assists any person in taking wildlife, or pursuing any other Recreational Activity.
17. "HAZARDOUS SUBSTANCE OR MATERIAL" means any substance defined as hazardous by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, codified at 42 U.S.C. § 9601 et seq., or any other substance which, after release into the environment, is or may become injurious, either directly or indirectly, to any organism.
18. "HUNTING PERMIT" means a permit ~~required by the Tribal Council issued by the Game and Fish Department~~ for the taking of animals.
19. "INDIAN" means any person of Indian descent who is a member of a federally recognized Indian tribe according to the laws of that Tribe, and any other person recognized by federal law as an Indian for any purpose, and denotes both the singular and the plural.
20. "MEMBER" means a person who is an enrolled member of the White Mountain Apache Tribe.
21. "MOTORIZED VEHICLE" means any vehicle propelled by motor or engine.
22. "NONMEMBER" means a person who is not an enrolled member of the White Mountain Apache Tribe.
23. "NONMEMBER INDIAN" means a person who is a member of any federally recognized Indian tribe other than the White Mountain Apache Tribe.
24. "OPEN SEASON" means the time during which a particular species of wildlife may be lawfully taken.

25. "PICNIC" means a pleasure outing where food is eaten outdoors.
26. "RANGER" means a peace officer of the Recreation Enterprise or the Game and Fish Department authorized to enforce the provisions of this Code and the Game and Fish Regulations.
27. "RECREATION ENTERPRISE" means the White Mountain Apache Tribe Game and Fish Department.
28. "RECREATION PERMIT" means any permit, including camping permits issued by the Recreation Enterprise for any recreational use of Tribal lands.
29. "RECREATIONAL ACTIVITY" means any outdoor activity intended for sport or pleasure, including, but not limited to, picnicking, camping, boating, tubing, hiking, bicycling, and skiing; but not including hunting or any other taking of wildlife.
30. "RECREATIONAL AREA" means all portions of the Reservation except for communities, public roads and other areas specially set aside for other than recreational purposes.
31. "RECREATIONAL USER" means any person engaged in a Recreational Activity.
32. "RESERVATION" means the Fort Apache Indian Reservation.
33. "RIVER RUNNING" means moving or traveling upon any river by raft, kayak, inner tube, canoe, or other watercraft.
34. "ROAD" means any federal, state, county or tribal right of way for public travel, and any tribal logging road, whether open or closed.
35. "SWIMMING" means propelling oneself in the water by natural means and includes, but is not limited to, diving, jumping, and floating.
36. "TAKING" means pursuing, shooting, shooting at, hunting, trapping, netting, snaring, fishing, killing, capturing, or attempting any of the foregoing.
37. "TRAPPING" means the taking of wildlife in any manner except with gun or other implement in hand.

CHAPTER TWO

AUTHORITY OF THE RECREATION ENTERPRISE GAME AND FISH DEPARTMENT

SECTION 2.1 GENERAL POWERS AND DUTIES OF THE RECREATION ENTERPRISE GAME AND FISH DEPARTMENT

In order to administer the laws of the Tribe relating to conservation and management of wildlife and recreation resources the Recreation Enterprise Game and Fish Department shall have the following powers and duties:

- A. Make such rules and regulations and establish such services as it deems necessary to carry out the provisions and purposes of this Code, subject to the approval of the Tribal Council.
- B. Recommend to the Tribal Council broad policies and long range programs for the management and preservation of wildlife and other Tribal recreational resources.
- C. Issue Recreational Permits, watercraft permits, licenses to take wildlife, and other permits and licenses for use of the Tribal lands and resources.
- D. Establish hunting and fishing regulations, and prescribe the manner and methods which may be used in taking wildlife, subject to the approval of the Tribal Council.
- E. Establish and publish Nonmember Regulations, subject to the approval of the Tribal Council.
- F. Be responsible for the enforcement of laws, including setting fines and civil penalties, for the protection of wildlife and other Tribal recreational resources.
- G. Establish rewards or bounties for information leading to the identification and prosecution of violators of this Code.
- H. Prescribe qualifications, training, grades and salary schedules for Department employees.
- I. Provide for the assembly and distribution of information to the public relating to wildlife and other Tribal recreational resources.

- J. Assist in search and rescue operations.
- K. Conduct investigations, inquiries or hearings as necessary to enforce this Code.
- L. Establish game management units, refuges or Closed Areas for the preservation and management of wildlife, with the approval of the Tribal Council. Such units, refuges or Closed Areas shall be clearly marked with signs.
- M. Construct and operate game farms, fish hatcheries, fishing lakes, or other facilities for or relating to the management, preservation or propagation of wildlife.
- N. Provide training to the public in hunting safety and the safe handling of firearms.
- O. Purchase, sell or barter wildlife for the purpose of stocking tribal lands and waters.
- P. Use wildlife for research or other educational purposes.
- Q. Enter into intergovernmental agreements, including cross-deputization agreements, with tribal, federal, state or local governments and their political subdivisions, or enter into agreements with private entities, subject to Tribal Council approval.
- R. Prescribe seasons, bag limits, possession limits and other regulations pertaining to the taking of wildlife, with the approval of the Tribal Council.
- S. Bring suit in the name of the Tribe against any person, entity, or organization, including public entities, to restrain or enjoin them from violating this Code or destroying or polluting Tribal resources.
- T. Exercise such additional powers and duties as are necessary to fully carry out the provisions of this Code.

SECTION 2.2 DEPARTMENT PUBLICATIONS

The Department shall prepare and, as often as necessary, revise publications which provide the public with information on recreation permits, seasons, bag limits, closed areas, fines and penalties, and other Department regulations. The Department shall make these publications available to the public through all permit dealers, at the Department office, and at such other places as it may designate.

CHAPTER THREE

PERMITS

SECTION 3.1 PERMITS; REQUIREMENTS

A. Except as otherwise provided by this Code, no person shall take or attempt to take any wildlife or engage in any Recreational Activity regulated by this Code on the Fort Apache Indian Reservation unless such person has in his or her personal possession a valid Tribal Hunting or Recreational Permit authorizing that activity.

B. No person required to obtain a Hunting or Recreation Permit pursuant to Subsection A shall fail or refuse to exhibit such permit(s) when asked to do so by an Authorized Officer.

C. No refunds shall be made on Recreational Permits.

D. Recreational Permits are neither transferable nor assignable.

E. Unless stated otherwise, all permits expire at the end of the calendar year.

F. No hunting or fishing licenses or permits issued by any state shall be required on the Reservation.

G. The Department may issue a duplicate Recreation Permit, provided that the person requesting such duplicate permit furnishes such information as may be reasonably required. The Department may collect a fee for each duplicate Recreation Permit issued.

H. The Department may refuse to issue a Recreation Permit or Hunting Permit to any Nonmember for any reason.

SECTION 3.2 PERMIT AGREEMENT FORM

A. Any persons to whom a Hunting or Recreation Permit is issued by the Department shall be required to sign a Permit Agreement before any such permit shall be valid. The Agreement shall be in substantially the same form as provided in Section B below. The form shall be signed by the applicant in the presence of the permit dealer who issued the permit, or his agent.

D. If the Department determines that the operation of motorized vehicles in a certain area may be harmful to wildlife, the Department may order the area closed to motorized vehicles for a period of time as approved by the Tribal Council. The Department shall post notices on the main roads entering such Closed Areas and at other locations as the Department deems appropriate.

E. The Department may designate particular areas of land to be available for off-road use by motorized vehicles, with the approval of the Tribal Council.

F. Violation of this Section shall be a Class Two Civil Offense.

SECTION 4.3 FISHING

See Chapter Five, Section 5.6.

SECTION 4.4 CAMPING

A. Permits

(1) Any Nonmember camping or occupying a campsite on the Reservation shall first purchase a ~~Recreation~~ camping permit. One permit is required for each vehicle.

(2) Members shall not be required to obtain camping permits.

(3) Camping permits are required in addition to any other permits required by this Code for the other activities in which campers may engage, and are not substitutes for such other permits.

B. Regulations

(1) No person shall camp in other than a ~~designated~~ campsite ~~designated by the Department.~~

(2) Except as specifically authorized in writing by the Department, campfires shall be permitted only in designated campsites.

(3) No person shall camp within one quarter mile of a wildlife or livestock watering hole, or in any area which is posted as a "No Camping" area.

C. Violation of this Section shall be a Class One Civil Offense.

SECTION 4.5 PICNICKING

A. Permits

(1) Any Nonmember who intends to picnic on the Reservation shall first purchase a Recreation Permit. One permit is required for each vehicle.

(2) A Recreation Permit for picnicking is not required when a member of the family or group of up to three unrelated persons possesses any other current and valid Recreation Permit or hunting license. (i.e., fishing permit, camping permit).

(3) Members shall not be required to purchase a Recreation Permit for picnicking.

B. Picnicking is allowed only in designated areas.

C. Violation of this Section shall be a Class One Civil Offense.

SECTION 4.6 HIKING

A. Any Nonmember who intends to hike on the Reservation shall first purchase a Recreation Permit. One permit is required for each vehicle.

B. Hiking is permitted in designated areas only. There shall be no hiking by Nonmembers in Closed Areas.

C. Members shall not be required to purchase a Recreation Permit for hiking.

D. Violation of this Section shall be a Class One Civil Offense, except that entry onto any Closed Area shall be a Class Two Civil Offense.

SECTION 4.7 WATERCRAFT

A. Nonmembers who operate watercraft on the Reservation shall first purchase a valid watercraft permit.

B. Watercraft permits shall be valid only during the calendar year issued and only for the designated watercraft for which issued. Annual permit stickers shall be attached to the designated watercraft.

C. Members shall not be required to purchase a Recreation Permit for bicycling.

D. Violation of this Section shall be a Class One Civil Offense, except that entry onto any Closed Area of the Reservation shall be a Class Two Civil Offense.

SECTION 4.11 WINTER ACTIVITIES

A. Any Nonmember who intends to engage in sledding, snow-tubing, cross-country skiing, snowmobiling or other outdoor winter activity on the Reservation shall first purchase a Recreation Permit pursuant to Department regulations.

B. Sledding, snow-tubing, cross-country skiing, snowmobiling, or any other outdoor winter activity is permitted only in special areas designated by the Department, except as permitted at Sunrise Park Resort.

C. Violation of this Section shall be a Class One Civil Offense.

SECTION 4.12 OTHER RECREATIONAL ACTIVITIES

A. All other recreational uses of Tribal lands and resources not specifically listed above or in Department rules and regulations shall require the written permission of the Department and the purchase of a Recreation Permit.

B. Violation of this Section shall be a Class One Civil Offense.

SECTION 4.13 PROHIBITED ACTIVITIES: PROPERTY

A. Except as otherwise permitted by this Code, in addition to all other activities prohibited by this Code, the following acts are unlawful within the boundaries of the Fort Apache Indian Reservation:

(1) Mutilating, defacing, disturbing, injuring, damaging or destroying any natural item, including but not limited to Wildlife, rocks, stones, fossils, or other property of the White Mountain Apache Tribe, including fences and Department property;

(2) Removing any natural item, including but not limited to, Wildlife, rocks, stones, fossils, or other property of the White Mountain Apache Tribe, including fences and Department property;

(3) Digging in, excavating, disturbing, injuring, destroying, or in any

place specifically designated or provided for such equipment;

(9) Cleaning or washing any food, personal property, fish or other animal, or bathing or washing at a hydrant or water faucet not provided for that purpose;

(10) Operating or using in or near a campsite, developed recreation site, or over an adjacent body of water without a permit, any device which produces noise, such as a radio, television, musical instrument, motor or engine in such a manner and at such a time so as to unreasonably disturb any person;

(11) Operating or using a public address system, whether fixed, portable or vehicle mounted, in or near a campsite or developed recreation site, or over an adjacent body of water without written permission from the Department;

(12) Posting, placing, or erecting any paper, notice, advertising material, sign, or similar matter without written permission from the Department;

(13) Placing a vehicle or other ~~subject~~ object in such a manner that it is an impediment or hazard to the safety or convenience of any person;

(14) Parking or leaving a vehicle in violation of posted instructions;

(15) Swimming, entering into, or being in a body of water, except while fishing and in possession of a valid fishing permit;

(16) Being publicly nude;

(17) Possessing or using a pack outfit on the Reservation without a camping permit or written permission from the Department;

(18) Entering a Closed Area;

(19) Entering any Special Use Area without a proper Special Use Permit.

B. Violation of Subsection A shall be a Class One Civil Offense.

C. Except as otherwise permitted by this Code, in addition to all other activities prohibited by this Code, the following acts are unlawful within the

may hunt big game only if said minor has obtained a valid permit, and is accompanied by a person eighteen (18) years of age or older. In addition, no minor under the age of fourteen (14) years of age may hunt big game unless said minor has completed a hunter's safety course conducted by the Department or the State of Arizona and is at least twelve (12) years of age.

C. Big Horn Sheep or Desert Sheep shall not be hunted on the Reservation.

D. Violation of this Section shall be a Class Four Civil Offense. In addition, the violator shall be liable for the Liquidated Damages assessment pursuant to Section 6.23.

SECTION 5.8 HUNTING SMALL GAME

A. Any Nonmember who hunts or intends to hunt small game on the Reservation shall first purchase a Small Game Hunting Permit for each species, if available for that year and shall comply with this Code, and the Nonmember hunting regulations issued by the Department.

B. A Nonmember minor with a valid permit may hunt small game if accompanied by an adult holding a valid permit for that activity.

C. Members shall not be required to obtain a permit to hunt small game on the Reservation, but must comply with all applicable rules and regulations established by the Department.

D. Violation of this Section shall be a Class Three Civil Offense. In addition, the violator shall be liable for the Liquidated Damages assessment pursuant to Section 6.23.

SECTION 5.9 TRAPPING

A. Any person who traps or intends to trap on the Reservation shall first purchase a Trapping Permit, if available for that year, and shall comply with this Code and the regulations issued by the Department.

B. Violation of this section shall be a Class Three Civil Offense. In addition, the violator shall be liable for the Liquidated Damages assessment pursuant to Section 6.23.

(6) Any cross-bow, except for use by an Authorized Officer;

(7) Any magazine capable of holding more than five rounds of ammunition;

(8) Any night vision scope or other night vision apparatus, except for use by an Authorized Officer;

(9) Any combination of parts or materials designed and intended for use in making or converting a device into an item set forth in Subsection (1) or (5) of this Section.

B. Violation of this Section shall be a Class Four Civil Offense.

SECTION 5.17 PROHIBITED ACTIVITIES: TAKING WILDLIFE

A. Except as otherwise permitted by this Code, in addition to all other activities prohibited by this Code, the following acts are unlawful within the boundaries of the Fort Apache Indian Reservation:

(1) Taking or attempting to take any species of Wildlife, except fish and bullfrogs, from within or upon, or by using any method within, upon or attached to a vehicle, aircraft, boat or other watercraft;

(2) Taking or attempting to take any species of Wildlife, except raccoons, fish and bullfrogs, at times other than during daylight hours between the hours of 1/2 hour after sunset and 1/2 hour before sunrise;

(3) Taking or attempting to take any species of Wildlife through the use of an artificial light, saltlick or any explosive, corrosive, poisonous or stupefying substance;

(4) Taking or attempting to take any species of Wildlife, except water dogs or bullfrogs, through the use of a net;

(5) Using any wildlife or part thereof as bait in taking any Wildlife, except as permitted the inedible parts of fish, if used as bait for hunting bear and fishing, unless otherwise prohibited by this Code or Department regulations;

(6) Failing to remove from the field any edible portion of game taken.

- B. Violation of this Section shall be a Class Three Civil Offense.

SECTION 5.18 PROHIBITED ACTIVITIES: FISHING

A. Except as otherwise permitted by this Code, in addition to all other activities prohibited by this Code, the following acts are unlawful within the boundaries of the Fort Apache Indian Reservation:

- (1) Taking any amphibians, crustaceans, mollusks, reptiles or other aquatic wildlife in any manner or place not permitted by Tribal regulations;
- (2) Cleaning fish in streams, springs or lakes;
- (3) Fishing from any boat dock, or pier, or any walkway leading to a boat dock or pier;
- (4) Cutting a hole larger than nine inches in diameter for ice fishing;
- (5) Digging worms on any part of the Reservation;
- (6) Fishing with bait in an artificial fly and lure only area;
- (7) Fishing with a barbed hook in a barbless hook area;
- (8) Using more than one hook in a single hook area.

- B. Violation of this Section shall be a Class One Civil Offense.

SECTION 5.19 PROHIBITED ACTIVITIES: HUNTING

A. Except as otherwise permitted by this Code, in addition to all other activities prohibited by this Code, the following acts are unlawful within the boundaries of the Fort Apache Indian Reservation:

- (1) Handling or discharging any firearm, ~~cross-bow or~~ bow and arrow ~~or other device for taking Wildlife~~ while intoxicated, or in a careless or reckless manner, or with wanton disregard for the safety of human life or property, or misusing a firearm in any other manner as defined in this Code or by Department regulations while taking wildlife;
- (2) Detaching or removing, or attempting to detach or remove, from the carcass of a big game animal a portion thereof for the purpose of

misrepresenting or concealing the species or sex of the animal;

(3) Using a dog to take any big game other than bear, raccoon or mountain lion;

(4) Discharging a firearm or using any pyrotechnic device:

(a) In or within one quarter mile of a residence, building, campsite, developed recreation site or occupied area; or

(b) Across or on a way, or within one quarter mile of a roadway, or in any manner or place whereby any person or property is exposed to injury or damage as result of such discharge or use.

[This is the same offense as found at Section 4.14 E(2)]

B. Violation of this Section shall be a Class Three Civil Offense.

SECTION 6.11 SEARCHES AND SEIZURES

A. Any Authorized Officer may, without a search warrant, search any aircraft, watercraft, motorized vehicle, box, game animal, bag, locker, tool box, ice chest, camper, camper shell, trailer, backpack, bedroll, sleeping bag, or other container or package if the officer has probable cause to believe that wildlife or parts thereof taken in violation of this Code, or the instrumentalities of such illegal taking, are contained therein.

B. Any Authorized Officer may inspect all wildlife or parts thereof taken, possessed, or transported on the Reservation, and may seize as evidence all wildlife that such officer has probable cause to believe has been taken, possessed, or transported in violation of this Code, and any object that the officer has probable cause to believe has been used as the instrumentality of such illegal taking, possession, or transportation.

C. For all property seized as evidence, the Authorized Officer shall make an inventory and provide a copy to the person from whom the property was taken. After the final disposition of the case, a hearing shall be held by the court to determine the disposition of all property taken as evidence. Upon satisfactory proof of ownership, property taken as evidence shall be returned to the owner, except for contraband which shall be disposed pursuant to Sections 6.28 and 6.30.

SECTION 6.12 APPREHENSION OF SUSPECTED VIOLATORS

A. Any Authorized Officer who has reasonable grounds to believe that a person has violated this Code, either in or out of the officer's presence, shall identify himself or herself to such person and promptly determine whether the person is a Member or Nonmember, and if a Nonmember, whether the person is Indian or non-Indian. In making such determination, the officer may demand identification and ask such questions as the officer reasonable believes are necessary to make the determination.

B. Any person who an Authorized Officer reasonably believes to have violated this Code may:

(1) Be issued a Complaint, pursuant to Section 6.13, and, if appropriate, be required to post a bond, pursuant to Section 6.15, and be released; or

(2) If the suspected violator is a Member or Nonmember Indian, be arrested and held for initiation of criminal prosecution; or

(3) If the suspected violator is a Nonmember, be arrested and held for initiation of federal prosecution and/or expulsion procedures provided for by Tribal law.

C. If the suspected violator refuses to identify himself or herself the officer shall enter a fictitious name, such as John Doe, on the Complaint. After learning the defendant's true name, the Tribe shall amend the Complaint to reflect the defendant's true name.

SECTION 6.13 COMPLAINTS

A. The issuance of a Complaint initiates a civil or criminal action against a suspected violator of this Code.

B. The Complaint shall be prepared in duplicate and be signed by the person cited. One copy will be given to the person cited, the other copy will be filed with the Tribal prosecutor.

C. Any Member who fails to sign the Complaint shall be arrested and transported to Tribal jail pursuant to Tribal law governing the arrest of criminal suspects, or shall be subject to the Field Bond Procedures of this Code. Any Nonmember who fails to sign the Complaint shall be subject to the Field Bond Procedures of this Code.

D. The Complaint shall inform the person cited of the violation charged, the location, date, and time of the alleged violation, and the location, date and time of the Initial Appearance, which shall be scheduled not more than 14 days from the date of the issuance of the Complaint. The Complaint shall also inform the person cited that failure to appear at the Initial Appearance will result in the entry of a default judgment against him or her and forfeiture of bond money or property, and for Indians persons charged criminally, will result in the issuance of an arrest warrant for failure to appear, which shall be a separate offense.

SECTION 6.14 INITIAL APPEARANCE

A. A person served with a Complaint shall appear at the time and place stated in the Complaint, or prior to that time if so authorized by the court, and upon the directions contained in the Complaint admit or deny the allegations contained within the Complaint. In any civil action, the defendant may file a written response to the complaint, in lieu of a personal appearance, provided that the defendant so notifies the court not less than 24 hours before the scheduled Initial Appearance and that the written response is received by the court prior to the scheduled Initial

(2) Class Two: One hundred dollars (\$100.00) and 80 hours of community service;

(3) Class Three: Two hundred fifty dollars (\$250.00) and 250 hours of community service;

(4) Class Four: Five hundred dollars (\$500.00) and 250 hours of community service;

(5) The civil penalty for an offense involving the unlawful disposal or possession of any hazardous material or petroleum product shall not exceed \$1,000.00, exclusive of clean-up costs, and 250 hours community service.

~~B. The civil penalty for the second or any subsequent finding of liability for violation of the same provision may be up to three times the amount of the penalty for that class of offense.~~

~~B. A civil penalty of up to three times the amount of the penalty for that class of offense may be imposed if:~~

~~(1) The violator is found liable for the second or any subsequent violation of the same provision; or~~

~~(2) The violator issues a check in payment of a penalty imposed under this Code knowing there are insufficient funds on deposit with the bank to ensure payment of the check on its presentation.~~

~~C. In addition to the civil penalties above, the court may also require that the violator complete a hunter's safety course conducted by the Department or the State of Arizona, and that no further permits shall be issued to the person until the course is completed.~~

SECTION 6.20 REVOCATION AND DENIAL OF RIGHT TO OBTAIN PERMIT; NOTICE

A. If any person is found in violation of this Code by the Tribal Court, the Department may revoke that person's permit to take wildlife or engage in Recreational Activities. This remedy is available in addition to the other remedies provided by this Code and is subject to the following conditions:

(1) No more than ninety days after the Tribal Court's ruling, the Department shall notify the person of its intent to revoke that person's permit