

Cherokee Nation Code Annotated**Title 27: Environmental Quality****Chapter 4: Air Quality****§ 405. Powers and duties**

Cite as: 27 CNCA § 405

The Environmental Protection Commission is hereby designated the administrative agency for the Cherokee Nation Clean Air Act. The Commission is empowered to:

1. establish programs necessary to implement the Cherokee Nation Clean Air Act and protect the Nation's air, resources and people;
2. establish a permitting program that will contain the flexible source operation provisions required by 42 U.S.C. § 7661a(b)(10);
3. prepare and develop a general plan for proper air quality management in the Nation;
4. enforce the laws, rules and orders of the Commission and Nation;
5. advise, consult and cooperate with other agencies, communities, cities, counties, industries, tribes, states, the federal government, citizens and affected groups, in the prevention and control of new and existing air contamination sources within the Nation;
6. encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;
7. collect and disseminate information relating to air pollution, its prevention and control;
8. encourage voluntary cooperation by persons, communities, cities, counties, industries, states, tribes or other affected groups in restoring and protecting air quality within the Nation;
9. represent the Nation in any and all matters pertaining to plans and procedures in relation to the control of air pollution;
10. provide technical, scientific or such other services as may be appropriate and feasible, for the purpose of carrying out the provisions of the Cherokee Nation Clean Air Act;
11. identify, propose and implement grants or such other funds or gifts provided by or with the with consent of the Commission and Principal Chief, for the purpose of carrying out the functions of the Cherokee Nation Clean Air Act;

12. bring appropriate court action to enforce the Cherokee Nation Clean Air Act and other provisions of Cherokee Nation laws, rules and final orders of the Commission, and to obtain injunctive or other relief as may be determined appropriate;

13, 14. Reserved.

15. take such action as may be necessary to abate alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons. The Commission may issue emergency orders, subpoena witnesses and documents, require submission of information or take other action in an administrative proceeding, or may proceed directly to Court to obtain relief;

16. periodically enter and inspect at reasonable times, any source, facility or premises permitted or regulated by the Commission, for the purpose of obtaining samples or determining compliance with the Cherokee Nation Clean Air Act, any rule promulgated thereunder or permit condition, or to examine any records kept or required to be kept pursuant to the Cherokee Nation Clean Air Act or other applicable law. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant or other source of pollution;

17. require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Cherokee Nation Clean Air Act, rules promulgated thereunder, any permit condition, or any order of the Commission. The Commission shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Cherokee Nation Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;

18. maintain and update an inventory of air emissions from stationary sources; and

19. carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Cherokee Nation Clean Air Act and the federal Clean Air Act, 42 U.S.C. § 7401 et seq.

Historical Data

LA 42-04, eff. November 23, 2004. Renumbered from 63 CNCA § 2-5-105.