

**Cherokee Nation Code Annotated**

**Title 27: Environmental Quality**

**Chapter 4: Air Quality**

**§ 410. Violations**

Cite as: 27 CNCA § 410

A. In addition to any other remedy provided for by law, the Commission may issue a written order to any person whom the Commission has reason to believe has violated, or is presently in violation of, the Cherokee Nation Clean Air Act or any rule promulgated by the Commission, any order of the Commission, or any condition of any permit issued by the Commission pursuant to the Cherokee Nation Clean Air Act, and to whom the Commission has served, no less than fifteen (15) days previously, a written notice of violation. The Commission shall provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen- (15) day notice period as in the opinion of the Commission may be necessary to render the order reasonably effectual.

B. The Commission shall use reasonable efforts to provide any person alleged to be in violation with advance notice of intent to issue an order and of the opportunity to request an evidentiary hearing or to informally appear before the Commission. An order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection (A) of this section, may also assess an administrative penalty for past violations occurring no more than five (5) years prior to the date the order is issued by the Commission, and for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Commission may order any environmental contamination or threat to public health or welfare, when caused by the violations, to be corrected by the person or persons responsible. The Commission or the Nation may also take reasonable actions to correct violations and contamination or to eliminate any threat, and may seek reimbursement by the responsible parties through administrative or court proceedings.

D. Any penalty assessed in the order shall not exceed Five Thousand Dollars (\$5,000.00) per day for each violation or the maximum established in the Environmental Quality Code. In assessing such penalties, the Commission shall consider the seriousness of the violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant.

E. An order issued after hearing or waiver of hearing shall become a final order upon issuance or on a date specified by the Commission. An order issued without a prior hearing shall become final unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing.

F. In the case of an emergency where public health or the environment is in imminent danger, the order may be effective immediately but reasonable efforts to give notice to the person(s) subject to the order must be documented prior to issuance.

G. Upon request for a hearing, the Commission shall promptly schedule the enforcement hearing before an authorized representative for the Commission or the full Commission, and notify the respondent.

#### Historical Data

LA 42-04, eff. November 23, 2004. Renumbered from 63 CNCA § 2-5-110.