

Cherokee Nation Code Annotated

Title 27: Environmental Quality

Chapter 6: Solid Waste

§ 666. Powers and duties

Cite as: 27 CNCA § 666

A. In addition to other powers and duties prescribed by law, the Commission and its duly authorized representatives shall have the power and duty to:

1. issue, renew, deny, modify, suspend, refuse to renew and revoke permits for storage tank systems and related activities pursuant to the provisions of STARS and rules promulgated pursuant thereto;

2. promulgate and enforce rules to implement the provisions of STARS, including but not limited to rules setting permit fees;

3. establish minimum standards and schedules for storage tank systems;

4. by order, permit, rule or other lawful process require any owner or operator of a storage tank system within this Nation to:

a. submit such reports and information concerning the storage tank system as may be determined necessary by the Administrator pursuant to the provisions of STARS or rules promulgated thereto,

b. perform tests, install release detection devices, and where appropriate, monitor the environment to ensure that pollution is not occurring,

c. make timely reports to the Administrator of pollution or releases,

d. temporarily or permanently cease operation of a storage tank system, modify and immediately remove or control any regulated substance that is found to be causing pollution when such cessation, removal or control is determined to be necessary by the Commission,

e. provide an alternate or temporary drinking water source to any person deprived of drinking water if it is found that such owner or operator is responsible for polluting the drinking water source beyond applicable drinking water standards, or where no such standard exists, such standard as the Department of Environmental Quality shall determine,

f. take full corrective action if such owner or operator is found to be responsible for the release, and

g. take appropriate action to temporarily relocate residents affected by the release;

5. establish and enforce administrative penalties for violations pursuant to the provisions of STARS and the Cherokee Nation Environmental Code, including but not limited to the authority to close a facility found to pose an imminent threat to the health, safety or the environment, a facility operating without a proper permit, or a facility with operating tanks for which permit fees have not been paid;

6. institute and maintain or intervene in any action or proceeding where deemed necessary by the Commission pursuant to the provisions of STARS to protect the health, safety and welfare of any resident of this Nation or the environment.

B. The Administrator and Environmental Programs shall have the following powers and authority:

1. register storage tank systems, establish a database, accept payment of fees and hire such personnel as are necessary for implementing this act to the extent funding shall allow;

2. enter at any reasonable time upon any public or private property for the purpose of inspecting and investigating a storage tank system and taking such samples as may be necessary to determine compliance with the provisions of STARS, and rules promulgated thereto;

3. issue informal letters requesting compliance, issue notices of violation, refer matters to the Commission when formal enforcement action may be appropriate;

4. exercise any authority of the Commission when such authority has been delegated to them by the Commission;

5. draft and propose rules, schedules, forms, permits and other documents for the Commission;

6. request issuance of an administrative warrant or search warrant as may be necessary from the District Court where such public or private property is located to allow entry, inspection, sampling, or copying;

7. have access to and copy any records required to be maintained pursuant to the provisions of STARS or rules promulgated thereunder,

8. inspect any equipment, practice or method, which is required by the provisions of STARS or rules promulgated thereto;

9. have access to and inspect any monitoring stations or conduct tests to identify any actual or suspected release of a regulated substance;
10. employ or designate personnel to conduct investigations and inspections, to make reports of compliance with the provisions of STARS and rules promulgated thereto;
11. report to the Attorney General of Cherokee Nation, U.S. Department of Justice, or any other appropriate law enforcement entity with jurisdiction, any act committed by an owner, operator or employee of a facility which may constitute a violation of the provisions of STARS or rules promulgated thereto; and
12. operate the Storage Tank Program, in coordination with the Commission, in lieu of the federal government upon approval by the Environmental Protection Agency.

Historical Data

LA 19-05, eff. May 19, 2005. Renumbered from 63 CNCA § 666.