

Cherokee Nation Code Annotated

Title 27: Environmental Quality

Chapter 6: Solid Waste

§ 668. Operation without permit prohibited—Application form—Denial, refusal to issue, suspension or revocation—Financial responsibility coverage

Cite as: 27 CNCA § 668

A. Except as otherwise provided by STARS, no storage tank system or facility shall be installed, used or operated without first obtaining a permit from the Commission. All businesses or persons proposing to own, install, use, locate or operate a storage tank on lands owned by the Nation, held in trust by the United States for the Nation, or otherwise in Indian Country subject to the Nation's jurisdiction, shall comply with the permit requirements and other requirements of STARS and the Cherokee Nation Environmental Code.

A storage tank system is not required to be permitted if the tank system:

1. does not contain or has not contained a regulated substance; or
2. has been permanently closed or has not been in operation since January 1, 1974.

B. No person shall deposit a regulated substance into a storage tank system unless the system is operating pursuant to a permit issued by the Commission.

C. Any person who sells a storage tank system shall notify the owner or operator, or both, of the tank of the permit requirements of STARS and the Cherokee Nation Environmental Code.

D. The application form for a permit shall be provided by and filed with the Administrator. In addition to other information requested by the Commission, the application shall include the type of financial responsibility coverage utilized to comply with the requirements of STARS and by rule of the Commission and the type of leak detection method employed.

E. 1. Permits shall be issued by the Commission for a period not to exceed three (3) years, but may be issued for a shorter duration.

2. A permit issued pursuant to the provisions of STARS may only be transferred with the prior approval of the Commission.

3. Any permittee or applicant for permit subject to the provisions of the STARS shall be deemed to have given consent to any duly authorized employee or agent of the Commission to access, enter, inspect or monitor the tank system or facility in accordance

with the provisions of STARS. Refusal to allow such access, entry, or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a permit. Upon refusal of access, entry, inspection, sampling or copying pursuant to this section, the Commission or a duly authorized representative may make application for and obtain an administrative warrant or a search warrant from the District Court where the facility is located to allow such entry, inspection, sampling or copying.

4. The owner or operator of a storage tank system shall display the permit in a location or manner in which the permit can easily be visible to any person depositing a regulated substance into a storage tank even after normal business hours.

F. Any permit or other fees collected pursuant to STARS shall be deposited in the Cherokee Nation Environmental Quality Revolving Fund and may only be used for environmental programs and protection of natural resources.

G. The Commission may deny approval of a permit application, or refuse to reissue, suspend or revoke a permit issued pursuant to STARS if the Commission finds, after notice and a hearing, that the applicant or permittee has:

1. fraudulently or deceptively obtained or attempted to obtain a permit;
2. failed to comply with any provision or requirement of STARS, the Cherokee Nation Environmental Code and rules, or any order of the Commission;
3. not maintained in effect the financial responsibility requirements established by this section and by rules of the Commission; or
4. the Commission otherwise finds such action appropriate in fulfilling its duties to protect the public, natural resources and environment.

H. Any person owning or operating a storage tank system containing a regulated substance who is not otherwise exempted by law or rule of the Commission, shall obtain and have in effect financial responsibility coverage for taking corrective action and for compensating third parties for physical injury and property damage caused by releases arising from operating storage tank systems. Financial assurance shall be sufficient to restore property to its previous condition or comparable condition. Proof of financial assurance shall be a prerequisite to obtaining a permit.

Historical Data

LA 19-05, eff. May 19, 2005. Renumbered from 63 CNCA § 668.