

Cherokee Nation Code Annotated

Title 27: Environmental Quality

Chapter 6: Solid Waste

§ 669. Rules governing storage tank systems

Cite as: 27 CNCA § 669

A. The Commission shall promulgate rules, guidelines and schedules of fees governing storage tank systems. Until such time as superceded, the following minimum requirements and provisions apply:

1. standards and requirements of 40 C.F.R. Part 280;
2. release detection methods or equipment adequate to identify releases from storage tank systems, or both detection methods and equipment shall be installed and maintained;
3. written procedures to follow when release detection methods or equipment or both such methods and equipment records indicate any loss or gain which is not explainable by spillage, temperature variations or other known causes, shall be prepared and maintained;
4. in the event of any release, owners and operators of storage tank systems must report to the Administrator and/or the designated agent(s) of the Administrator within twenty-four (24) hours, or another reasonable time period specified by the Cherokee Nation Environmental Protection Commission, as required by STARS or regulations promulgated thereunder;
5. records documenting actions taken in accordance with paragraphs 1 through 3 of this subsection shall be prepared and maintained;
6. notice shall be promptly given to landowners whose property has been or may be affected by a release, and such landowner shall be afforded a meaningful opportunity to have input into any activities impacting such landowners' property;
7. adjacent property owner(s) whose property has been contaminated by a release may remediate his or her own property under the same requirements as the tank owner or operator responsible for remediating the release, if the release is not otherwise promptly remediated, and the owner or operator shall reimburse such adjacent property owner(s) unless otherwise ordered by the Commission or a court with jurisdiction.

B. Minimum schedules and standards may be established and imposed by the Administrator and the Commission in the form of written guidelines for the design, construction, installation, operation, maintenance, repair, monitoring, testing, inspection, release detection, performance, abandonment and closure of storage tank systems, as

may be necessary to protect human health, safety and welfare and the environment. Said written schedules and standards shall be enforceable as rules until otherwise modified, superceded or revoked by the Commission or a court of competent jurisdiction. Copies of all written guidelines must be provided or made available to the public upon request.

C. In promulgating rules establishing schedules and standards pursuant to this section, the Commission may distinguish in such standards between requirements appropriate for new tanks, existing tanks and for abandoned tanks. In making such distinctions, the Commission may consider such factors as:

1. location of the tanks;
2. soil and climate conditions;
3. uses of the tanks;
4. history of maintenance;
5. age of the tanks;
6. national industry codes;
7. hydrogeology;
8. water table;
9. size of the tanks;
10. quantity of regulated substances periodically deposited in or dispensed from the tank;
11. the compatibility of the regulated substance and the materials of which the tank is fabricated; and
12. any other factors as deemed appropriate or necessary by the Commission.

D. The Commission may promulgate rules establishing different requirements for different areas or regions of the Nation if the Commission finds that more stringent rules are necessary:

1. to protect specific waters or other resources of the Nation including but not limited to those waters of the Nation designated for additional protection in Cherokee Nation's water quality standards; or
2. because conditions peculiar to that area or region require different standards to protect public health, safety, welfare or the environment.

E. In promulgating rules pursuant to the provisions of STARS, the Commission shall consider all relevant federal standards and regulations on storage tank systems and shall not promulgate any rule less stringent than federal requirements.

Historical Data

LA 19–05, eff. May 19, 2005. Renumbered from 63 CNCA § 669.