

Cherokee Nation Code Annotated
Title 27: Environmental Quality
Chapter 13: Hazardous Waste Code
§ 1303. Definitions

Cite as: 27 CNCA § 1303

A. Unless otherwise defined in this code, rules promulgated hereunder, or otherwise applicable provisions of the Cherokee Nation Environmental Quality Code, definitions contained in applicable federal laws and regulations shall apply.

B. The following definitions shall be used:

1. **"Affiliated person"** means:

- a. any officer, the Administrator, or partner of the applicant;
- b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application; and
- c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity.

2. **"Cherokee community"** means a group of persons which is predominantly composed of citizens of Cherokee Nation and who reside in the same geographic area and meet or work together on common goals, regardless of whether or not such community is shown on maps published outside Cherokee Nation, listed as a town or city or otherwise recognized by persons outside Cherokee Nation.

3. **"Commission"** means the Cherokee Nation Environmental Protection Commission.

4. **"Council"** means the Cherokee Nation Tribal Council.

5. **"Demonstrated pattern of prohibited conduct"** means a series of conduct of the same or like character in violation of Cherokee Nation or federal environmental laws which, as a result of the applicant's or affiliated person's reckless disregard thereof, actually endangers, or reasonably has the potential to endanger, human health or the environment.

6. **"Disclosure statement"** means a written statement by the applicant which contains:

- a. the full name, business address, and social security number of the applicant, and all affiliated persons;
- b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the

applicant, and a description of the on-going organizational relationships as they may impact operations within Cherokee Nation;

c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation;

d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "hazardous waste" as defined by the Cherokee Nation Hazardous Waste Code or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a Cherokee Nation regulatory authority or the United States Environmental Protection Agency; and

e. a listing of any federal environmental agency and any Cherokee Nation environmental agency outside this Cherokee Nation that has or has had regulatory responsibility over the applicant.

7. "**Disposal**" means the final disposition of hazardous waste.

8. "**Disposal site**" means the location where any final disposition of hazardous waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites.

9. "**Guarantor**" means any person other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to the Cherokee Nation Hazardous Waste Code.

10. "**Hazardous waste**" means waste materials and byproducts, either solid or liquid or containerized gases, which are:

a. to be discarded by the generator or recycled;

b. toxic to human, animal, aquatic or plant life; and

c. generated in such quantity that they cannot be safely disposed of in properly operated, Cherokee Nation-approved solid waste landfills or waste, sewage or wastewater treatment facilities.

The term "**hazardous waste**" may include but is not limited to explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, and materials such as paper, metal, cloth or wood which are contaminated with hazardous waste. The term "**hazardous waste**" shall not include domestic sewage.

11. "**Hazardous waste facility**" means and includes treatment, storage, recycling and disposal facilities.

12. "**History of noncompliance**" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record.

13. "**Multi-user on-site treatment facility**" means a treatment facility for hazardous waste generated by the co-owners of the facility and which meets the criteria specified by the Cherokee Nation Hazardous Waste Code.

14. "**Off-site treatment, storage, recycling or disposal**" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste not generated by the owner of the facility.

15. "**On-site treatment, storage, recycling or disposal**" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste generated by the owner of the facility.

16. "**Person**" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, Cherokee Nation or local governmental instrumentality, agency or body or any other legal entity however organized.

17. "**Recycling**" means the reuse, processing, treating, or rerefining of hazardous waste into a product which is being or which has been sold for beneficial use. Hazardous waste which is intended for fuel is not deemed to be recycled until it is actually burned.

18. "**Regeneration**" or "**regenerated**" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith.

19. "**Site**" or "**proposed site**" means the surface area of a disposal site, or other hazardous waste facility, as applied for in the application for a permit for the facility.

20. "**Storage facility**" means any location where the temporary holding of hazardous waste occurs, including any tank, pit, lagoon, pond, or other specific place or area.

21. "**TSRD**" means treatment, storage, recycling or disposal.

22. "**Treatment**" means the detoxification, neutralization, incineration or biodegradation of hazardous waste in order to remove or reduce its harmful properties or characteristics.

23. "**Treatment facility**" means any location where treating or recycling of hazardous waste occurs.

Historical Data

LA 41-05, eff. December 15, 2005. Renumbered from 63 CNCA § 1303.