

Cherokee Nation Code Annotated

Title 27: Environmental Quality

Chapter 13: Hazardous Waste Code

§ 1309. Permits—Limitation on persons eligible—Disclosure of information

Cite as: 27 CNCA § 1309

A. The Commission shall not issue, renew, or transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by Cherokee Nation, any state or any federal agency relating to the generation, storage, transportation, treatment, recycling or disposed of "hazardous waste", as such term is 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;

2. has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.

B. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any hazardous waste permit, license, certification or operational authority issued by the Commission shall file a disclosure statement with their applications.

2. If the applicant is a publicly-held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly-owned subsidiary of a publicly-held company, the applicant shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the Commission may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

C. The Commission is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal:

1. to any person who:

a. is not, due to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court relating to the environment:

b. is not, due to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record relating to the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is 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;

c. has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with Cherokee Nation or federal environmental laws, including without limitation the rules of the Commission or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is 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; or

d. has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

2. in any circumstances in which the Commission believes it prudent or necessary in order to ensure the protection of public health or safety, the Nation's wildlife and other natural resources, or any component of the environment.

D. 1. An application for a permit for a TSRD facility or for renewal of a permit shall be signed under oath by the applicant.

2. The Commission may refuse to renew, or may suspend or revoke, a permit issued for a hazardous waste facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section.

Historical Data

LA 41-05, eff. December 15, 2005. Renumbered from 63 CNCA § 1309.