

# An Act

## Legislative Act 42-04

### A LEGISLATIVE ACT AMENDING TITLE 63 OF THE CHEROKEE NATION CODE ANNOTATED, THE ENVIRONMENTAL QUALITY CODE, ADDING THE AIR QUALITY CODE AND DECLARING AN EMERGENCY

#### BE IT ENACTED BY THE CHEROKEE NATION:

#### Section 1. Title

This act shall be known as the "Cherokee Nation Air Quality Act of 2004".

#### Section 2. Purpose

This Act will add new provisions to be codified as Article 5 of the Cherokee Nation Environmental Quality Code. The new provisions will ensure that the Nation has an air quality code that is comprehensive and will ensure that the Nation has the authority in place to obtain treatment as state for air programs. This Act adds new provisions naming the "Cherokee Nation Clean Air Act"; stating a purpose; providing definitions; setting forth powers and duties of the Environmental Protection Commission; stating requirements for controlled open burning; authorizing the Commission to promulgate rules; authorizing the Commission to delegate certain authority to the Administrator; providing that persons may petition for a variance from any provision of the Cherokee Nation Clean Air Act or rule; setting forth remedies and penalties for noncompliance; making it unlawful to construct any new source or operate any existing source emitting air contaminants without a permit from the Commission; providing for a comprehensive permitting program; authorizing the adoption of a fee schedule for owners and operators; authorizing the Commission to establish, implement and enforce emission standards for hazardous pollutants, toxic air contaminants and other standards; specifying penalties for violations including but not limited to false reporting; and authorizing the Commission to pursue civil actions for injunctive relief or abatement.

#### Section 3. Legislative History

The Environmental Quality Act, Title 63 CNCA §§ et seq., was first enacted in 1993. LA 1-93, eff. June 14, 1993.

#### Section 4. Definitions

Not applicable.

#### Section 5. Amendments

CNCA Title 63 Chapter 3 is hereby revised as follows: reserved Article 5 is replaced with the following:

#### ARTICLE 5

##### 2-5-101 Citation

This article may be cited as the "Cherokee Nation Clean Air Act".

##### 2-5-102. Purpose - Definitions - Administrative agency - Rules and regulations - Complaints and investigations - Hearings - Violations - Penalties

It is the purpose of the Cherokee Nation Clean Air Act to provide the means to achieve and maintain atmospheric purity necessary for the protection and enjoyment of human, plant or animal life and property in this Nation.

## 2-5-104. Definitions.

As used in the Cherokee Nation Clean Air Act:

1. "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source;
2. "Air contaminants" means the presence in the outdoor atmosphere of fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof that creates a condition of air pollution;
3. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as tend to be or may be injurious to human, plant or animal life or to property, or which interfere with the comfortable enjoyment of life and property, excluding, however, all conditions pertaining to employer-employee relations;
4. "Ambient air" means the surrounding outdoor air;
5. "Administrator" means the Administrator of Environmental Quality Programs;
6. "Commission" means the Cherokee Nation Environmental Protection Commission.
7. "Emission" means the release or discharge of any air contaminant or potential air contaminant into the ambient air;
8. "Federal Clean Air Act" means the Federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended, including the Federal Clean Air Act Amendments of 1990;
9. "Hazardous air pollutant" means any air pollutant listed and regulated pursuant to subsection (b) of Section 112 of the Federal Clean Air Act;
10. "Hearing officer" means a person appointed to preside at public hearings held pursuant to this article;
11. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, tribe, state, trust, estate, municipality or any other legal entity, or their representative, agent or assign;
12. "Regulated substance" means any substance, including extremely hazardous substances, listed and regulated pursuant to Section 112(r) (3) of the Federal Clean Air Act;
13. "Small Business Stationary Source" means a stationary source as defined in Section 507 (c) of the Federal Clean Air Act;
14. "Toxic air contaminant" means any substance determined to be highly toxic, moderately toxic, or of low toxicity pursuant to criteria set forth by rule. The term shall not be construed to include pollutants for which a primary and secondary ambient air quality standard has been promulgated under the Federal Clean Air Act to the extent of the criteria for which they are listed; and
15. "Trade secret" means information, including but not limited to a formula, pattern, compilation, program, device, method, technique or process, that:
  - a. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and
  - b. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.The term "trade secret" shall not be construed to include data concerning the amount, emission rate or identification of any air contaminant emitted by any source, nor shall it include the contents of any proposed or final permit.

## 2-5-105. Powers and duties

The Environmental Protection Commission is hereby designated the administrative agency for the Cherokee Nation Clean Air Act. The Commission is empowered to:

1. Establish programs necessary to implement the Cherokee Nation Clean Air Act and protect the Nation's air, resources and people;
2. Establish a permitting program that will contain the flexible source operation provisions required by Section 502(b) (10) of the Federal Clean Air Act Amendments of 1990;
3. Prepare and develop a general plan for proper air quality management in the Nation;
4. Enforce the laws, rules and orders of the Commission and Nation;
5. Advise, consult and cooperate with other agencies, communities, cities, counties, industries, tribes, states, the federal government, citizens and affected groups, in the prevention and control of new and existing air contamination sources within the Nation;
6. Encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;
7. Collect and disseminate information relating to air pollution, its prevention and control;
8. Encourage voluntary cooperation by persons, communities, cities, counties, industries, states,

- tribes or other affected groups in restoring and protecting air quality within the Nation;
9. Represent the Nation in any and all matters pertaining to plans and procedures in relation to the control of air pollution;
  10. Provide technical, scientific or such other services as may be appropriate and feasible, for the purpose of carrying out the provisions of the Cherokee Nation Clean Air Act;
  11. Identify, propose and implement grants or such other funds or gifts provided by or with the with consent of the Commission and Principal Chief, for the purpose of carrying out the functions of the Cherokee Nation Clean Air Act;
  12. Bring appropriate court action to enforce the Cherokee Nation Clean Air Act and other provisions of Cherokee Nation laws, rules and final orders of the Commission, and to obtain injunctive or other relief as may be determined appropriate;
  15. Take such action as may be necessary to abate alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons. The Commission may issue emergency orders, subpoena witnesses and documents, require submission of information or take other action in an administrative proceeding, or may proceed directly to Court to obtain relief.;
  16. Periodically enter and inspect at reasonable times, any source, facility or premises permitted or regulated by the Commission, for the purpose of obtaining samples or determining compliance with the Cherokee Nation Clean Air Act, any rule promulgated thereunder or permit condition, or to examine any records kept or required to be kept pursuant to the Cherokee Nation Clean Air Act or other applicable law. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant or other source of pollution;
  17. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Cherokee Nation Clean Air Act, rules promulgated thereunder, any permit condition, or any order of the Commission. The Commission shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Cherokee Nation Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;
  18. Maintain and update an inventory of air emissions from stationary sources; and
  19. Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Cherokee Nation Clean Air Act and the Federal Clean Air Act.

#### 2-5-106 Controlled open burning - Fire training.

- A. For purposes of this section, "open burning" means the burning of non-hazardous combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.
- B. Persons who wish to conduct open burning on tribal lands shall provide notification of the planned open burn to the Environmental Programs Group at least ten (10) days prior to the burning. The notification shall be on a form developed by the Commission.
- C. The Commission shall have the authority to promulgate rules regarding open burning as necessary.

#### 2-5-107. Rules and regulations

- A. The Commission is hereby authorized, after public rulemaking hearing and approval, to:
  1. Promulgate, amend or repeal rules for the prevention, control and abatement of air pollution and for establishment of health and safety tolerance standards for discharge of air contaminants to the atmosphere; and
  2. Promulgate such additional rules including but not limited to permit fees, as it deems necessary to protect the health, safety and welfare of the public and fulfill the intent and purpose of these provisions.

B. The Commission may prescribe additional requirements to protect health, environment, communities, wildlife, welfare and property through rulemaking, through conditions in any permit or authorization or compliance schedule, or through any order.

#### 2-5-108. Administrator for Air Quality Program - Powers and duties

The Commission may delegate such authority as it deems appropriate to the EPC Administrator or other appropriate CN staff.

#### 2-5-109. Variances - Petition - Incremental compliance schedule - Final order - Periodic reports.

A. Any person seeking a variance from any provision of the Cherokee Nation Clean Air Act, or from any applicable air quality rule, shall do so by filing a petition for variance with the Commission. The Commission may deny, grant or conditionally approve any request.

B. The Commission may, in its discretion, determine whether or not an administrative hearing is necessary in granting a variance. The Commission shall notify the Petitioner of the time and place of any administrative hearing. The burden of proof shall be on the petitioner.

C. The Commission may, but is not required to, grant individual variances beyond the limitations prescribed in the Cherokee Nation Clean Air Act or Commission rules, whenever it is found, upon presentation of adequate proof, that compliance with any provision of the Cherokee Nation Clean Air Act, or any rule promulgated thereunder, will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people, the environment or to public health. The Commission may also propose rules applicable to such variances.

D. In determining under what conditions and to what extent a variance from the Cherokee Nation Clean Air Act or any rule promulgated thereunder may be granted, the Commission may give due recognition to the progress which the person requesting such variance shall have made in eliminating or preventing air pollution. In such a case, the Commission shall consider the reasonableness of granting a variance conditioned upon such person effecting a partial abatement of the particular air pollution over a period of time which it shall consider reasonable under the circumstances.

E. If the Commission deems proper, such an incremental compliance schedule may be imposed and shall contain a date or dates certain by which compliance with otherwise applicable rules or provisions of the Cherokee Nation Clean Air Act shall be achieved. The Commission may also include provisions whereby a penalty of up to Five Thousand Dollars (\$5,000.00) per day, or the maximum amount otherwise allowed by law, may be assessed for failure to achieve compliance by the date(s) specified in the compliance schedule or other violations.

F. The Commission may prescribe requirements to protect health, environment, communities, wildlife, welfare and property, as conditions of granting any variance. The person who receives such variance shall comply with such conditions or the variance shall become null and void, unless and until otherwise ordered by the Commission.

G. Any variance granted pursuant to the provisions of this section shall constitute a final order, shall be in writing, and shall be granted for a period of time not to exceed three (3) years. Periodic reports that specify the progress which such person shall have made toward compliance shall be submitted to the Commission. A variance may, for good cause shown, be extended on a year-to-year basis by affirmative action of the Commission.

H. Nothing in this section shall be construed to preclude the informal disposition of any matter by stipulation, agreed settlement, consent order or default.

#### 2-5-110. Violations - Compliance orders - Administrative penalties - Notice and hearing - Burden of proof - Settlements or consent orders.

A. In addition to any other remedy provided for by law, the Commission may issue a written order to any person whom the Commission has reason to believe has violated, or is presently in violation of, the Cherokee Nation Clean Air Act or any rule promulgated by the Commission, any order of the Commission or Commission, or any condition of any permit issued by the Commission pursuant to the Cherokee Nation Clean Air Act, and to whom the Commission has served, no less than fifteen (15) days previously, a written notice of violation. The Commission shall provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen-day notice period as in the opinion of the Commission may be necessary to render the order reasonably effectual.

B. The Commission shall use reasonable efforts to provide any person alleged to be in violation with advance notice of intent to issue an order and of the opportunity to request an evidentiary hearing or to informally appear before the Commission. An order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection A of this section, may also assess an administrative penalty for past violations occurring no more than five (5) years prior to the date the order is issued by the Commission, and for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Commission may order any environmental contamination or threat to public health or welfare, when caused by the violations, to be corrected by the person or persons responsible. The Commission or the Nation may also take reasonable actions to correct violations and contamination or to eliminate any threat, and may seek reimbursement by the responsible parties through administrative or court proceedings.

D. Any penalty assessed in the order shall not exceed Five Thousand Dollars (\$5,000.00) per day for each violation or the maximum established in the Environmental Quality Code. In assessing such penalties, the Commission shall consider the seriousness of the violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant.

E. An order issued after hearing or waiver of hearing shall become a final order upon issuance or on a date specified by the Commission. An order issued without a prior hearing shall become final unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing.

F. In the case of an emergency where public health or the environment is in imminent danger, the order may be effective immediately but reasonable efforts to give notice to the person(s) subject to the order must be documented prior to issuance.

G. Upon request for a hearing, the Commission shall promptly schedule the enforcement hearing before an authorized representative for the Commission or the full Commission, and notify the respondent.

#### 2-5-112. Comprehensive permitting program - Issuance, denial or renewal

A. Upon the effective date of permitting rules promulgated pursuant to the Cherokee Nation Clean Air Act, it shall be unlawful for any person to construct any new source, or to modify or operate any new or existing source of emission of air contaminants except in compliance with a permit issued by the Commission, unless the source has been exempted or deferred or is in compliance with an applicable deadline for submission of an application for such permit.

B. The Commission shall have the authority and the responsibility to implement a comprehensive permitting program for the Nation consistent with the requirements of the Cherokee Nation Clean Air Act. Such authority shall include but shall not be limited to the authority to:

1. Expediently issue, reissue, modify and reopen for cause, permits for new and existing sources for the emission of air contaminants, and to grant a reasonable measure of priority to the processing of applications for new construction or modifications. The Commission may revoke, suspend, deny, and refuse to issue or to reissue a permit:

a. upon a determination that any permittee or applicant is or would be in violation of any substantive provisions of the Cherokee Nation Clean Air Act, or any rule promulgated thereunder, or any permit issued pursuant thereto, or any local, regional or national air quality plan, or

b. when the Commission determines that the emissions or activity will pose an unreasonable threat to health, safety property or the environment;

2. Refrain from issuing a permit when issuance has been objected to by the Environmental Protection Agency in accordance with Title V of the Federal Clean Air Act;

3. Revise any permit for cause or automatically reopen it to incorporate newly applicable rules or requirements if the remaining permit term is greater than three (3) years; or incorporate insignificant changes into a permit without requiring a revision;

4. Establish and enforce reasonable permit conditions which may include, but not be limited to:

a. emission limitations for regulated air contaminants,

b. operating procedures when related to emissions,

c. performance standards,

d. provisions relating to entry and inspections, and

e. compliance plans and schedules;

5. Require, if necessary, at the expense of the permittee or applicant:

a. installation and utilization of continuous monitoring devices,

- b. sampling, testing and monitoring of emissions as needed to determine compliance,
  - c. submission of reports and test results, and
  - d. ambient air modeling and monitoring;
6. Issue:
- a. general permits covering similar sources, and
  - b. permits to sources in violation, when compliance plans, which shall be enforceable by the Commission, are incorporated into the permit;
7. Require, at a minimum, that emission control devices on stationary sources be reasonably maintained and properly operated;
8. Require that a permittee certify that the facility is in compliance with all applicable requirements of the permit and to promptly report any deviations therefrom to the Commission;
9. Issue permits to sources requiring permits under Title V of the Federal Clean Air Act for a term not to exceed five (5) years, except that solid waste incinerators may be allowed a term of up to twelve (12) years provided that the permit shall be reviewed no less frequently than every five (5) years;
10. Specify requirements and conditions applicable to the content and submittal of permit applications; set by rule, a reasonable time in which the Commission must determine the completeness of such applications; and
11. Determine the form and content of emission inventories and require their submittal by any source or potential source of air contaminant emissions.
- C. Rules of the Commission may set de minimis limits below which a source of air contaminants may be exempted from the requirement to obtain a permit or to pay any fee, or be subject to public review. Any source so exempted, however, shall remain under jurisdiction of the Commission and shall be subject to any applicable rules or general permit requirements.
- D. The Commission shall notify, or require that any applicant notify, all Nations or states whose air quality may be affected and that are contiguous to the Cherokee Nation, or are within fifty (50) miles of the source of each permit application or proposed permit for those sources requiring permits under Title V of the Federal Clean Air Act, and shall provide an opportunity for such Nations or states to submit written recommendations respecting the issuance of the permit and its terms and conditions.
- E. No person, including but not limited to the applicant, shall raise any reasonably ascertainable issue in any future proceeding, unless the same issues have been raised and documented before the close of the public comment period on the draft permit, unless the Commission or Court finds good cause exists to allow the same.
- F. A change in ownership of any facility or source subject to permitting requirements under this section may require such action, including but not limited to permit modification or a new permit, as the Commission in its discretion shall determine appropriate. If transferred, any permit applicable to such source at the time of transfer shall be enforceable in its entirety against the transferee in the same manner as it would have been against the transferor, as shall any requirement contained in any rule, or compliance schedule set forth in any variance or order regarding or applicable to such source. Provided, however, no transferee in good faith shall be held liable for penalties for violations of the transferor unless the transferee assumes all assets and liabilities through contract or other means. For the purposes of this subsection, good faith shall be construed to mean neither having actual knowledge of a previous violation nor constructive knowledge which would lead a reasonable person to know of the violation. It shall be the responsibility of the transferor to notify the Commission in writing within ten (10) days of the change in ownership.
- G. Operating permits for new sources.
- Operating permits may be issued to new sources without public review upon a proper determination by the Commission that:
- 1. The construction permit was issued pursuant to the public review requirements of the Code and rules promulgated thereunder; and
  - 2. The operating permit, as issued, does not differ from the construction permit in any manner which would otherwise subject the permit to public review.

#### 2-5-113. Permit fees - Environmental Programs Group Revolving Fund.

- A. Upon the effective date of the Cherokee Nation Clean Air Act a schedule of permit fees may be adopted requiring the owner or operator of any source required to have a permit to pay to the Commission:
- 1. A fee sufficient to cover the reasonable cost of reviewing and acting upon any application for a construction or operating permit for any new source or for the modification of any existing source;
  - 2. An annual operating permit fee sufficient to cover the reasonable costs, both direct and indirect, of implementing and enforcing the permit program authorized by the Cherokee Nation Clean Air Act

and/or the Federal Clean Air Act, including, but not to be limited to:

- a. the costs of reviewing and acting upon any permit renewal,
  - b. emissions and ambient monitoring, for those costs incurred under the permitting program,
  - c. preparing generally applicable rules or guidance,
  - d. modeling, monitoring, analyses and demonstrations,
  - e. preparing inventories and tracking emissions, and
  - f. inspections and enforcement.
- B. The fees authorized in this section shall be set forth by rule.
- C. Any fee not received by the Commission within the prescribed time period allotted for payment, unless a lesser amount shall be provided for by rule, shall be subject to a one and one-half percent (1 1/2%) per month penalty.
- D. There is hereby created the Environmental Programs Revolving Fund, a subaccount which shall consist of all fees collected by the Commission as authorized by the Cherokee Nation Clean Air Act.

2-5-114. Implementation and enforcement of federal emission standards - Oil and gas well and equipment emissions.

- A. The Commission shall have the authority to establish a program for the implementation and enforcement of the federal emission standards and other requirements under Section 112 of the Federal Clean Air Act for hazardous air pollutants and for the prevention and mitigation of accidental releases of regulated substances under Section 112(r) of the Federal Clean Air Act. The Commission may promulgate rules which establish emission limitations for hazardous air pollutants which are more stringent than the applicable federal standards, upon a determination that more stringent standards are necessary to protect the public health or the environment.
- B. The Commission shall have the authority to establish programs for control of the emission of toxic air contaminants not otherwise regulated by a final emission standard under Section 112(d) of the Federal Clean Air Act, and/or for the control of any other air contaminants, emissions or pollution.
- C. Emissions from any oil or gas exploration or production well with its associated equipment, and emissions from any pipeline compressor or pump station may be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.
- D. The Commission may list oil and gas production wells with their associated equipment as an area source category or may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of one million (1,000,000) if the Commission determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.
- E. Nothing in this section shall be construed to limit authority established elsewhere in the Cherokee Nation Clean Air Act or other provisions of the Cherokee Nation Code.

2-5-116. Violations - Penalties.

- A. Any person who knowingly and willfully:
1. Violates any applicable provision of the Cherokee Nation Clean Air Act or federal Clean Air Act or any rule or standard or order promulgated thereunder;
  2. Violates any order issued or permit condition prescribed pursuant to the Cherokee Nation Clean Air Act or federal Clean Air Act;
  3. Violates any emission limitation or any substantive provision or condition of any permit;
  4. Makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan or other document, except for monitoring data, required pursuant to the Cherokee Nation Clean Air Act to be either filed or maintained;
  5. Fails to notify or report as required by the Cherokee Nation Clean Air Act, rules promulgated thereunder or orders or permits issued pursuant thereto; or
  6. Fails to install any monitoring device or method required to be maintained or followed pursuant to the Cherokee Nation Clean Air Act; or any rule, order or permit issued thereunder;
  7. Tampers with or renders inaccurate any monitoring device; or
  8. Falsifies any monitoring information required to be maintained or submitted to the Commission pursuant to the Cherokee Nation Clean Air Act;
- shall be subject to the administrative, civil and criminal penalty provisions of the Environmental Quality Code.

2-5-117. Civil actions

A. The Commission shall have the authority to commence a civil action for a permanent or temporary injunction or other appropriate relief, or to require abatement of any emission or correction of any contamination, or to seek and recover a civil penalty in any of the following instances:

1. Whenever any person has violated or is in violation of any applicable provision of the Cherokee Nation Clean Air Act, or any rule promulgated thereunder;
2. Whenever any person has commenced construction, modification or operation of any source, or operates any source in violation of the requirement to have a permit, or violates or is in violation of any substantive provision or condition of any permit issued pursuant to the Cherokee Nation Clean Air Act; or
3. Whenever any person has violated any order of the Commission or any requirement to pay any fee, fine or penalty owed to the Nation pursuant to the Cherokee Nation Clean Air Act.

B. In any court proceeding, the Commission shall be entitled to recover reasonable attorney fees, expenses, penalties, fines costs of collection and an appropriate fee of up to fifty percent (50%) for collecting delinquent fees, penalties or fines. Any funds resulting from such actions shall be utilized by the Commission for environmental programs related to air quality, planning, assistance to communities, research related to health effects and environmental education.

**Section 6. Provisions as cumulative**

The provisions of this act shall be cumulative to existing law.

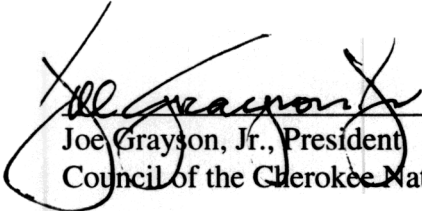
**Section 7. Severability**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.


**Section 8. Emergency declared**

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Enacted by the Council of the Cherokee Nation on the 15<sup>th</sup> day of November, 2004.

  
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Joe Grayson, Jr., President  
Council of the Cherokee Nation

**ATTEST:**

  
\_\_\_\_\_  
Bill John Baker, Secretary  
Council of the Cherokee Nation



Approved and signed by the Principal Chief this 23rd day of NOVEMBER, 2004.



Chad Smith, Principal Chief  
Cherokee Nation

**ATTEST:**



Callie Catcher, Secretary/Treasurer  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

Audra Smoke-Conner	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Bill John Baker	<u>YEA</u>	Meredith A. Frailey	<u>YEA</u>
Joe Crittenden	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Cara Cowan	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	William G. Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>		