

An Act

Legislative Act 15-11

A LEGISLATIVE ACT REQUIRING THE ESTABLISHMENT OF A “PESTICIDE APPLICATION NOTIFICATION SYSTEM ACT”

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

Example: This act shall be known as the “Pesticide Application Notification System Act” and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated.

Section 2. Purpose

The application and the control of the use of various pesticides is important and vital to the maintenance of a high level of public health and welfare both immediate and future, and is hereby declared to be affected with the public interest. The Rules of pesticide application notification and recordkeeping are stated in this rule for the purpose of protecting the immediate and future health and welfare of the Cherokee Nation citizens.

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

For purposes of this Act:

Cherokee Nation means the Cherokee Nation government and all of its entities, including business wholly owned by the Cherokee Nation.

Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest. A pesticide may be a chemical substance, biological agent (such as a virus or bacterium), antimicrobial, disinfectant or device used against any pest.

Pest means any organism harmful to man including, but not limited to insects, mites, nematodes, weeds and pathogenic organisms. Pathogenic organisms include viruses, mycoplasma bacteria, rickettsia, and fungi.

Pesticide application means the way in which pesticides are delivered to their target pests.

Applicator means any person engaging in the application of pesticides or employment of devices.

Device means any instrument subject to the United States Environmental Protection Agency regulation intended for trapping, destroying, repelling, or mitigating insects or rodents, or mitigation fungi, bacteria, or weeds, or other pests designated by the board, but not including equipment used for the application of pesticides when sold separately.

Use means transportation, storage, mixing, application, safe handling, waste and container disposal, and other specific instructions contained on the label and labeling.

Section 5. Substantive Provisions

Establishment of Policies

By July 1, 2011 policies will be developed and implemented requiring the following:

A. Notice of Pesticide Application:

(a) General notification of pesticide use will be provided to the Cherokee Nation Environmental Programs department no less than 48 hours prior to application on any Cherokee Nation owned or operated facility. The written notification must be provided to Cherokee Nation Environmental Programs with the following information:

- (i) Name and address of facility to be treated
- (ii) Location of the application
- (iii) Date of the application
- (iv) Name, address and phone number of applicator company

(b) After completion of a pesticide application, the following information is to be provided to the appropriate facility personnel:

- (i) Address of the facility being treated, specific area(s) treated by the product and for whom the pesticide was applied
- (ii) Name, address and telephone number of company making application (if applicable)
- (iii) Name and license number of person making the application

- (iv) Complete brand name and EPA registration number of pesticide product used
- (v) Year, month, day, and time of application
- (vi) Target pest(s)
- (vii) Quantity of pesticide used
- (viii) Method of application
- (ix) MSDS sheet for pesticide applied

B. Exemptions of 48 hour notification:

- (a) Emergency pesticide applications required by the public health officials;
- (b) Disinfectants, sanitizers, deodorizers, or microbial agents used for general cleaning purposes;
- (c) The use of baits and traps used for pest control.

C. Pesticide contractors:

- (a) It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the Oklahoma State Board of Agriculture, or similar license issued under the authority of a different State, for the category of pesticide application in which the person is engaged.
- (b) When the Cherokee Nation uses contractors to apply pesticides on its behalf, all contractors will ensure full compliance with the notification requirements of this Plan. Where a contractor is to apply pesticides on behalf of the Cherokee Nation, the contractor must complete a notification in accordance with this plan a minimum of 48 hours prior to the proposed date for application. It is the responsibility of the contractor to complete the notification in accordance with this plan.

D. Penalties

- (a) Failure to notify the Cherokee Nation's Environmental Programs staff as required by law shall result in the following actions: First Offense – a written warning from the Environmental Programs staff designed to educate the applicator; Second Offense – a written warning from the Environmental Programs department and a \$50.00 fine; all subsequent infractions shall result in a \$500 fine per violation.
- (b) Any violations may be reported to the applicator's State licensing authority for investigation.

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.

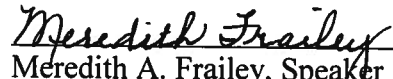
Section 8. Effective Date

The provisions of this act shall become effective thirty (30) days from and after the date of its passage and approval.


Section 9. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.


Enacted by the Council of the Cherokee Nation on the 11th day of July, 2011.


Meredith A. Frailey, Speaker
Council of the Cherokee Nation

ATTEST:


Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 12th day of July, 2011.


Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:


Melanie Knight, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Tina Glory Jordan	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
Bill John Baker	<u>Yea</u>	Chris Soap	<u>Yea</u>
Joe Crittenden	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
Jodie Fishinghawk	<u>Yea</u>	Buel Anglen	<u>Yea</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Bradley Cobb	<u>Yea</u>
David W. Thornton, Sr.	<u>Yea</u>	Charles Hoskin, Jr.	<u>Yea</u>
Don Garvin	<u>Yea</u>	Julia Coates	<u>Yea</u>
Harley L. Buzzard	<u>Yea</u>	Jack D. Baker	<u>Yea</u>
Curtis G. Snell	<u>Yea</u>		

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ADMINISTRATIVE CLEARANCE:

Program/Project Manager:
Janet Dyer 4/21/11
 Signature Date

Department Director:

 Signature Date

Group Leader:
Tom Elkins 06/02/11
 Signature Date

Finance Approval (if needed):

 Signature Date

Government Resources Group:

 Signature Date

Administration Approval:
W.P. Frazier 6/14/11
 Signature Date

LEGISLATIVE CLEARANCE

Legislative Aide:
Brittain 6/14/11
 Signature/Initial Date

Standing Committee:
Rules

6-30-11
 Next Meeting Date

Chairperson:
Frazier
 Signature/Initial Date

Returned to Presenter: _____
 Date

Cherokee Nation
 Act/Resolution Proposal Form



Act



Resolution

TITLE: AN ACT REQUIRING THE ESTABLISHMENT OF A "PESTICIDE APPLICATION NOTIFICATION SYSTEM."

Department Contact: Ryan Callison

Resolution Presenter: Tom Elkins

Council Sponsor: Cara Cowan-Watts

NARRATIVE:

(See Attached Outline for Information Needed)

The application and the control of the use of various pesticides is important and vital to the maintenance of a high level of public health and welfare both immediate and future, and is hereby declared to be affected with the public interest. The Rules of pesticide application notification and recordkeeping are stated in the rule for the purpose of protecting the immediate and future health and welfare of the Cherokee Nation citizens.