

APACHE TRIBE OF OKLAHOMA

SOLID WASTE CODE

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§600 SOLID WASTE

§601 DEFINITIONS PARTICULAR TO SOLID WASTE REGULATION

As used in this section the term:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituents thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

“Disposal Site” means any place subject to this Act at which solid waste is dumped, abandoned or accepted or disposed of by incineration, land filling, composting, shredding, compaction, baling or any other method or by processing by pyrolysis, resource recovery or any other method, technique or process designed to change the physical, chemical, biological character, or composition of any solid waste so as to render such waste safe or non-hazardous, amenable to transport, recovery or storage or reduced in volume.

“Disposer” means any person, company, business or organization that disposes of waste.

“Fee” means user fee.

“Flood Plain” means A) the surface or trip of relatively smooth land adjacent to a stream channel, constructed (or in the process of being constructed) by the present stream in its existing regimen and covered with water when the stream overflows its banks in times of high water. B) any flat or nearly flat, usually dry lowland that borders a stream and that may be covered by its waters at flood stages, and C) the part of a lake-basin plain outside the shoreline, subject to submergence enduring high stages of the lake.

“Flood Way” means the channel or parts of a stream, water course or body of water and the adjacent land areas that must be reserved in order to discharge the flood without cumulatively increasing the water surface elevation more than one foot.

“Ground Water” means water below the land surface in a zone of saturation.

“Hazardous Waste” means a solid waste, or a combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may-

- 1) cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating reversible, illness; or

- 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed; or
- 3) any substance listed by the United States government as hazardous.

“**Hazardous Waste Management**” means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

“**Household Waste**” means any household waste or domestic by-product.

“**Landfill**” means the landfill in the jurisdiction of the Apache Tribe.

“**Laced**” means the fluid stream which collects in and/or from a pile, cell or other accumulation of solid waste and which may enter and contaminate ground or surface water.

“**Open Dump**” means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria established by the federal government under 42 U.S.C. 6944 and is not a facility for disposal of hazardous waste.

“**Processing Facility**” means any place where solid waste is dumped, abandoned, or accepted for processing by incineration, composting, pyrolysis, shredding, compacting, bailing, resource recovery or any other technique or process designed to change the physical, chemical, or biological character or composition of the waste, to make it safe or amenable for transport, or to make it non-hazardous and amenable for recovery or storage or to reduce it in volume.

“**Sanitary Landfill**” means a facility for the disposal of solid wastes which meets the criteria published under federal requirements at 42 U.S.C. 6944.

“**Sludge**” means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

“**Solid Waste**” means all refuse in solid or semisolid form including, but not limited to; garbage, rubbish, ashes, incinerator residue, pharmaceuticals, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial waste, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities.

“**Solid Waste Management System**” means the system that may be developed for the purpose of

collection, disposal or processing of solid waste by any person engaging in such process as a business or by any municipality, authority, trust or by any combination thereof at one or more disposal sites.

“**Storage**” when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis not to exceed a period of one year, in such a manner as not to constitute disposal of such hazardous waste.

“**Surface Water**” includes but is not limited to water that stands on the surface of the land in reservoirs, lakes, ponds, sloughs or swamps or that flows across the land in rivers, creeks or streams.

“**Treatment**” when used in connection with hazardous waste, means any method technique or process, including the neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduce in volume. Such term includes any activity or processing designed to change the form or chemical composition of hazardous waste so as to render it non-hazardous.

Comment §601

Legislative History

State Analog: 63 O.S. 2253

Federal Analog: 42 U.S.C. 6903

§602 FINDINGS OF THE APACHE TRIBE

A) Solid Waste

The Apache Tribe finds with respect to solid waste-

1) That the continuing changes in technology and in methods of manufacturing, packaging, and marketing of consumer products has resulted in a change in the characteristics of the mass material discarded by the purchasers of such products.

2) That the economic and population growth of the Apache Tribe of Oklahoma and the United States and the changes in Apache and American lifestyle have required increased industrial production, the demolition of old buildings, construction of new buildings, and provision of highways and other avenues of transportation, which together with the related industrial, commercial and agricultural operation, have resulted in a rising tide of scarp, discarded, and waste material.

3) That the continuing concentration of American population in expanding metropolitan areas has presented these communities with serious financial, management, intergovernmental, and technical

problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas.

- 4) That such solid waste disposal, recycling or treatment may present an economic opportunity for the Apache Tribe of Oklahoma.
- 5) That such solid waste may present a significant, lingering hazard on the lands of the Apache Tribe of Oklahoma and Apache Tribal Members that may affect the potential use for several generations in the future.
- 6) That due to the far-reaching and potentially dangerous effects of any solid waste program, the Apache Tribe of Oklahoma should approach agreements and projects with utmost caution.
- 7) That the Apache Tribe of Oklahoma desires to impose standards equal to or more stringent than the federal government.
- 8) That to fulfill the Apache Tribe of Oklahoma obligation of protecting the health and welfare of our people, the Apache Tribe of Oklahoma must adopt statutes regulating solid waste disposal and management upon the lands of the Apache Tribe of Oklahoma and its members.

B) Environment and Health

The Apache Tribe of Oklahoma finds with respect to environment and health-

- 1) That land is too valuable a resource to be needlessly polluted by discarded materials.
- 2) That disposal of solid waste and hazardous waste in or on the land without careful planning and management can present a danger to human health, quality of life, agricultural productivity, and the environment.
- 3) That as a result of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), the Water Pollution Control Act (33 U.S.C. 125 et. seq.), and other federal and state laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created; and similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health.
- 4) That open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land.

5) That the placement of inadequate controls on hazardous waste management will result in substantial risk to human health and the environment.

6) That if solid or hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex and time consuming.

C) Importation of waste

The Apache Tribe of Oklahoma finds with respect to importation of waste from areas outside the jurisdiction of the Apache Tribe of Oklahoma into areas within the jurisdiction of the Apache Tribe of Oklahoma-

1) That adequate safeguards must be incorporated into Apache Tribe of Oklahoma statutes and into agreements with firms to protect Apache interests, lands and members.

2) That identifying hazardous waste present in waste labeled as non-hazardous is a complex, difficult technical process.

3) That once non-hazardous waste is mixed with any amount of listed hazardous material; federal law reclassifies the entire mixture as "hazardous waste".

4) That agreements which do not properly protect the Apache Tribe may allow highly populated cities of the United States to transfer their problems to the Apache Tribe, and

5) That the Apache Tribe should attempt to achieve and maintain as much control as possible over any solid waste feed streams, which are to enter the lands of the Apache Tribe.

Comment §602

Legislative history

State Analog: None

Federal Analog: 42 U.S.C. 6901

Regulations

Grants, see 40 CFR 30.100 et. seq., 40.100 et. seq.

Hazardous waste treatment facilities, standards for owners of, see 40 CFR 264.1 et. seq., 265.1 et. seq.

§603 OBJECTIVES AND POLICY OF THE APACHE TRIBE OF OKLAHOMA

A) Objectives

The objectives of this Act are to promote the protection of health and environment by-

- 1) Prohibiting future open dumping on the land and requiring the closure of existing open dumps to become sites which do not pose a danger to the environment or health;
- 2) Assuring that hazardous waste management practices are conducted in a manner which protects human health and the environment;
- 3) Requiring that hazardous waste be properly managed thereby reducing the need for corrective action at a future date;
- 4) Minimizing the Apache Tribe's and the individual landowner's risk of liability for contamination caused by the originator, transporter and/or the broker of the solid waste or hazardous waste;
- 5) Developing cooperative programs with federal, state and Indian tribal and national agencies;
- 6) Providing for the promulgation of guidelines, regulations and licensing for solid waste and hazardous waste collection, transportation, separation, recovery, disposal practices and systems.

B) Policy of the Apache Tribe of Oklahoma

The Apache Tribe of Oklahoma declares it to be the policy of the Tribe that, solid waste generated on lands under the jurisdiction of the Apache Tribe or imported from outside the Apache Tribe should be treated, stored or disposed of so as to minimize the present and future threat to human health and the environment.

Comment §603

Legislative history

State Analog: None

Federal Analog: 42 U.S.C. 6902

§604 PROHIBITION OF FINANCIAL INTEREST

A) Statement

Each officer or employee of the Apache Tribe of Oklahoma who performs any function or duty under this section and has any immediate family member with any known financial interest in any person who applies for or receives permission from the Apache Tribe to operate under this section, shall annually file with the ATEP a written statement showing divestment of such interest or resign from such position.

B) Penalty for citizens of Apache Tribe of Oklahoma

Any Indian citizen who is an officer or employee who is subject to, and knowingly violates this section, shall be fined by the Apache Tribe not more than \$2500 or imprisoned not more than one year or both.

C) Penalty for non-citizens of Apache Tribe of Oklahoma

Any non-Indian citizen who is an officer or employee who is subject to, and knowingly violates this section, shall be fined by the Apache Tribe not more than \$2500.

Comment §604

Legislative history

State Analog: None

Federal Analog: 42 U.S.C. 6906

Regulations

Responsibilities and conduct of ATEP employees generally, see 40 CFR 3.100 et seq.

§605 SOLID WASTE DISPOSAL REQUIREMENTS

All solid waste disposals within the jurisdiction of the Apache Tribe of Oklahoma are subject to the following sections:

§606a PERMIT REQUIREMENTS

A)No person shall dispose of solid wastes at any site or facility on lands of the Apache Tribe other than a site or facility for which a permit for solid waste disposal or processing has been issued by the ATEP.

B)Upon issuance of any such permit, the ATEP shall file a recordable notice of the permit with the Apache Tribe and in the land record of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit is issued.

C)Upon issuance of any such permit, the ATEP shall publish in a newspaper received by a large percentage of the Apache Tribe citizens and in a weekly paper of general circulation in the location or vicinity of the proposed site, a notice of the permit.

Comment §606a

Legislative history

State Analog: 63 O.S. 2258

Federal Analog: None

§606b PERMITTING PROCEDURES

A) Applications

Any person seeking a permit required by section 606a of this Act shall submit 5 copies of an application to the ATEP Department on the appropriate form.

B) Review and Recommendation by Departments; Public Review

Upon receipt of an application, the ATEP Department shall circulate copies of same to the appropriate departments within the Apache Tribe for review. Each department shall review the application and any other information relevant thereto to determine the affect, if any, of the proposed project on matters within the department's scope of responsibilities. Based on its review, each department shall inform the ATEP in writing, of its findings and a recommendation that the permit application be approved, denied or modified. The ATEP Department shall make the application

available for public review according to the procedures established in the regulations adopted hereunder.

C) Presentation to ATEP

The ATEP Department shall submit the application to the Apache Tribe of Oklahoma, together with any other pertinent data, reports or information concerning the proposed project for which the permit is sought. The ATEP Department shall also submit to the Apache Tribe of Oklahoma the recommendations and findings of the departments, if any, including the recommendations and findings of the ATEP Department.

D) Issuance, Denial or Modification

The ATEP shall review all recommendations, findings and other materials presented to it by the Solid Waste Department, as well as any other information and materials which the ATEP deems appropriate. Based on its review of the foregoing, the provisions of this Act and the rules and regulations adopted by the ATEP and then in effect, the ATEP shall order that the application be (i) approved, (ii) denied or (iii) approved with such modifications or conditions as the ATEP deems appropriate. In reaching its decision, the ATEP shall consider all pertinent information but shall give particular emphasis to the recommendations and findings of the departments.

E) Written Decision

The ATEP'S order approving or denying an application, or approving an application subject to modification or conditions, shall be in writing and shall be delivered to all parties in the proceeding and to the Tribal Chairman.

F) Violations of other Permits

The ATEP shall not grant a permit to any person who the ATEP finds is currently in violation of any other permit issued by the Apache Tribe or any department thereof, or who it finds is currently in violation of any permit issued by the U.S. Environmental Protection Agency or other governmental agency acting under the authority of the U.S. Environmental Protection Agency.

G) Issuance

The ATEP shall not grant a permit to any person or to any affiliate of a person, who in violation of (c)(4) of this section, has been convicted of a felony or is subject to a current cease and desist order issued pursuant to 614b or is in violation of a compliance order issued pursuant to 614c of this Act.

H) Appeals

1) Any affected party may appeal a decision or order of the ATEP issued pursuant to this section 606b of this Act.

2) The Tribal Chairman may veto any decision or order of the ATEP approving an application for a permit. A veto by the Chairman shall be in writing and delivered to the ATEP within 15 days of the ATEPs notice of approval of the permit. A veto by the Tribal Chairman may be appealed by a majority vote of the business committee.

§607 REQUIREMENTS IN CONTRACTS AND LEASES DEALING WITH SOLID WASTE

All contracts and/or leases between citizens of the Apache Tribe or the Apache Tribe and waste disposal, recycling and treatment firms must contain the following clause:

“By accepting this contract or lease, the parties acknowledge and submit to all provisions of the law of the Apache Tribe and the jurisdiction of its courts regardless of their status as Indian or non-Indian and acknowledge that the Apache Tribe or federal authorities may prosecute for violations of Apache Tribe or federal environmental laws at the Apache Tribe’s request.”

§608 FEASIBILITY STUDIES

All proposals for solid waste disposal, recycling or treatment on lands of the Apache Tribe must include a feasibility study conducted by an independent firm chosen by the ATEP with approval by the business committee. Each study is to include economic forecasts of the project, potential pollution concerns, and long-range impacts of the project on the land involved. The study results are to be available to the general public.

§609 CONTINGENCY PLANS

Any person disposing of, recycled or treated solid waste on lands of the Apache Tribe must present contingency plans for effective action to minimize unanticipated damage from any treatment, storage, processing or disposal of solid waste.

§610 FACILITY OPERATION

The owner and operator are responsible for the maintenance of and operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel and financial responsibility (including financial responsibility for corrective action) as may be necessary or desirable.

§611 PROHIBITION OF OPEN DUMPS

The Apache Tribe of Oklahoma in compliance with Federal Law (42 U.S.C. 6943) prohibits all open dumps on lands of the Apache Tribe and requires all solid waste disposal to be in sanitary landfills.

§612 RECORD KEEPING

The owner and operator of a solid waste management facility shall be required, at minimum, to maintain records of all wastes which enter lands of the Apache Tribe or it's tribal members and are treated, stored, processed or disposed of, as the case may be, and the manner in which such wastes were treated, stored, processed or disposed of report, monitor, and inspect all solid waste on lands of the Apache Tribe.

Comment §612

Legislative history

State Analog: None

Federal Analog: 42 U.S.C. 6924 (a)

§613 ENFORCEMENT AUTHORITY

A) ATEP Authority

The ATEP is hereby designated as the enforcement authority entrusted with the duty and responsibility of ensuring the proper handling, treatment, composting and disposal of solid waste on land of the Apache Tribe and/or within it's jurisdiction and of ensuring compliance by all persons with this Act.

B) Cooperative compacts with surrounding States

The AT Business Committee shall have the authority to make cooperative compacts with the surrounding states to enforce the provisions of this section. Any future cooperative compacts between the Apache Tribe and the State of Oklahoma or any other State, or presently existing agreements, including cooperative law enforcement agreements, shall become effective enforcement provisions under this Act and are considered cumulative to the provisions hereof

C) Cooperative compacts with the federal government

The AT Business Committee is delegated the authority to enter cooperative compacts with the federal government to enforce the provisions of this agreement.

D) Cooperative compacts with Indian Tribes and Nation

The AT Business Committee is delegated the authority to enter cooperative compacts with Indian Tribes and Nations to enforce the provisions of this agreement.

§614a APACHE TRIBE ENVIRONMENTAL PROGRAM DUTIES

A) Enforcement of Act

The ATEP shall enforce all provisions of this Act and regulations adopted herein that pertain to the minimum standards solid waste handling, treatment, composting and disposal, all for the protection of the public health and safety and of land, air and water.

B) Enforcement by other agencies

The ATEP may request enforcement by federal, state, and local agencies of their respective laws governing solid waste handling, treatment, composting, and disposal.

C) Record keeping

The ATEP shall keep and maintain records of its inspection, enforcement, and training programs.

D) Consultation with health departments

The ATEP shall consult with appropriate health departments and agencies concerning all actions

involving solid waste handling, treatment, composting, and disposal.

§614b ENFORCEMENT ACTIONS

A) Actions on complaints

- 1) If the ATEP receives a complaint from the SW Department or any other department or person concerning a solid waste facility or a solid waste transporter, the ATEP shall have just cause to inspect the facility or transporter to determine whether any law, regulation or permit has been or is being violated.

- 2) If the ATEP received a complaint concerning a solid waste facility or a solid waste transporter and determines that is not able or authorized to take action concerning the complaint, the ATEP shall refer the complaint within ten days of receipt to the federal, state or Indian Tribe or Nation that it determines is authorized to take action.

- 3) If the ATEP receives a complaint concerning a solid waste facility or solid waste transporter and the ATEP does not refer it to another agency, the ATEP shall either take enforcement action concerning that facility or transporter or provide the person who filled the complaint with a written statement within 30 days explaining why an enforcement action would not be appropriate.

B) Cease and desist orders; Remedial actions

- 1) If the ATEP determines that any permittee, person or solid waste disposal site is violating or person at a facility is in violation of this Act, it may file a petition demanding a Cease and Desist order and other remedial action authorized by this 614b.

- 2) Any person who operates a solid waste facility in violation of the solid waste facility permit; who operates such without a solid waste facility permit; or who violates any standard adopted in this Act or regulations adopted pursuant thereto shall, upon order of the ATEP, cease and desist any improper action, resolve any improper actions, clean up any solid waste, abate the effects thereof, and take any other remedial action directed by the ATEP. Whenever the ATEP determines that the operation of a solid waste facility or the transportation of solid waste is causing or threatening to cause a condition of hazard, pollution or nuisance due to the migration of hazardous material or solid waste or for any other reason, the ATEP may require the operator of the solid waste facility to take corrective action necessary to abate any hazard, pollution or nuisance and to protect public health and safety and the environment.

3) If any of the circumstances set forth herein above pose an imminent threat to life or health, the ATEP may expend any available monies to perform any cleanup, abatement and remedial work required.

4) If any of the circumstances set forth hereinabove do not pose an imminent threat to life or health, but the ATEP deems it necessary for the public health and safety to perform cleanup, abatement work or remedial work, the ATEP may perform such work and expend monies thereon.

5) If solid or hazardous waste is cleaned up, the effects thereof abated or other necessary remedial action is taken, as described above, the person or persons who committed or allowed the improper action shall be liable to the ATEP for the reasonable costs actually incurred in cleaning up any solid waste or hazardous material, abating the effects thereof, or taking other remedial action. The amount of such costs shall be recoverable in a civil action in the courts of the Apache Tribe and state or federal courts where applicable, together with costs of suit incurred by the ATEP in recovering such monies. A judgment ordering the payment of these costs to the ATEP will bear interest allowable on judgments under Apache Tribal law.

C) Compliance Schedule

The ATEP shall develop a compliance schedule for any permitted solid waste facility or solid waste transporter what violates the ATEP minimum standards. The compliance schedule shall assure that diligent progress shall be made to bring the solid waste facility or solid waste transporter into compliance with the ATEP minimum standards within a specific period of time determined by the ATEP. If the solid waste facility or solid waste transporter is not in compliance within the period specified, the ATEP may revoke, suspend or modify the permit until such time as violators or the minimum standards are remedied.

D) Revocation, suspension or modification of permit.

1) GROUNDS FOR SUSPENSION, REVOCATION OR MODIFICATION

After a hearing, any permit may be suspended, modified or revoked by the ATEP for cause, including but not limited to any or all of the following:

a) Any violation of any term or condition contained in the permit, this Act, the underlying lease or land use permit or regulations of the Apache Tribe;

b) Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts;

c) A change in any condition that requires either a temporary or permanent modification, reduction or elimination of the permitted operation to bring it into compliance with the terms or conditions of the permit, this Act or the underlying lease or land use permit.

2) STATEMENT OF CHARGES

A hearing to determine whether a permit should be revoked, suspended or modified may be initiated by the ATEP by filing a written statement of charges that sets forth the acts or omissions with which the permittee is charged and specifies the terms, laws, conditions or rules that the permittee is alleged to have violated. The statement of charges and all accompanying documents shall be delivered by certified or registered mail, return receipt requested to the permittee at the address indicated of the license on permit application.

3) NOTICE OF HEARING

The statement of charges shall be accompanied by a notice advising the permittee of a date for a hearing, which hearing shall be held no earlier than 20 days and no later than 45 days from the ATEPs mailing of the statement of charges. The notice shall inform the permittee that he has the right to inspect and copy documents relative to the statement of charges.

4) NOTICE OF DEFENSE

- a) Within 15 days after the service upon him, the permittee shall mail by certified mail to the ATEP a Notice of Defense in which he may object to the statement of charges and state his defenses;
- b) The Notice of Defense shall be deemed a specific denial of all parts of the statement of charges not expressly admitted. Failure to timely file a Notice of Defense shall constitute a waiver of the right to a hearing;
- c) The Notice of Defense shall be in writing and signed by or on behalf of the permittee;
- d) A copy of any statement of charges and Notice of Defense shall be sent by the ATEP to the Business Committee immediately upon receipt.

5) HEARING PANEL

All hearings shall be conducted by AT Business Committee or appointed committee..

6) ISSUANCE OF DECISION

The AT Business Committee shall issue its decision as soon as practicable following submission. Cases shall be decided by concurrence of at least two members of the panel. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the assessment of costs and penalties, if any. Copies of the decision shall be sent to all stake holding parties.

7) REDUCTION OF PENALTY OR REINSTATEMENT

A person whose permit has been revoked or suspended may petition the ATEP for reinstatement after a period of not more than one year has lapsed from the effective date of the revocation or suspension or from the date of the denial of a similar previous petition.

E) Appeals

Any decision or order of the ATEP issued pursuant to this 614b may be appealed pursuant to the terms of 109 (A) of this Act.

§614c COMPLIANCE ORDERS

A) Issuance

Whenever on the basis of any information the ATEP determines that any person has violated or is in violation of any provision of this Act or regulation hereunder the ATEP may:

- 1) Issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period or both, or
- 2) Require compliance immediately or within a specified time period, or
- 3) Commence a civil action in Apache Tribe, state or federal court as appropriate for penalties and temporary or permanent injunctions.

B) Violation of compliance orders

If a violator fails to take corrective action within the time specified in a compliance order the ATEP may assess a civil penalty of not more than \$5000 for each day of continued noncompliance with the order and the ATEP may suspend or revoke any permit issued to the violator. Any equipment or property used in any part of the violator's operations after a compliance order is issued shall be considered instrumentality of the violation and thus be subject to seizure by the Apache Tribe in lieu of payment for violations or penalties..

C) Appeals

Any decision or order of the ATEP issued pursuant to this 614c may be appealed pursuant to the terms of 109 (A) of this Act.

Comment §614c

Legislative history

State Analog: 63 O.S. 2264 (repealed 1990)

Federal Analog: 42 U.S.C. 6928, 6992d

§614d PENALTIES

A) Any person under Apache jurisdiction who violates any of the provisions of this Act or orders or regulations of the ATEP shall be guilty of a crime and upon conviction thereof may be subject to imprisonment in facilities normally used by the Apache Tribe for detention of criminals for not more than one year, or a fine of not more than \$5000 per incident, or by both fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.

B) Any person who violates any of the provisions of the Act or orders or regulations of the ATEP may be subject to a fine of not more than \$5000; each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.

§614e KNOWING ENDANGERMENT

Any person who knowingly violates any provision of the solid waste sections of this title who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall be guilty of a crime and or shall be referred to the appropriate prosecutor as provided for in 42 USC 6992d (c), upon conviction under subsection (e), be subject to a fine of not more than \$250,000 or imprisonment for not more than 1 year or both as provided for in this Act. The ATEP is directed under these circumstances to pursue federal enforcement of the federal provisions.

§614f IMMINENT HAZARD

Upon receipt of evidence that the past, present or future handling, storage, treatment,

transportation or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to health or the environment, the ATEP shall bring suit on behalf of the Apache Tribe in the courts of the Apache Tribe, or state, or federal court as applicable to enforce Apache Tribe, state or federal law.

**§615 through §615e REGULATION OF UNDERGROUND STORAGE TANKS
has been moved to §680**

§616 FINANCES AND REVENUES

§616a SOLID WASTE USER FEE

This section shall be known as the “Apache Tribe User Fee”.

§616b PURPOSE

It is the purpose of this section to impose a certain fee for waste materials generated outside the jurisdiction of the Apache Tribe; providing for the fee to be in addition to any other charges; providing for the fee to be deposited in a specific account and providing for a statement of purpose for the fees collected.

§616c ASSESSMENT

A) There is imposed and assessed a pre-determined fee set by the ATEP, per ton for waste disposed at the Apache Tribe Landfill or other waste management facility within the territorial jurisdiction of the Apache Tribe.

B) The fee assessed by this section is to be charged against waste producers using the landfill or other waste management facility in addition to any charges specified in contract or elsewhere.

616d REPORTS; PROVISION FOR DEPOSIT OF FEES; USE OF FEES COLLECTED

A) The Apache Tribe Department of Solid Waste shall prepare monthly reports indicating:

1) The tonnage of waste materials received for disposal;

1) The amount of fees assessed or collected pursuant to this chapter; and

2) Expenditure of fees.

B) All fees received pursuant to this Act shall be credited to a separate account in the Solid Waste operating budget.

C) The fees shall be expended for purposes of maintaining the landfill operations and other waste management facilities operated by the Apache Tribe in an environmentally protective manner and for the development of the technical assistance programs, educational curricula, recycling, litter prevention, and other programs that promote the environmental protection, health, safety and welfare of the members of the Apache Tribe.

D) All user fees collected prior to the effective date of this section shall be deposited and expended in the same manner as those fees hereinafter collected.

§616e FEDERAL GRANTS

The ATEP or designated authority shall apply for federal grants available under 42 U.S.C. 6977 to assist the Apache Tribe in developing solid waste programs.

§616f COST ALLOCATION

A) The person placing solid waste on lands of the Apache Tribe is responsible for all reasonable costs of a comprehensive technological feasibility study, testing and inspection.

B) Any person proposing a solid waste facility on lands of the Apache Tribe is responsible for all costs involved in the initiation process including but not limited to public meeting expenses, studies, testing and publicity.

C) Operators agree to assume the cost of reasonable random testing conducted by an independent firm at the request of the ATEP.
