

SEMINOLE NATION OIL & GAS SEVERANCE CODE
TITLE 33
INDEX

Section 1-101. Title.....	2
Section 1-102. Findings.....	2
Section 1-103. Purpose; Application of Laws; Sovereign Immunity.....	3
Section 1-104. Severability.....	4
Section 1-105. Definitions.....	4
Section 1-106. Authority.....	7
Section 2-101. Oil and Gas Severance Fee Imposed.....	8
Section 2-102. Liability for Severance Fee.....	8
Section 2-103. Rate of Fee; Due Date of Fee; Payment of Fee.....	8
Section 2-104. Burden of Payment; Forfeiture for Nonpayment; Exemptions from Fee.....	9
Section 2-105. Payments By Whom Generally.....	10
Section 2-106. Records Retention and Limitations on Actions.....	10
Section 2-107. Measurement.....	11
Section 2-108. Gross Market Value.....	12
Section 2-109. Reports and Payment.....	12
Section 2-110. Refunds.....	13
Section 2-111. Interest on Late Payment and Penalties for Noncompliance.....	13
Section 2-112. Payment Under Protest.....	15
Section 2-113. RESERVED.....	15
Section 2-114. Bonds and Other Security for Fees.....	15
Section 2-115. RESERVED.....	16
Section 2-116. Audits and Records Requests.....	16
Section 2-117. Consent to Suit.....	16
Section 2-118. No Shifting or Reallocation of Fees.....	16
Section 2-201. Pipelines; Pipeline Company Easements.....	17
Section 2-202. Authority of Regulatory Agency.....	17
Section 2-203. Requirement to Transport.....	18
Section 2-204. Pipelines Without Easement.....	18
Section 2-205. Severability.....	18
Section 301: Operating Permit Required.....	19
Section 302: Application for Operating Permit.....	19
Section 303: Conditions of Permit.....	20
Section 304: Suspension or Cancellation.....	20
Section 401: General Stipulations of Surface Area.....	22
Section 402: Land Protection.....	22
Section 501: Enforcement.....	24
Section 502. Appeals.....	26
Section 503. Seizure of Property; Confiscation and Sale.....	27
Section 504. Powers of the Nation’s Lighthouse and Orders of the Regulatory Agency.....	29
Section 505. Action of the Regulatory Agency.....	29
Section 506. Effective Date.....	30

OIL & GAS SEVERANCE CODE
TITLE 33
CHAPTER 1

Section 1-101. Short Title

This Act shall be known as the Oil and Gas Severance Code of the Seminole Nation of Oklahoma and may be referred hereinafter as this “Code”.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 1-102. Findings.

The General Council finds that:

(a) The Seminole Nation of Oklahoma has the inherent sovereign authority to enact laws governing the development of the Nation’s lands and Natural Resources, and likewise the Nation has the authority to enforce such laws that are enacted with the purpose of preserving and protecting such inherent sovereign authority of the Nation;

(b) Under the Constitution of the Seminole Nation of Oklahoma, the General Council may legislate upon matters to become laws of the Nation, including:

(1) To promote public health, education and charity and such other services that may contribute to the social and economic advancement of the members of the Seminole Nation of Oklahoma (Article V (a));

(2) To enter into any contract in behalf of the Nation in conjunction with any activity that will further the well-being of the members of the Nation (Article V (f));

(3) To speak or act on behalf of the Nation in all matters in which the Nation is empowered to act (Article V - Powers of the General Council);

(4) To exercise any powers not specifically set forth in this article which at some future date may be appropriately delegated to the General Council (Article V (i));(c) The future of the Nation and the welfare of its tribal members depend on regulation and preservation of all natural resources within the jurisdiction of the Nation; the Nation must become self-sufficient in its regulatory affairs, as outside regulatory resources can be temporarily or permanently discontinued; and internal regulation, independence and self-governance is a goal of the Nation and an expression of its sovereignty;

(d) The present needs of the Nation and its tribal members include an expansion of its regulatory oversight of the natural resources within its jurisdiction through the establishment of an oil and gas severance code, and it is in the best interest of the Seminole Nation and its people and the protection and preservation of their natural resources;

(e) The Nation must establish standards of regulation and practices with attendant responsibilities and provide a method to regulate such natural resources within the jurisdiction of the Nation;

(f) The Nation must regulate and collect certain fees related to the severance of natural resources and/or minerals from the lands and properties within the jurisdiction of the Nation; and

(g) It is in the interest of the Nation and its tribal members to provide a method to regulate the severance of such natural resources and the operations of businesses, corporations, and other ventures operating within the jurisdiction of the Nation related to such activities.

Section 1-103. Purpose; Application of Laws; Sovereign Immunity

(a) The purposes of this Oil and Gas Severance Code are as follows:

(i) To protect and preserve the natural resources of the Nation and the property of its tribal members; and

(ii) To impose regulatory fees related to the severance of non-renewable energy, minerals, and other natural resources from lands held in trust for the Nation and its agencies and instrumentalities, fee lands owned by the Nation and its agencies and instrumentalities, and all other allotted or restricted properties within the jurisdiction of the Nation; and

(iii) To establish a source of revenue to fund the provision of tribal services, assist the economic development of the Nation, and sustain the Nation following the severance, depletion or exhaustion of all energy, minerals, and other natural resources from the lands within the jurisdiction of the Nation; and

(iv) To develop a source of revenue to assist in the delivery of services to tribal members and non-tribal members located within the jurisdiction of the Nation as determined by the General Council.

(b) This Code shall be interpreted and applied such that the Nation has exercised its inherent sovereign regulatory authority to the fullest extent permitted by the Nation's Constitution and not prohibited by federal law. The Nation's law shall be applied and enforced except to the extent that federal law preempts a specific exercise of the Nation's regulatory authority. The Regulatory Agency is authorized to issue, regulate and enforce the requirements as set forth herein, and the regulatory and enforcement authority conferred to the Regulatory Agency by this Code is concurrent with and in addition to the regulatory jurisdiction of any other sovereign, including but not limited to the federal government.

(c) Nothing in this Code shall be construed to waive the sovereign immunity of the Seminole Nation, its officers, employees, boards, or commissions, either explicitly or implicitly.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 1-104. Severability

The provisions of this Act are severable, and if any part or provision hereof shall be held void by the Nation's District Court or by a federal court with jurisdiction over the Nation, the decision of the court so holding shall not affect or impair any of the remaining provisions, or parts of provisions, of the Act.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 1-105. Definitions

As used in this Oil and Gas Severance Code, unless the context otherwise requires, the following terms shall be defined as provided in Title 4 (Corporations), § 102 of the code of Laws of the Seminole Nation: "Attorney General", "Commission," "Corporation" or "Domestic Corporation," "Court," "District Court," "Earned Surplus," "Employee," "Foreign Corporation," "Jurisdiction," "Nation," and "Prosecutor." As used in this Code, unless otherwise defined herein, the following terms shall be defined as set forth in Title 28, § 106 of the Code of Laws of the Seminole Nation: "BCR Commission," "Commission", "Entity," "Payment in Lieu of Taxes."

When used in this Oil and Gas Severance Code, the following words and terms shall be interpreted as follows, unless the context clearly indicates a different meaning:

(a) "avoidably lost" shall mean the nature of an incidental loss of, waste of, or damage to a mineral resource in the course of mineral development resulting from venting, flaring or other activity when such activity has not previously been permitted or approved in writing by the authorized representative of the Secretary of the Interior as to applicable tribal or allotted lands.

(b) "central delivery facility" shall mean a common metering and delivery location at which substances described in Section 2-101 are collected from multiple wells or leases and intermingled.

(c) "Constitution" shall mean the Constitution of the Seminole Nation of Oklahoma.

(d) "cross-lease beneficial use" shall mean an Operator's use of substances described in Section 2-101 derived from lands subject to a tribal or allotted lease for the benefit of operations on other lands subject to a tribal or allotted lease operated by the same Operator, prior to the sale of such substances.

(e) "entitled proportionate gross working interest" shall mean the net revenue interest attributable to a working interest in a lease or minerals agreement covering lands subject to

jurisdiction of the Nation, plus the proportionate share of any non-operating interests that burden that working interest.

(f) "IRC" shall mean the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any succeeding law.

(g) “lands” shall mean that real property within the Territorial Jurisdiction of the Nation in which the Nation or an individual tribal member and/or allottee and/or heir of an allottee owns a legal or beneficial interest in the surface and/or a mineral estate, including reversionary interests following the expiration of leases or mineral development agreements, but excluding working interests, or interests carved there from, acquired by the Nation or by an individual Indian in fee lands located within the Territorial Jurisdiction of the Nation, unless or until such real property is accepted in trust for the benefit of the Indian mineral owner by the United States of America.

(h) “Maximum Reservation Price” shall mean the value obtained as a result of applying the formula set forth in Section 2-108 (2) of this Code.

(i) “mineral” and “minerals” shall mean any oil, petroleum and/or other crude, condensate, other mineral oil, all gas, natural gas, methane gas, casinghead gas, processed gas, associated liquid products, any other hydrocarbon substances and minerals of any other type.

(j) “minerals agreement” shall mean any joint venture, operating, production sharing, service, managerial, lease, contract, or other minerals agreement; or any amendment, supplement or other modification of such minerals agreement, providing for the exploration for, or extraction, processing or other development of minerals in which a mineral owner owns a beneficial or restricted interest, or providing for the sale or other disposition of the production or the products of such minerals.

(k) “Nation” and “Seminole Nation” shall mean the Seminole Nation of Oklahoma.

(l) “Oil and Gas Severance Fee” means a fee levied under Section 2-101 et seq. of this Code.

(m) “other consideration” shall mean consideration other than cash, including consideration obtained through trades or exchanges of severed minerals.

(n) “Operator” shall mean the person responsible for the exploration, development, and production of an oil or gas well or lease.

(o) “Permit Holder” shall mean the holder of an oil and gas operating permit issued under this Code.

(p) “person” shall mean any individual, partnership, firm, company, public or private corporation, limited liability company, association, trust, estate, political subdivision, agency, or any other legal entity, and/or its legal representative, agent(s) and/or assign(s).

(q) “processing costs” shall mean the reasonable, actual costs incurred by the person to process gas for the removal of products described in Section 21-2-101 (generally natural gas liquids). When costs are incurred through use of a processing plant owned either in whole or in part by the person or an entity affiliated with the person, only the following costs may be included in the calculation of deductible costs for fee purposes: operating and maintenance expenses, overhead, depreciation and a return on un-depreciated capital investment directly associated with

the plant. The basis and method of depreciation shall not be changed once used, regardless of any changes in ownership of the plant.

(r) “Regulatory Agency” shall mean the Seminole Nation Business and Corporate Regulatory Commission or other tribal agency as established by written resolution or ordinance of the General Council.

(s) “severance” shall mean the physical separation or removal of a mineral from lands, including the extraction of methane from severed tribal coal estates restored to tribal beneficial ownership by the United States of America pursuant the Indian Reorganization Act of 1934.

(t) “Territorial Jurisdiction” and “jurisdiction of the Nation” shall mean all "Indian country" lands as defined by federal law located within the geographical boundaries of the Seminole Nation as they existed in 1898 pursuant to the Treaty of March 21, 1866, 14 Stat. 755 entered into by the Seminole Nation and the United States of America, including but not limited to the following property located within said boundaries: property held in trust by the United States of America on behalf of the Seminole Nation of Oklahoma; property owned in fee by the Seminole Nation of Oklahoma; restricted and trust allotments, both surface and/or minerals; and dependent Indian communities. The Territorial Jurisdiction of the Nation shall also extend to all property located outside said boundaries owned in fee by the Nation, its agencies and/or instrumentalities, or held in trust by the United States on behalf of the Seminole Nation of Oklahoma, its agencies and/or instrumentalities, and/or all minerals of Seminole Nation Tribal members with any restrictions or held in trust by the United States of America.

(u) “transportation costs” shall mean the reasonable, actual costs incurred by the person for moving marketable products described in Section 2-101 of this Code to a point of sale or other point of final disposition that is remote from the point of initial severance, separation, treatment or measurement (generally the point approved by the Bureau of Land Management for the purposes of royalty measurement). Not included in this definition are costs incurred by the person for the movement or removal from the production stream of products not described in Section 2-101 or products whose value is otherwise exempted from application of this Code or for compression intended to enhance production or to meet pipeline delivery pressure requirements. When costs are incurred on a transportation system owned either in whole or in part by the person or an entity affiliated with the person, only the following costs may be included in the calculation of deductible costs for fee purposes: operating and maintenance expenses, overhead, depreciation and return on undepreciated capital investment directly associated with the transportation system. The basis and method of depreciation shall not be changed once used, regardless of any changes in ownership of the system.

(v) “unavoidably lost” shall mean the nature of an incidental loss of, unavoidable waste of, or damage to a mineral resource in the course of mineral development resulting from venting, flaring or other activity when such activity and the resulting loss, waste or damage have been previously approved in writing by the General Council or its authorized representative as to tribal lands or by the Secretary of the Interior or his authorized representative as to allotted lands.

(w) “working interest” shall mean the interest obtained by a mineral lessee or grantee of a minerals agreement in minerals or revenues attributable to the sale of minerals producible

under such lease or minerals agreement, inclusive of overriding royalty interests or other non-operating interests subsequently derived from the working interest.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 1-106. Authority

1. In addition to all other powers found herein, this Code shall delegate to the Regulatory Agency, its Board, Commission, and/or Director, the following powers to carry out and enforce the provisions of this Code, including, but not limited to:
 - (a) Promulgating rules and regulations as necessary under this Code;
 - (b) Conducting appellate hearings under this Code;
 - (c) Reviewing, approving, and/or disapproving all applications and/or requests submitted to the Regulatory Agency under this Code;
 - (d) Conducting periodic inspections, as provided herein or by any rules promulgated hereunder, or determined solely by the Regulatory Agency, and any revocations, if required under this Code;
 - (e) Computing all fees payable to the Regulatory Agency under this Code;
 - (f) Depositing revenues collected by the Regulatory Agency under this Code; and
 - (g) Delegating any of these powers to subordinate agents and/or officers of the Regulatory Agency as necessary to carry out and enforce the provisions of this Code; and
 - (h) Any other powers necessary for the implementation and/or enforcement of this Code

[History: Enacted by TO-2014-05, June 7, 2014]

CHAPTER TWO SEVERANCE FEE AND LIABILITY

Section 2-101. Oil and Gas Severance Fee Imposed

An Oil and Gas Severance Fee is hereby imposed on the severance of any and all oil, petroleum and/or other crude, condensate, other mineral oil, all gas, natural gas, methane gas, casinghead gas, processed gas, associated liquid products, any other hydrocarbon substances and minerals of any other type from all lands and properties within the Territorial Jurisdiction of the Nation.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-102. Liability for Severance Fee

The amount of Oil and Gas Severance Fee to be paid and the liability for payment of such Oil and Gas Severance Fee shall be determined, become effective, and accrue at the time of severance of substances described in Section 2-101 from all lands and properties subject to the jurisdiction of the Nation regardless of whether monetary compensation or other consideration has been received for the sale of such substances, including but not limited to, the placement of gas into pipeline inventory; provided, however, liability shall not accrue for payment of Oil and Gas Severance Fee with respect to the severance of substances unavoidably lost.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-103. Rate of Fee; Due Date of Fee; Payment of Fee

The Oil and Gas Severance Fee set forth herein shall be at the rate of eight percent (8.0%) of the gross market value of all substances described in Section 2-101 produced, severed, saved, and/or removed from any lands and properties subject to the jurisdiction of the Nation. The gross market value of a substance shall be equal to the price of such substance published on a national index selected by the Regulatory Agency at the beginning of each calendar year on the last day of the month during which the substance was produced, severed, saved, and/or removed. The Regulatory Agency shall publish the selected national index in the regulations promulgated under this Title. The fees required by this Code shall be due at the time the substances described in Section 2-101 are produced, severed, saved and/or removed from the lands and shall be payable monthly to the Regulatory Agency. Payment of all Oil & Gas Severance Fees provided in this Code shall be made monthly on or before the last day of the calendar month following the calendar month for which such substances described in Section 2-101 were produced, severed, saved, and/or removed from any lands and properties subject to the jurisdiction of the Nation. Any payment not made when payable as provided herein shall incur a penalty of ten percent of Oil & Gas Severance Fees due for each month such past due payment is outstanding and shall also bear interest at the annual rate of ten percent (10%) until paid in full. Any partial payments made shall be applied first to any accrued penalties, then to any accrued interest, then lastly to any amounts of past due Oil & Gas Severance Fees.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-104. Burden of Payment; Forfeiture for Nonpayment; Exemptions from Fee

The burden of payment of the Oil and Gas Severance Fee required by this Code shall be upon the Operator and its successors in interest, and the Oil and Gas Severance Fee accruing hereunder shall be a lien upon the interest and/or working interest of such Operator in the well, site, and/or minerals, from which the substances described in Section 2-101 were produced, severed, saved, and/or removed. Such lien may be foreclosed and the interest of the Operator may be forfeited and sold as possessory interests may be forfeited and sold for nonpayment of the Oil and Gas Severance Fee required hereunder, subject to provisions of this paragraph set forth below, when such Oil and Gas Severance Fee remains unpaid in excess of sixty (60) days after the due date for filing of the reports/returns required by this Code. At least thirty (30) days prior to the commencement of any forfeiture proceedings described above, the Regulatory Agency shall serve notice on all persons known from tribal, Bureau of Indian Affairs (“BIA”), or U.S. Geological Survey records to be an interested party in such well, site, and/or minerals of the amount of the Oil and Gas Severance Fees due and unpaid. Such notice shall state the intent of the Regulatory Agency to institute forfeiture proceedings, and the right of such person to pay the Oil and Gas Severance Fees due and unpaid on behalf of the Operator and recover such payment from the Operator in civil suit. Such notice shall also be personally served by the Nation’s Lighthorse or BIA federal police or by certified U.S. mail, deliverable to the addressee only, return receipt requested, or in any other manner in which a summons may be served under tribal law. Service by publication may be had upon an order of the Nation’s District Court for good cause shown. Service of the notice by publication shall be made by publication of the notice at least twice during the thirty (30) day waiting period, in a newspaper in general circulation in Seminole County, Oklahoma, and as may be further ordered by the Nation’s District Court.

The following volume exemptions from Oil and Gas Severance are authorized:

(a) Volumes attributable to a landowner’s royalty interest established in a lease or minerals agreement issued by the Nation or by a tribal member allottee mineral owner.

(b) Volumes attributable to an overriding royalty interest granted to or obtained by the Nation or by an Indian allottee owner derived from working interests in leases or minerals agreements issued by the Nation or by an Indian allottee mineral owner.

(c) Volumes used for the benefit of operations on the leased premises from which such substances are produced, prior to removal therefrom or sale; provided that volumes attributable to use off the lease from which such minerals are produced are not exempt from Oil and Gas Severance except as set forth in Section 21-2-104(4), below.

(d) Volumes associated with cross-lease beneficial use or shrinkage volumes factored into allocations associated with a central delivery facility, if and only if the lessee or Operator has obtained prior written approval from the Regulatory Agency for such cross-lease beneficial use or for establishment of the central delivery facility and the formula for allocating volumes associated with such central delivery facility. In granting or denying exemptions for cross-lease beneficial use or for central delivery facilities, the Regulatory Agency shall determine from the totality of the circumstances, including relative royalty rates, whether exempting such volumes from fee will adversely impact the best interests of the Nation. A requested exemption for cross-lease beneficial

use, but not for a central delivery facility, shall be deemed denied unless the Regulatory Agency shall have taken action granting a written request within sixty (60) days of receipt of such request.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-105. Payments By Whom Generally

Except for an owner of a landowner's royalty interest or overriding royalty interest specifically described in Section 2-104(a) or Section 2-104(b), the incidence of the Oil and Gas Severance Fee falls upon any owner of a working interest or person claiming ownership of a working interest in substances described in Section 2-101, severed from lands subject to the jurisdiction of the Nation. Payment of the Oil and Gas Severance Fee for each such person shall be made as herein provided by the Operator based on that person's entitled proportionate gross working interest in or attributable to such described substances. Payment of the Oil and Gas Severance Fee may be made by the Operator of any well on behalf of working interest owners as a matter of internal policy or by agreement with such working interest owners. Volume allocation and subsequent fee payment shall be based upon each person's entitled volumes regardless of the actual volume taken.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-106. Records Retention and Limitations on Actions

(a) Each lessee, Operator or other person subject to this Code shall make and retain accurate and complete records necessary to demonstrate that fee payments due under this Code have been made in compliance with this Code or regulations promulgated pursuant to this Code. Such records shall include information regarding: severance and production, transportation, treating, processing and marketing of substances described in Section 2-101.

(b) Lessees, Operators or other persons required to keep records under this section shall maintain and preserve them for six (6) years from the last day of the month in which a severance of a substance described in Section 2-101 takes place. Notwithstanding the foregoing, when an audit or review by the Regulatory Agency of a person's compliance under this Code is pending, all existing records of the person and persons severing minerals on such person's behalf or of persons having paid fees on the person's behalf shall be maintained by the record holder until released in writing by the Regulatory Agency from the obligation to maintain such records.

(c) No action by the Regulatory Agency or the Nation with respect to compliance with this Code shall be brought against any person unless commenced within fifteen (15) years from the date that the Regulatory Agency or Nation knows or should have known that the cause of action has accrued. In the event that non-compliance with this Code could be reasonably ascertained only upon completion of an audit, and in the event that such an audit has not been commenced or completed within the fifteen (15) year limitations period, then nothing herein contained is intended to preclude the Regulatory Agency or the Nation from asserting lack of knowledge for purposes of establishing the date of accrual of a cause of action.

(d) Nothing provided herein shall act as a waiver of the Nation or its agents and instrumentalities, or the Regulatory Agency's sovereign immunity. Nothing herein shall be

deemed to give the State of Oklahoma any jurisdiction or regulatory authority over the Indian lands of the Nation. The Seminole Nation Tribal Court, with any and all rights of appeal therefrom, is the court of competent jurisdiction regarding any disputes related in any way to this Code. Nothing herein shall be construed as consent by the Nation or the Regulatory Agency to suit in any state court. Nothing in this Code shall be deemed to be a waiver of the Nation's sovereign immunity, except as provided in this Section.

(e) In the event the Nation expressly and in writing waives its sovereign immunity, or a court of competent jurisdiction, as defined herein, finds a waiver of the Nation's sovereign immunity, no action by a person may be brought against the Nation contesting the lawfulness of the Code or its application, unless commenced within one (1) year from the date that the Person knows or should have known that a cause of action has accrued.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-107. Measurement

(a) The severance of all crude oil and condensate normally measured in liquid form shall be measured and reported in units of barrels of 42 U.S. gallons corrected to standard temperature, gravity and other variables established in the regulations of the United States Department of the Interior, Bureau of Land Management.

(b) The severance of all natural gas and other vaporous hydrocarbon substances normally measured in gaseous form shall be measured and reported in units of one thousand cubic feet (MCF) saturated with water vapor corrected to the standard pressure of 14.73 psia and temperature of 60 degrees Fahrenheit. The Btu content shall be measured while the gas is saturated with water vapor at 60 degrees under a pressure equivalent to that of 30 inches of mercury at 32 degrees under standard gravitational force.

(c) Processed Natural Gas Liquids ("NGLs") shall be measured in U.S. gallons.

(d) Reportable volumes shall be those established through measurement at the wellhead unless otherwise approved in writing by the Regulatory Agency or its authorized representative.

(e) Metering devices measuring the flow of severed substances described in Section 2-101 shall be accurate devices based upon prevailing industry practice and acceptable to the Bureau of Land Management in the measurement of Indian lease production. No electronic flow measurement devices shall be used in metering for purposes of this Code in the absence of express prior written permission from the Regulatory Agency or its authorized representative. Such permission is hereby conditioned upon the Operator of such metering devices maintaining a record, subject to the record retention requirements of Section 2-106, of all raw data acceptable to the Nation obtained or obtainable from the electronic flow measurement device. Any request for permission to use electronic flow measurement devices shall specify the location for intended use, and permission for such use as to one location shall not constitute permission for any other location. Any violation of the requirements of this subsection shall subject the violator to the penalty provisions set forth in Section 2-111(d) of this Code.

Section 2-108. Gross Market Value

(a) Except as otherwise indicated in this section, the Gross Market Value of severed minerals upon which the rate of the Oil and Gas Severance Fee shall be applied shall be the gross proceeds unit price multiplied by the wellhead volume less applicable transportation costs. When calculating the transportation deduction, treating and all other costs associated with placing severed minerals into a marketable condition are not deductible. In those instances in which severed natural gas is sold by the producer after having been processed, the value of such natural gas shall be the value of the processed liquids less applicable processing and transportation costs plus the gross value of the residue gas less applicable transportation costs. In computing the net value of processed products, the formula for computing net value shall be submitted by the working interest owner or Operator to the Regulatory Agency or its authorized representative for prior approval, and only reasonable and necessary expenses incurred in such processing shall be permitted in computing said net value.

(b) Notwithstanding the provision of Section 2-108(a), the person may, elect to base its monthly Oil and Gas Severance Fee payment on the Maximum Reservation Price. This election must be made prior to October 1st of each year and cannot be modified until the following year. The formula for the calculation of the Maximum Reservation Price is as follows:

$$\frac{H1 + H2 + Hn}{N} - X = \text{Calculated Reservation Price}$$

H = The arithmetic average of the highest prices (Bid week or first of the month publication) in the range of all index pricing points in the San Juan Basin as published in each valid index publication.

N = Number of valid publications.

X = A discount factor of 10%. X shall never be less than 10 cents nor more than 30 cents.

If such an election is made, the value basis for the associated fee payment shall be final and not subject to future audit or review.

Promptly following receipt of the information needed to compute the Maximum Reservation Price, the Regulatory Agency shall render such calculation and inform such person so requesting the Maximum Reservation Price for time periods for which the calculation has been made.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-109. Reports and Payment

(a) The Operator of a well shall provide a written division of interest statement for such well upon request of the Regulatory Agency. Additionally, a person shall be required to provide any additional reports or information that the Regulatory Agency deems necessary for the proper administration of this Code.

(b) The Operator shall submit a monthly return to the Regulatory Agency upon a form prescribed by the Regulatory Agency.

(c) Payment of the fee shown on the monthly return shall be made at the time such return is filed.

(d) All monthly returns and corresponding fee payments shall be due on or before the last day of the second month following the month of severance (for example, fees associated with January production are due on the last day of March). If the due date falls on a weekend, a federally recognized holiday, or a tribally recognized holiday, then the monthly reports and payments shall be due on the working day immediately following. For purposes of this section, a return and payment shall be deemed as filed on the date postmarked.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-110. Refunds

(a) Except as provided in Subsection (b) of this Section, any person paying any fee erroneously may apply to the Regulatory Agency for a refund within two years of the date of severance. The Regulatory Agency shall refund such fee if found to have been erroneously paid. All amounts refunded under this subsection shall bear interest at the lesser of: (i) the rate described in IRC §6621(a)(2), or (ii) the rate of return received by the Nation on the refundable amounts while said amounts have been in the Nation's possession. In computing amounts of erroneous overpayment, the Regulatory Agency may examine Oil and Gas Severance Fee payment records to determine if any offsets exist resulting from erroneous underpayment.

(b) With respect to refunds resulting from a successful protest submitted under Section 2-112 of this Code or under other authority recognized by the Nation, should protested payments be escrowed or separately held by the Nation during the period of the protest, then the refund of protested fee payments shall bear interest at the rate earned during the period of escrow; provided that such refunded interest amount shall not exceed the rate described in IRC §6621(a)(2). This subsection shall, to the maximum extent permitted by law, apply to any protests pending as of the date of enactment of this Code.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-111. Interest on Late Payment and Penalties for Noncompliance

(a) If an Operator fails to pay the entire Oil and Gas Severance Fee by the time proscribed for payment, such amount shall be considered delinquent and shall bear interest on the unpaid amount at the underpayment rate established under IRC §6621 shall be paid for the period from such last date to the date paid. Any person required to pay the Oil and Gas Severance Fee under this Code who fails to comply with a written order issued by the Regulatory Agency or by such other representative designated by the Nation to pay any delinquent amount shall be required to pay additional interest at a rate of one percent (1%) per day on those delinquent amounts.

(b) If an Operator fails to pay the entire Oil and Gas Severance Fee by the time proscribed for payment, there shall be added to the Oil and Gas Severance Fee ten percent (10%)

of the unpaid amount if the failure is for not more than one (1) month, with an additional ten percent (10%) for each additional month or fraction thereof during which such failure continues.

(c) Any person who consistently engages in a practice of erroneous reporting, as determined by the Regulatory Agency or such other representative designated by the Nation, including but not limited to incorrect reporting of royalty exemption rates, incorrect tribal acreage factors or incorrect API numbers or lease numbers, shall be subject to a civil penalty of up to Five Hundred Dollars (\$500.00) for the first occurrence, and then One Thousand Dollars (\$1,000.00) for the second occurrence, and then an amount equal to the greater of One Thousand Dollars (\$1,000.00) or triple (3x) the amount of underpayment to the Regulatory Agency caused by and/or related to such erroneous reporting for each subsequent occurrence. Such amount of underpayment shall be determined solely by the Regulatory Agency.

(d) Any person who fails to comply with a written order issued by the Regulatory Agency or by such other representative designated by the Nation, to provide reports or requested information or to post security, as required in Section 2-114, shall be assessed a civil penalty of Five Hundred Dollars (\$500.00) per day for each day said person is in violation of said order. A written request for extension of time within which to comply with a written order to provide reports or information other than monthly payments or monthly returns of producers or Operators, if filed within the time period for compliance with said written order, may be granted by the Regulatory Agency for a period of up to thirty (30) days. Subsequent requests for extension may be granted by the Regulatory Agency only upon a clear showing of good cause as determine solely by the Regulatory Agency.

(e) In addition to such other interest or penalties provided by the foregoing Subsections, any person who employs electronic flow measurement devices in compliance with the provisions in Section 2-107(e) but who fails to establish and maintain an auditable record of raw flow measurement data shall be subject to a civil penalty on a per meter basis up to One Thousand Dollars (\$1,000.00) per day for each day that such information is lacking. Any person who fails to repair or correct an electronic flow measurement device malfunction in a timely manner, as solely determined by the Regulatory Agency, shall be subject to a civil penalty on a per meter basis up to Five Hundred Dollars (\$500.00) per day for each day that the metering device is not timely repaired or corrected, as determined solely by the Regulatory Agency, and One Thousand Dollars (\$1,000.00) per day for each day after receiving written notice from the Regulatory Agency of the need for repair or correction of such electronic flow measurement device malfunction.

(f) Any person required by this Code to file any return, report, or provide information to the Nation, who knowingly falsifies a report or who knowingly provides incorrect information shall be subject to a civil penalty for each occurrence in an amount equal to the greater of One Thousand Five Hundred Dollars (\$1,500.00) or triple (3x) the amount of underpayment to the Regulatory Agency caused by and/or related to such false report and/or incorrect information. Such amount of underpayment shall be determined solely by the Regulatory Agency. Furthermore, such person(s) may be subject to exclusion, banishment and/or removal from within the territorial limits of the Nation in accordance with the laws of the Nation, as amended or supplemented.

(g) All assessments of interest or penalties provided for in this Section may be in addition to such further remedies available to the Nation under Section 2-117 of this Code.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-112. Payment Under Protest

(a) A person paying any amount required under this Code may pay such amount under protest by filing a written Notice of Protest with the Regulatory Agency. A Notice of Protest shall be accompanied by timely payment of the protested fee. A Notice of Protest shall contain: a statement of reasons, a request for a refund of the protested amounts, and a request for a conference with the Regulatory Agency. In the event that the basis for the protest is continuing in nature and the person desires to protest subsequent payments made during consideration of the pending protest, subsequent Notices of Protest may incorporate the original Notice of Protest by reference, except for the request for refund of protested amounts, which shall be set forth in each Notice of Protest. All such Notices of Protest incorporating an original Notice of Protest shall be resolved simultaneously under the procedures described in this Subsection. The protest conference shall be held within ninety (90) days of the filing of the original Notice of Protest. Should the person fail to appear on the date appointed for the conference, the protest may, in the absence of a showing of unforeseeable circumstances, be summarily dismissed and the request for refund of the protested amounts shall be denied. Should the protest fail to be resolved during the conference with the Regulatory Agency, the Regulatory Agency shall request a hearing before the Commission or Board overseeing the Regulatory Agency, and shall be held within ninety (90) days of the conference, at which time the person shall present their reasons and arguments for the protest. Should the person fail to appear on the date appointed for the hearing before the Commission or Board, the protest may, in the absence of a showing of unforeseeable circumstances, be summarily dismissed and the request for refund of the protested amounts denied. The Commission or Board overseeing the Regulatory Agency shall render a decision on any protest within sixty (60) days following the date of the hearing. The rationale supporting a decision regarding a specific protest may be relied upon in deciding other protests filed for identical reasons.

(b) Upon receipt of a written Notice of Protest, the Regulatory Agency may, in its discretion, direct that the protested payment be placed in escrowed or separately identifiable account.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-113. RESERVED

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-114. Bonds and Other Security for Fees

(a) Whenever any Operator shall habitually fail or refuse to file any required report or pay any fees required by this Code, on or before the date such report and/or fee is due to the Regulatory Agency, the Regulatory Agency may require the Operator, following written notice, to post with the Regulatory Agency a cash or acceptable surety bond in amount solely determined

by the Regulatory Agency to guarantee the filing of such report or payment of such fees as required herein.

(b) Such cash or bond amount may be in an amount solely determined by the Regulatory Agency to be sufficient to guarantee timely reporting or payment, provided that the amount of the cash or bond shall not exceed the total of three times (3x) the annual amount due to the Regulatory Agency by the Operator under this Code.

(c) An order of the Regulatory Agency requiring an Operator to post such cash or bond may be reviewed only by the Nation's District Court.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-115. RESERVED

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-116. Audits and Records Requests

The Regulatory Agency shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the information required thereby and/or herein and that such person is in compliance with this Code. If any person has made an untrue and/or incorrect report required by this Code or any rule or regulation authorized hereunder, the Regulatory Agency shall, under rules and regulations promulgated and prescribed by it, ascertain the correct information and prosecute said person under said rules and regulations. The Regulatory Agency is specifically authorized to obtain any necessary and/or related records as may be available from the Bureau of Indian Affairs, the United States Geological Survey, the Oklahoma Tax Commission, the Oklahoma Corporation Commission, and any other governmental agency and/or office with information necessary for the purposes of this provision.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-117. Consent to Suit

Any owner of an interest or person claiming ownership of an interest in substances described in Section 2-101, severed from lands subject to the jurisdiction of the Nation shall be subject to the personal jurisdiction of the Nation's District Court and be considered to have given consent to suit therein.

Section 2-118. No Shifting or Reallocation of Fees

No royalty interest or overriding royalty interest of any Seminole Nation tribal member shall be reduced or effected in any way by the fees required by this Code. No fees required by this Code may be shifted or allocated to an owner of a landowner's royalty interest or overriding royalty interest specifically described in Section 2-104(a) or Section 2-104(b), by any person, including but not limited to any owner of an interest or person claiming ownership of an interest in substances described in Section 2-101, severed from lands subject to the jurisdiction of the Nation

and/or any person liable for payment of the fees imposed by this Code. Any person who attempts to shift or allocate any fee required by this Code, as determined solely by the Regulatory Agency, shall be liable to the person whom the fee was shifted or allocated to an amount equal to triple (3x) the amount shifted or allocated, plus all costs and expenses associated with enforcing any rights provided herein, including but not limited attorney fees and legal costs. Furthermore, any person who attempts to shift or allocate any fee required by this Code, as determined solely by the Regulatory Agency, shall be subject to a civil penalty for each occurrence in an amount equal to the greater of Five Thousand Dollars (\$5,000.00) or triple (3x) the amount shifted or allocated per occurrence and per person such amount was shifted or allocated to, and/or for any attempt as determined solely by the Regulatory Agency, plus all costs and expenses incurred by the

Regulatory Agency to enforce the provisions provided herein, including but not limited attorney fees and legal costs,. Such amount shall be determined solely by the Regulatory Agency. Furthermore, such person(s) may be subject to exclusion, banishment and/or removal from within the territorial limits of the Nation in accordance with the laws of the Nation, as amended or supplemented.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-201. Pipelines; Pipeline Company Easements

Any pipelines, distribution systems, other facilities, and similar structures, within the Territorial Jurisdiction of the Nation shall be subject to the inherent sovereign regulatory authority of the Nation to the fullest extent permitted by the Nation's Constitution and not prohibited by federal law. Pipeline companies securing easements for operation of pipelines and other facilities within the Territorial Jurisdiction of the Nation shall be required, as a condition to grants of easements or extensions of easements, for lateral or main pipelines, or other supporting facilities, to deliver, on demand of the Nation from time to time, the Nation's oil, petroleum and/or other crude, condensate, other mineral oil, all gas, natural gas, methane gas, casinghead gas, processed gas, associated liquid products, any other hydrocarbon substances and minerals of any other type (the "Nation's Minerals"), for industrial, municipal or domestic use to points on the pipelines of such companies.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-202. Authority of Regulatory Agency

The Regulatory Agency is authorized and directed to regulate all pipelines, distribution systems, other facilities, and similar structures, within the Territorial Jurisdiction of the Nation and promulgate and enforce any and all rules and regulations necessary to carry out this delegation of authority. The Regulatory Agency is further authorized and directed to negotiate easements, extensions of easements, and delivery of the Nation's Minerals as provided in this Code.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-203. Requirement to Transport

No easements or extensions of easements for lateral extensions or main pipelines or facilities accessory to operation of such pipelines shall be granted without agreement of such pipeline companies to transport the Nation's Minerals as provided herein.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-204. Pipelines Without Easement

Any person constructing or maintaining any pipelines, lateral or main pipeline, distribution systems, other facilities, and similar structures, within the Territorial Jurisdiction of the Nation (excluding well production equipment and gathering lines serving one lease) without an easement properly approved as required herein in effect for such construction, operation, and/or maintenance or temporary permit approved by the General Council of the Nation, shall be subject to a charge to be assessed by the Regulatory Agency for such unauthorized operation or maintenance of Five Dollars (\$5.00) per rod per month or fraction thereof for pipelines or Twenty-Five Dollars (\$25.00) per acre per month or fraction thereof for land used for other facilities.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 2-205. Severability

If any part or application of this chapter of this Code is held invalid for any reason, the remainder of this chapter or its application to other situations or persons shall not be affected.

[History: Enacted by TO-2014-05, June 7, 2014]

CHAPTER THREE PERMITS

Section 301: Operating Permit Required

No person shall engage in any oil and gas activity, including but not limited to drilling, development, exploration, and/or preparation for such related activities, within the jurisdiction of the Nation without first obtaining and maintaining in good standing an oil and gas operating permit.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 302: Application for Operating Permit

Every person applying for an operating permit provided herein shall submit to the Regulatory Agency the following:

(a) A completed application for an operating permit as required by rules promulgated by the Regulatory Agency; and

(b) Satisfactory proof, as solely determined by the Regulatory Agency, that the applicant has obtained a bond or insurance from a company authorized to act as surety and acceptable to the Regulatory Agency for the activities covered by the permit the applicant is seeking, in an amount set by the Regulatory Agency; and

(c) A summary of the business history and transactions conducted or engaged in by the applicant, including the locations, types of operations and business names operated under; and

(d) Legal description, address, and directions to the location of the premises where the activity of the application will be conducted; and

(e) Complete description of all activities to be conducted at the premises; and

(f) If applicant is a corporation, LLC, or other business entity, a copy of the applicant's organizational documents properly filed with the state or other sovereign government under which it is organized, a statement of good standing of the applicant issued within thirty (30) days by the same government entity, and a copy of the resolution, power of attorney or other instrument authorizing the applicant to act on behalf of the business entity; and

(g) An executed (signed) copy of an agreement, promulgated by the Regulatory Agency, whereby applicant agrees to abide by all applicable laws and regulations of the Nation, acknowledgment of applicant of their receipt of a copy of this Code and any regulations promulgated hereunder, and acceptance by applicant of all conditions upon which the requested permit is issued; and

(h) Payment of the application fee in the amount set by the Regulatory Agency, which shall not be less than Two Hundred Fifty Dollars (\$250.00); and

(i) Certification that the applicant is not an employee or agent of the federal government; and

(j) Certification that applicant is in compliance with all other laws of the Seminole Nation of Oklahoma and paid any and all fees and/or taxes required thereunder.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 303: Conditions of Permit

Each operating permit shall contain the following conditions and/or requirements:

(a) One (1) year term, renewable annually upon payment of the annual permit fee and update of all information required to be filed under the application process set forth above; and

(b) Permit holders shall be required to provide written notice to the Regulatory Agency of a bankruptcy, receivership, or any material change in financial condition; and

(c) Require premises covered by the permit:

(1) Be constructed and maintained in a safe and clean manner; and

(2) Be open to inspection by the Regulatory Agency and/or any other tribal or federal agency having regulatory jurisdiction over any activity on the premises; and

(3) Be maintained and operated in compliance with all applicable laws and regulations of the Nation and the federal government; and

(d) Provide the permit provided herein for inspection and copying upon request by any agent or officer of the Regulatory Agency, the Nation's Lighthorse, or other tribal or federal agency; and

(e) Require the permit holder to maintain insurance and/or bonding in the amounts, determined solely by the Regulatory Agency, necessary to protect the Nation and the people and property within the Nation; and

(f) Require all oil and gas activity to conform to all applicable laws of the Nation and federal government, including all development plans approved by the Nation and/or federal government; and

(g) Require that all oil and gas activity to be conducted so as to give preference to Native Americans in employment and contracting; and

(h) Prohibit the permit from being transferred without proper authorization by the Regulatory Agency.

(i) [History: Enacted by TO-2014-05, June 7, 2014]

Section 304: Suspension or Cancellation

Any permit provided herein may be suspended, canceled and/or not renewed for any of the following reasons:

- (a) Filing an application or any other document which contains any incomplete, false, or misleading information and/or statements; or
- (b) Non-payment of any fee required herein; or
- (c) Noncompliance/violation of any federal laws/regulations and/or provision of this Code or any rule or regulation promulgated by the Regulatory Agency as provided herein; or
- (d) Noncompliance/violation of any provision of the Seminole Nation Code of Laws and/or any rule/regulation promulgated thereunder;
- (e) Noncompliance/violation of any condition of the permit issued hereunder;
- (f) Any other reason considered to be not in the best interest of the Nation as solely determined by the Regulatory Agency.

[History: Enacted by TO-2014-05, June 7, 2014]

CHAPTER FOUR SURFACE PROTECTION

Section 401: General Stipulations of Surface Area

(a) Every person applying for an operating permit provided herein shall submit to the Regulatory Agency a completed Site Development Plan for each premises included in the application for an operating permit, as required by rules promulgated by the Regulatory Agency, which shall be subject to approval by the Regulatory Agency; and

(b) Certain areas shall forever remain undisturbed by drilling, construction, trenching, and/or other means and methods of the oil and gas industry, including but not limited to tribal/family burial sites, lands designated as sacred by resolution of the General Council and public lands for recreational use designated by resolution of the General Council; and

(c) Surface work that is required and/or provided by the Nation shall be charged to the Operator at a rate comparable to the industry standard and all work will be to area standards; and

(d) Prior to the commencement of drilling and/or other work, the Operator shall have the leased premises adequately marked and surveyed by a licensed surveyor who meets federal surveyor standards and credentials; and

(e) Any wells drilled that do not produce minerals in paying quantities, but which are capable of producing water satisfactory for domestic, agricultural or livestock use by the surface owner, may be transferred to the surface owner and/or Nation in an amount equal to the casing and any equipment left in or on the well, but subject to inspection and approval by the Nation and/or the Nation's environmental services authority; and

(f) Grazing rights to the surface of any lands leased by an Operator shall be protected and the Nation's rights respecting the use and/or control of water shall be unimpaired; and

(g) Tribal members of the Seminole Nation of Oklahoma shall be employed in such mining, drilling, exploration and/or development of such premises to the fullest extent that their qualifications and the laws of the Nation permit and every reasonable effort will be made to train tribal members of the Nation in the skills and abilities required in such operations to the end that may be employed in such skilled positions for which they become qualified.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 402: Land Protection

(a) Protection of Property. Any Operator, lessee, agent and/or other person shall:

(1) Conduct all work/operations authorized by any lease with due regard for good land management practices common to the area;

(2) Avoid unnecessary damage to vegetation, timber, crops, or other natural resource, and to improvements such as roads, bridges, cattle guards, gates and fences;

- (3) Prevent soil erosion and make good efforts to demonstrate such practices;
- (4) Ensure that all pits associated with the work/operations are properly lined and fenced; and
- (5) Bury all pipelines, associated with or related in any way to the work/operations, below plow depth.

(b) Reimbursement for Damage. Any Operator, lessee, agent and/or other person shall: (1) pay the surface owner, and/or their tenant, for any and all damage to or destruction of property caused by the work/operations of the Operator, lessee, agent and/or other person; (2) promptly respond to any notice and/or other correspondence from the Regulatory Agency; (3) reimburse within thirty (30) days the Regulatory Agency, and/or other agent of the Nation, for all costs of repair and/or remediation related to the work/operations performed. If any Operator, lessee, agent and/or other person fails to respond to any notice and/or other correspondence regarding repairs and/or remediation related to any work/operations within thirty (30) days from the date such notice/correspondence is deposited with the U.S. Postal Service, the Regulatory Agency, and/or agent of the Nation is authorized to contract and/or perform the repair and/or remediation with all costs associated with such repair and/or remediation to be billed to the Operator, lessee, agent and/or other person and/or interest holders.

(c) Water. Water for the use of drilling operations shall not be obtained from existing or new water wells, tanks, springs, stock reservoir, watercourses, or lakes without prior written permission from the Regulatory Agency and/or the Nation. An Operator, lessee, agent and/or other person may upon prior written approval of the Regulatory Agency and/or the Nation, at such person's own expense, drill and equip water wells on leased premises solely for the use of work/operations on such leased premises and shall upon termination of such work/operations, on such leased premises, leave all water producing wells intact and properly cased. If any such wells shall produce water surplus to the needs of the work/operations on such leased premises, such water shall be made available to the Nation.

(d) Injection; Spillage. Nothing herein authorizes, allows, or permits the injection of minerals of any kind or chemicals into any subsurface location, nor the spillage of such contaminants onto the land or in to the water.

(e) Antiquities. Compliance with all laws of the Nation and all federal laws that govern the treatment of antiquities shall be incorporated by reference and applied to this Code.

[History: Enacted by TO-2014-05, June 7, 2014]

**CHAPTER FIVE
ENFORCEMENT, APPEALS AND EFFECTIVE DATE**

Section 501: Enforcement

(a) Notification of Violation.

When the Regulatory Agency has reason to believe a violation of this Code or a violation of regulations issued by the Regulatory Agency pursuant to this Code has occurred, the Regulatory Agency shall notify in writing, specifying the alleged violations, the person believed to be in violation of this Code. The Regulatory Agency may withhold the name(s) of the complaining party if, in the sole opinion of the Regulatory Agency, such party could be subject to retaliation. The Regulatory Agency may seek to achieve an informal settlement or correction of the alleged violation, if such violation is a first time occurrence or a lesser offense as solely determined by the Regulatory Agency. If the Regulatory Agency determines that an informal settlement or correction is not applicable, the Regulatory Agency shall issue a formal written notice of non-compliance to said person, which shall also advise the person of the violation, the civil penalty the Regulatory Agency is assessing, the deadline for compliance and/or payment of the civil penalty, and the person's right to request a hearing as provided herein.

(b) Formal Notice of Non-compliance.

The formal written notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. Such notice shall provide the person with a reasonable time to comply, determined solely by the Regulatory Agency, which in no event shall be less than five (5) days from the date of receipt of such notice, unless the Regulatory Agency has reason to believe irreparable harm will occur during that period, in which case the Regulatory Agency may require that compliance occur within fewer than five days.

(c) Request for Hearing.

If the person fails or refuses to comply, it may request a hearing before the Regulatory Agency which shall be held no sooner than five (5) days and no later than sixty (60) days after the date for compliance set forth in the Regulatory Agency's notification to the entity charged of a violation, unless an expedited hearing is deemed necessary by the Regulatory Agency to avoid irreparable harm. If the person fails or refuses to comply and does not request a hearing, the Regulatory Agency may proceed pursuant to Section 401(f).

(d) Bond During Pendency of Proceedings.

If the entity requests a hearing pursuant to Section 401(c) herein, and the Regulatory Agency has good cause to believe that there is a danger that the person requesting the hearing will remove itself or its property from the jurisdiction of the Nation prior to the hearing, the Regulatory Agency may, in its sole discretion, require the person to post a bond with the Regulatory Agency in an amount sufficient to cover possible monetary damages that may be assessed against the person at the hearing. If the person fails or refuses to post said bond, the Regulatory Agency may proceed pursuant to Section 401(f). The Regulatory Agency may also petition the Nation's District Court for such interim and injunctive relief as is appropriate to

protect the rights of the Regulatory Agency and other parties during the pendency of the complaint and hearing proceedings.

(e) Conduct of Hearings.

Any hearing held pursuant to Section 401 herein shall be conducted by the Regulatory Agency. Hearings shall be governed by the following rules or procedure:

(a) All parties may present testimony of witnesses and other evidence and be represented by counsel at their expense.

(b) The Regulatory Agency may have the advice and assistance at the hearing of counsel provided by the Nation.

(c) The chairman of the Regulatory Agency or the vice-Chairman shall preside and the Regulatory Agency shall proceed to ascertain the facts in a reasonable and orderly fashion.

(d) The Regulatory Agency may consider any evidence which it deems relevant to the hearing, and conduct of the hearing shall be governed by the rules of practice and procedure which may be adopted by the Regulatory Agency.

(e) The Regulatory Agency shall not be bound by technical rules of evidence in the conduct of hearings, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Regulatory Agency.

(f) The hearing may be adjourned, postponed and continued at the discretion of the Regulatory Agency.

(g) At the final close of the hearings, the Regulatory Agency may take immediate action or take the matter under advisement.

(h) In any hearing before the Regulatory Agency where the issue is compliance by an entity with any of the requirements and provisions of this Code, the burden of proof shall be on the person to show said compliance.

(i) The Regulatory Agency shall notify all parties within thirty (30) days after the date of the last hearing of its decision in the matter.

(j) No stenographic record of the proceedings and testimony shall be required except upon arrangement by, and at the cost of the person requesting the hearing, but subject to prior approval by the Regulatory Agency.

(f) Remedies Upon Determination of Violation.

If, after the hearing, the Regulatory Agency determines that the alleged violation occurred and that the party charged has no adequate defense in law or fact, or if no hearing is requested, the Regulatory Agency may:

- (a) Deny such party the right to commence business within the territorial jurisdiction of the Seminole Nation;
- (b) Suspend such party's operation within the territorial jurisdiction of the Seminole Nation;
- (c) Terminate such party's operation within the territorial jurisdiction of the Seminole Nation;
- (d) Deny the right of such party to conduct any further business within the territorial jurisdiction of the Seminole Nation;
- (e) Impose a civil fine on such party in an amount not to exceed \$500 for each violation, provided that each day during which a violation exists shall constitute a separate violation;
- (f) Order the seizure of any property or interest therein in actual or constructive possession of a person that has violated or is violating any provision of this Code or of an operating permit and used in connection with that violation.
- (g) Order the party to take such other action as is necessary to ensure compliance with Title 3A, Title 4 and Title 28 of the Code of Laws of the Seminole Nation or to remedy any harm caused by a violation of said chapter, consistent with the requirements of the Indian civil Rights Act, 25 U.S.C. 1301 et seq.
- (g) Regulatory Agency Decision; Protection.

The Regulatory Agency's decision shall be in writing, shall be served on the charged party by registered mail or in person no later than thirty days after the close of the hearing provided in Section 401 (e). where the party's failure to comply immediately with the Regulatory Agency's orders may cause irreparable harm, the Regulatory Agency may move the Nation's District Court, and the District Court shall grant, such injunctive relief as necessary to preserve the Nation's rights, pending the party's appeal or expiration of the time for appeal.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 502. Appeals

- (a) Manner of Taking Appeal.

An appeal to the Nation's District Court may be taken from any final order of the Regulatory Agency by any party adversely affected thereby. Said appeal must be filed with the Court no later than twenty (20) days after the party receives a copy of the Regulatory Agency's decision. The appeal shall be taken by serving a written notice of appeal with the Nation's District

Court, with a copy to the Regulatory Agency, within twenty (20) days after the date of the entry of the order. The notice of appeal shall set forth the order from which appeal is taken; specify the grounds upon which reversal or modification of the order is sought; and be signed by the appellant.

(b) Stay of Regulatory Agency Order Pending Appeal; Bond.

The order of the Regulatory Agency shall be stayed pending the determination of the Nation's District Court, provided that such stay may be conditioned upon the posting of a bond if the Regulatory Agency petitions for a bond and the Court, for good cause shown, orders the appealing party to post a bond sufficient to cover monetary damages that the Regulatory Agency assessed against the party or to assure the party's compliance with other sanctions or remedial actions imposed by the Regulatory Agency's order if that order is upheld by the Court.

(c) Standard of Review.

The Nation's District Court shall uphold the decision of the Regulatory Agency unless it is demonstrated that the decision of the Regulatory Agency is arbitrary, capricious or in excess of the authority of the Regulatory Agency.

(d) Reversal on Appeal.

If the order of the Regulatory Agency is reversed or modified, the Court shall by its mandate specifically direct the Regulatory Agency as to further action in the matter, including making and entering any order or orders in connection therewith and the limitations, or conditions to be contained therein.

(e) Enforcement of Regulatory Agency Order.

If the Regulatory Agency's order is upheld on appeal, or if no appeal is sought within twenty (20) days from the date of the party's receipt of the Regulatory Agency's order, the Regulatory Agency shall petition the Nation's District Court and such Court shall grant such orders as are necessary and appropriate to enforce the orders of the Regulatory Agency and the civil penalties and/or sanctions imposed by it.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 503. Seizure of Property; Confiscation and Sale

(a) Grounds for Seizure.

Any property or interest therein is actual or constructive possession of a person that has violated or is violating any provision of this Code or an operating permit and use in connection with that violation may be seized and held to sure payment of a civil penalty or to be forfeited as provided in this Code. Seizure under this provision shall not require proof that the owner of the property or interest therein participated in, had knowledge of, or consented to the illegal use of the property.

(b) Authorization to Seize Property.

Property subject to seizure under this Code may be seized by the Nation's Lighthorse or any other law enforcement office of the Nation upon issuance of a notice of violation or any order of the Regulatory Agency.

(c) Custody of Seized Property.

Any property seized under this Code shall be held in the custody of the Regulatory Agency, subject only to the orders of the Nation's District Court, including without limitation, orders for sale of the property at public auction to collect any civil penalty assessed under this Code and orders issued in a forfeiture proceeding.

(d) Release of Property.

Unless a forfeiture proceeding concerning the property seized under this Code is initiated as provided herein, such property shall be released to its owner upon the earliest of the following:

- i) Sixty (60) days after seizure of the property;
- ii) Payment to the Regulatory Agency of the civil penalty for which the property was seized as security; or
- iii) Upon a finding by the Nation's District Court that such civil penalty is not proper.

(e) Civil Forfeiture.

Following the seizure of any property under this Code, the Regulatory Agency may initiate an *in rem* judicial forfeiture proceeding against the seized property. The forfeiture complaint should describe with reasonable specificity the property at issue and the basis for forfeiture. The Regulatory Agency shall give written notice of forfeiture proceedings to all known or reasonably ascertainable persons with an interest in the seized property, including any lien holder. All such person shall answer the complaint and file any adverse claim to the property within twenty (20) days after notice of forfeiture proceedings is given. Upon notice of forfeiture proceedings to all interested persons as set forth above, the Nation's District Court shall conduct a hearing to adjudicate whether the property and/or any known interests therein have been forfeited to the Nation and shall enter an appropriate judgment. The Nation's District Court may deny forfeiture of an interest in property if the owner of the interest proves by clear and convincing evidence that he or she did not participate in, have knowledge of, nor consent to the illegal use of the property; or that he or she took all reasonable measures to prevent the illegal use of the property; or that the person committing the violation obtained the possession of the property without his or her consent. Property forfeited to the Nation and proceeds from the sale thereof shall be retained by the Regulatory Agency and used to equip and finance enforcement activities under this Code.

(f) Confiscation and Sale.

If, twenty-one (21) days after a decision by the Regulatory Agency pursuant to Section 401(g), no appeal has been filed, or thirty (30) days after a decision by the Nation's District Court on an appeal from a decision by the Regulatory Agency pursuant to Section 402, a person has failed to pay monetary damages imposed on it or otherwise complied with an order of the Regulatory Agency or the Nation's District Court, the Regulatory Agency may petition the Nation's District Court to order the Nation's Lighthouse to confiscate, and hold for sale, such property of the person as is necessary to ensure payment of said monetary damages or to otherwise achieve compliance, said petition shall be accompanied by a list of property belonging to the person which the Regulatory Agency has reason to believe is within the jurisdiction of the Nation's District Court, the value of which approximates the amount of monetary damages at issue. If the Nation's District Court finds the petition to be valid, it shall order the Nation's Lighthouse to confiscate and hold said property or as much as is available. The Nation's Lighthouse shall deliver in person or by certified mail, a notice to the person informing them/it of the confiscation and of their/its right to redeem said property by coming into compliance with the order outstanding against them/it. If thirty (30) days after confiscation the person has not come into compliance, the Nation's District Court shall order the Nation's Lighthouse to sell said property and use the proceeds to pay any outstanding monetary damages imposed by the Regulatory Agency and all costs incurred by the Nation's District Court and Lighthouse in the confiscation and sale. Any proceeds remaining shall be returned to the person, with the exception of proceeds from tobacco products confiscated pursuant to the requirements of Title 28 of the Code of Laws of the Seminole Nation, which shall be retained by the Nation and deposited in the Nation's General Fund.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 504. Powers of the Nation's Lighthouse and Orders of the Regulatory Agency

The Nation's Lighthouse are hereby expressly authorized and directed to enforce all provisions of this Code, including but not limited to such cease and desist or related orders as may from time to time be properly issued by the Regulatory Agency and/or the Nation's District Court. Such orders do not require a judicial decree or order to render them enforceable. The Nation's Lighthouse shall not be civilly liable for enforcing such orders so long as the order is signed by the Regulatory Agency and/or the Nation's District Court.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 505. Action of the Regulatory Agency

Except as provided herein, any action of the Regulatory Agency as provided in this Code may be carried out by the Board, Commission, and/or Director of the Regulatory Agency.

[History: Enacted by TO-2014-05, June 7, 2014]

Section 506. Effective Date

This Code, and all provisions herein, shall become effective immediately on the date of approval by the General Council of the Seminole Nation of Oklahoma.

[History: Enacted by TO-2014-05, June 7, 2014]