

PART 19. TRANSPORTATION SAFETY PERMITS

- Section 19.1 Purpose of Transportation Safety Permit Program
- Section 19.2 Definitions
- Section 19.3 Delegation of Authority
- Section 19.4 Disposal Prohibited; Transportation Permits Required
- Section 19.5 Applicability
- Section 19.6 Standardized Forms
- Section 19.7 Information to be Provided by Applicants
- Section 19.8 Application Fees
- Section 19.9 Time Limit for Action by Director
- Section 19.10 Decisions by the Commission
- Section 19.11 Permit Limitations
- Section 19.12 Temporary Permits Issued by Director
- Section 19.13 Display of Permits
- Section 19.14 Enforcement
- Section 19.15 Civil Penalties
- Section 19.16 Hearings and Appeals
- Section 19.17 Public Notice

[**AUTHORITY:** This Part is based on Part 19 of Subtitle B of the Code and on the authority of the Commission to issue procedural rules pursuant to Subtitle A of the Code. This Part was adopted by the Commission on Sept. 21, 1994, with the understanding that it would take effect upon ratification by the Tribal Council. This Part was ratified by the Tribal Council on Jan. 12, 1995, in Resolution C-95-95.]

SECTION 19.1 PURPOSE OF TRANSPORTATION SAFETY PERMIT PROGRAM

These regulations implement Section 19 of the Tribal Water Code (hereinafter referred to as "the Code"). The purpose of Section 19 is to prohibit the disposal and regulate the transport of sewage sludge within the boundaries of the Seminole Reservations in a manner which ensures safe on-Reservation transport, as well as off-Reservation disposal practices, and thereby prevents violations of Tribal Water Quality standards. The Tribal permit program as set forth in this Part requires vehicle owners or operators to apply to the Tribal Water Commission for a permit authorizing the transport of sewage sludge within the boundaries of the Seminole Reservations. The permit application process is designed to prevent the occurrence of spills on Reservation lands due to negligent transport and disposal practices, and to monitor impacts on waters within Reservation boundaries which are caused by the final off-Reservation disposal of sewage sludge.

SECTION 19.2 DEFINITIONS

Sewage Sludge defined. For purposes of Section 19 of the Code and this Part, the term "sewage sludge" includes the meaning given that term under the rules established by EPA pursuant to section 405 of the Clean Water Act, 58 Fed.Reg.9387 (Feb. 19, 1993) (to be codified at 40 C.F.R. Part 503), and the term "domestic wastewater residuals" as defined in Chapter 17-640.200(10) of the Florida Administrative Code (F.A.C.).

EPA Regulations define "sewage sludge" as "solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works."

Florida Administrative Code defines "domestic wastewater residuals" in Chapter 17.640.200(10) as "the solid, semisolid, or liquid residue removed during the treatment of municipal wastewater. Not included is the treated effluent or reclaimed water from a domestic wastewater treatment plant."

Owners and Operators defined. For purposes of this part, an "owner" of a vehicle is defined as the individual, corporation, or business enterprise which is the registered owner of such vehicle under the law of the State in which the vehicle is registered. For purposes of this part, an "operator" of a vehicle is defined as any individual who is in control of such vehicle within Reservation boundaries whether or not that person is acting as an agent of the vehicle owner or as an independent

contractor.

SECTION 19.3 DELEGATION OF AUTHORITY

The Seminole Water Commission, pursuant to its authority under Subtitle B, Section 19.4 of the Code, delegates to the Director the authority to administer the permit application process and to make recommendations to the Commission based on the information obtained from the applicant and reviewed by the Director pursuant to the requirements set forth in this Part.

SECTION 19.4 DISPOSAL PROHIBITED; TRANSPORTATION PERMITS REQUIRED

(a) Disposal Prohibited. Disposal of "sewage sludge", as defined by reference in section 19.2 of this Part, on lands or waters within the boundaries of the Reservations is prohibited. Any person(s) found to be in violation of this subsection, whether such violation is negligent or intentional, will be subject to the civil penalties set forth in Section 19.15 of this Part.

(b) Permit Requirement. Any motor vehicle which weighs in excess of 2,500 pounds when loaded and which is used on roads within Reservation boundaries to transport "sewage sludge" as defined by reference in section 19.2 of this Part, must possess a Tribal Transportation Safety Permit issued by the Commission. No such vehicle without a permit shall be authorized to use roads within the boundaries of the Reservations. Any person(s) found to be in violation of this subsection will be subject to the civil penalties set forth in section 19.15 of this Part.

SECTION 19.5 APPLICABILITY

Owners and Operators. Compliance with the requirements set forth in this Part is required for all owners or operators of any motor vehicle described in Section 19.4(b) above.

SECTION 19.6 STANDARDIZED FORMS

The Director shall prepare standardized forms, subject to the approval of the Commission, for use in making all applications for Transportation Safety Permits.

SECTION 19.7 INFORMATION TO BE PROVIDED BY APPLICANT

(a) Purpose of Requiring Information. The applicant must provide sufficient information in the application to permit the Director and the Commission to determine whether the planned activity is consistent with Subtitle B of the Tribal Water Quality Code (hereinafter referred to as "the Code") and the rules issued pursuant to the Code.

(b) Documents to be Submitted. The Director is authorized to require a copy of each document submitted by the applicant to the Florida Department of Environment Protection pursuant to State regulations governing the application of domestic wastewater residuals to land, Ch. 17-640, F.A.C., including copies of the following documents:

(1) The Agricultural Use Plan or Dedicated Site Plan for the final application site;

(2) The most recent annual update of the Agricultural Use Plan submitted by the applicant to the DEP;

(3) If specifically requested by the Director, the application log book maintained for the site location which the applicant has indicated as the final application site for the sewage sludge/domestic wastewater residuals;

(4) All inspection records maintained by DEP compliance officers;

(5) Manifest between hauler and generator;

(6) Generator annual reports and Standard Operating Procedures;
and

(7) Samples and domestic wastewater residuals analysis performed in accordance with U.S. EPA publication, POTW Sludge Sampling and Analysis Guidance Document 1989.

SECTION 19.8 APPLICATION FEE

The application fee for the owner or operator of a single vehicle shall be twenty-five hundred dollars (\$2,500), payable to the Tribe, to cover the cost of processing such application. Any amount in excess of such costs shall be deposited in a separate account to be used by the Department to conduct studies and further efforts necessary to prevent impacts on Reservation waters related to the transport and disposal of sludge/domestic wastewater residuals. On request by the Director, the Commission may approve a reduction or waiver of the application fee in appropriate circumstances.

SECTION 19.9 TIME LIMIT FOR ACTION BY DIRECTOR

(a) Set agenda. Within ten (10) days from the date of receipt of a completed application, the Director shall set a date for consideration of such application by the Commission. The date set for consideration shall be no less than thirty (30) days, and no more than ninety (90) days from the date of receipt of such application by the Director.

(b) Provide recommendation. The Director shall make recommendations to the Commission with regard to the issuance or denial of a one-year permit. The recommendation of the Director shall be accompanied by an oral report to the Commission which provides the basis for the recommendation and all documents provided by the applicant to date, pursuant to Section 15.6 of this Part, shall be provided to the Commission.

SECTION 19.10 DECISIONS BY COMMISSION

The Commission shall consider any application for a Transportation Safety Permit at a regularly scheduled meeting of the Commission, following the procedures for making decisions on permit applications in section 1.9 of the Commission's Rules. The Commission shall provide a written decision to the applicant, granting or denying the Transportation Safety Permit application.

SECTION 19.11 PERMIT LIMITATIONS

(a) Non-transferable. Permits issued by the Commission and the Department pursuant to this section will extend authorization only to the vehicle specified in the issued permit and such permit may not be transferred for use by another vehicle. The owner or operator of a fleet of vehicles may file a single application covering an entire fleet, provided the application contains sufficient information for the Commission to treat each vehicle separately.

(b) One-year permit period. Permits issued by the Commission pursuant to this section will extend authorization to the vehicle specified in the permit for a period not to exceed one (1) year, including any period for which a temporary permit is issued by the Director pursuant to subsection 19.8 of the Code and 19.11 of these Rules. The Commission may issue a permit for less than one (1) year in cases where the Commission determines that a shorter authorization period is appropriate to protect the health or safety of the Tribe and its members.

SECTION 19.12 TEMPORARY PERMITS ISSUED BY DIRECTOR

The Director is authorized to issue temporary permits in situations where

the Director determines that the activities of the applicant are not likely to result in harm to the health or safety of the Tribe or to the water resources of the Reservations during the term of the temporary permit and that there exists a substantial likelihood that the Commission will grant a permit to the applicant. The temporary permit shall take effect on the date it is issued by the Department and shall automatically expire sixty (60) days from the date of its issuance or on the date the Commission makes a decision to grant or deny the permit, whichever occurs first.

SECTION 19.13 DISPLAY OF PERMITS

Any permit issued to a vehicle pursuant to this section shall contain information which specifically identifies the permitted vehicle and such permit shall be visibly displayed on the permitted vehicle at all times it is within the Reservation in a manner to be prescribed by the Director.

SECTION 19.14 ENFORCEMENT

(a) Enforcement by the Director. The Director is authorized to enforce this section pursuant to Chapter A, Part 4 of the Commission's Rules. Any person who is issued a citation by the Director shall have the right to a hearing before the Commission prior to the imposition of civil penalties, except that in the case of civil forfeitures, the Director is authorized to seize property immediately pursuant to subsection 19.15(c), and seized property shall be held by the Seminole Department of Law Enforcement pending the outcome of a hearing. Hearings following civil forfeiture actions shall be conducted in accordance with the requirements and procedures set forth in Chapter A, Part 4, Section 4.6, and Part 5, Section 5.1, of the Commission's Rules.

(b) Cease and Desist Orders. In addition, where the Director finds that a violation of this Part, or the violation of the terms of a permit issued pursuant to this Part, poses an immediate threat to the water resources of the Reservations, or the health or welfare of the Tribe and its members, the Director is authorized to issue to any violator, on behalf of the Tribe, a Temporary Order to Cease and Desist, and the Director has authority to take immediate action to exclude the violator from entry onto the Reservation. The Director may seek the assistance of the Seminole Department of Law Enforcement to enforce a Temporary Order to Cease and Desist.

(c) Limit on Temporary Orders. The Director must apply to the Commission Chairman for an Order to Cease and Desist within seventy-two (72) hours after issuing a Temporary Order to Cease and Desist. If the Director fails to

do so or if the Commission Chairman fails to issue such an order within the seventy-two-hour time limit, the Temporary Order expires automatically.

SECTION 19.15 CIVIL PENALTIES

The owner and/or operator of any vehicle found to be in violation of the permit requirement set forth in this Part may be assessed civil penalties and/or may be permanently excluded from the Seminole Reservations by action of the Commission following a hearing in accordance with Part 5 of the Commission's Rules. In considering whether to impose civil penalties, and in considering the amounts of any penalties imposed, the Commission will be guided by the following standards:

(a) No vehicle permit. Any owner or operator of a vehicle who uses Reservation roads for the transport of "sewage sludge" (as defined by reference in subsection 19.2 of this section) and fails to obtain a permit for such activity, as required by this Part, shall be excluded from the Reservation and/or subject to a civil penalty of not less than five thousand dollars (\$5,000) for each violation.

(b) Misrepresentation; Other violations. Any violations of permit conditions imposed pursuant to this section, or any misrepresentation made by an applicant as part of the permit process, or any failure to act in accordance with statements made in the application subsequent to the issuance of such permit, shall be subject to a civil penalty of not less than one thousand five hundred dollars (\$1,500) per violation per vehicle found to be in violation.

(c) Disposal within Reservation boundaries. Disposal of "sewage sludge" on lands or in waters within the boundaries of the Reservations is prohibited under subsection 19.4(a) of this Part and shall be subject to the following civil penalties: (1) payment by the owner or operator of the vehicle used for such disposal, of an amount per violation up to but not in excess of three times the cost of actual damages resulting from such disposal; and (2) civil forfeiture of any vehicle(s) in possession of person(s) found to be engaged in the disposal of sewage sludge in violation of this Part.

SECTION 19.16 HEARINGS AND APPEALS

Any person cited for violation of the regulations in this Part, or subject to penalties for such violation, shall have a right to a hearing in accordance with Part 4, Section 4.5 of the Commission's Rules. Any person aggrieved by a final action of the Commission with respect to the issuance or denial of a Safety Transportation Permit or with respect to penalties imposed for a violation of this section may file a Notice of Appeal to the Tribal Council in accordance with the

procedures set forth in Chapter A, Part 3, Section 3.5 of the Commission's Rules.

SECTION 19.17 PUBLIC NOTICE

The Department shall take appropriate steps to notify the affected public regarding the requirements of these rules, including posting signs which contain the text of this Part near roads within close proximity to the outer boundaries of the Reservations and in other places on the Reservations. Such signs shall be posted in a manner which makes them reasonably visible to persons operating motor vehicles on roads within Reservation boundaries.