

TITLE 22. HEALTH AND SAFETY

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CHAPTER 1. TRAFFIC CODE

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 - 1-117. Penalty and punishment.

Cross References

Motor Vehicle Tax and License Code, see Title 36, § 3-101 et seq.
 Property subject to forfeiture, see Title 22, § 2-102.

§ 1-101. Driving on Tribal property; driver's license; traffic law violators

A. No person shall drive a motor vehicle on Tribal property without a valid driver's license and insurance verification.

B. Any person who operates a motor vehicle without a valid driver's license or whose license has been suspended or revoked shall be fined in accordance with Title 22, § 1-117.

C. Any person in violation of this chapter shall be escorted off Tribal property by the Muscogee Nation Lighthouse law enforcement officer.

[NCA 92-26, § 1-100, approved March 4, 1992; amended by NCA 01-164, § 3, approved Sept. 7, 2001.]

Historical and Statutory Notes

Derivation

NCA 90–112, § 102, § 2–100.

Library References

Automobiles ⇨137.	C.J.S. Motor Vehicles §§ 256, 258, 262 to 267, 284 to 285.
Indians ⇨223, 226.	
Westlaw Topic Nos. 48A, 209.	
C.J.S. Indians §§ 32 to 35, 59, 62, 67, 73 to 75, 140 to 149, 161 to 162, 180.	

§ 1–102. Minor operating a motor vehicle

Any minor person who operates a motor vehicle on the Muscogee (Creek) Nation territorial jurisdiction must comply with the Nation’s traffic laws. Any minor violating any traffic law shall be fined in accordance with Title 22, § 1–117.

[NCA 92–26, § 1–101, approved March 4, 1992; amended by NCA 01–164, § 4, approved Sept. 7, 2001.]

Historical and Statutory Notes

Derivation

NCA 90–112, § 102, § 2–101.

Library References

Automobiles ⇨145.	C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 150, 161 to 162, 180.
Indians ⇨133, 210, 223.	
Westlaw Topic Nos. 48A, 209.	C.J.S. Motor Vehicles §§ 286 to 289.

§ 1–103. Driving a motor vehicle without the consent of the owner

No person shall operate a motor vehicle without the consent and knowledge of the owner of such vehicle.

[NCA 92–26, § 1–102, approved March 4, 1992; amended by NCA 01–164, § 5, approved Sept. 7, 2001.]

Historical and Statutory Notes

Derivation

NCA 90–112, § 102, § 2–102.

Library References

Automobiles ⇨339.	C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 161 to 162, 180.
Indians ⇨210, 223.	
Westlaw Topic Nos. 48A, 209.	C.J.S. Motor Vehicles §§ 1511 to 1523.

§ 1–104. Driving without required registration

No person shall operate a motor vehicle unless such vehicle is properly registered.

[NCA 92–26, § 1–103, approved March 4, 1992; amended by NCA 01–164, § 6, approved Sept. 7, 2001.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-103.

Library References

Automobiles ☞56, 326.

Indians ☞210, 223, 226.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 161 to 162, 180.

C.J.S. Motor Vehicles §§ 242 to 243, 459, 1422 to 1432, 1524 to 1527, 1541, 1544.

§ 1-105. Starting, turning and stopping without regard to safety

A. No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

B. No person shall turn a vehicle at an intersection unless the vehicle is in such position on the roadway that such movement can be made with reasonable safety and a signal of intention to turn right or left, when required, has been given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of the vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.

D. The signals herein required shall be given either by means of the standard hand and arm signals or by mechanical or electrical signal device.

E. Every driver of a vehicle approaching an intersection with a stop sign or a flashing red light, shall stop on the near side of the intersection or railroad grade crossing, at the point where he has a view of approaching traffic and shall not proceed until the intersection is clear.

[NCA 92-26, § 1-104, approved March 4, 1992; amended by NCA 01-164, § 7, approved Sept. 7, 2001.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-104.

§ 1-106. Speeding

A. Every person operating or driving a vehicle of any character on Muscogee (Creek) Nation territorial jurisdiction shall drive in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the condition existing at the point of operation, taking into account the amount and character of traffic, brakes, condition of surface, freedom from obstruction to view ahead and the rights of any other person entitled to the use of the street or roadway, provided that the speed shall be no greater than the posted speed limit under any circumstances.

B. Where no special hazard exists that requires lower speed for compliance with subsection A above, any speed not in excess of the limits specified in this subsection shall be lawful but it is illegal for any person to drive at any speed in excess of the limits in this subsection:

Title 22, § 1-106

HEALTH AND SAFETY

- 1. Twenty-five (25) miles per hour in any urban district unless a different speed limit is posted;
- 2. 15 miles per hour when passing a school during recess or when children are coming to or from school during opening or closing hours;
- 3. 20 miles per hour when approaching within fifty (50) feet of a railroad grade crossing or highway intersection or when the driver’s view is obstructed within a distance of one hundred (100) feet.

[NCA 92-26, § 1-105, approved March 4, 1992; amended by NCA 01-164, § 8, approved Sept. 7, 2001.]

Historical and Statutory Notes

Derivation

NCA 90-112, § 102, § 2-105.

Library References

Automobiles ☞10, 331.	C.J.S. Motor Vehicles §§ 38 to 40, 1358, 1435 to 1453.
Indians ☞210, 223, 226.	
Westlaw Topic Nos. 48A, 209.	
C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 161 to 162, 180.	

§ 1-107. Reckless driving

A. Any person who drives a vehicle carelessly and heedlessly or in willful or wanton disregard of the rights or safety of others or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property of another has committed reckless driving.

B. Every person found by the court to have violated this section shall be fined in accordance with Title 22, § 1-117.

C. For the commitment of an offense under this section while under the influence of liquor, the offender may be sentenced in accordance with Title 22, § 1-117.

[NCA 92-26, § 1-106, approved March 4, 1992; amended by NCA 01-164, § 9, approved Sept. 7, 2001.]

Historical and Statutory Notes

Derivation

NCA 90-112, § 102, § 2-106.

Library References

Automobiles ☞330.	C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 161 to 162, 180.
Indians ☞210, 223, 226.	
Westlaw Topic Nos. 48A, 209.	C.J.S. Motor Vehicles §§ 1354 to 1362.

§ 1-108. Failure to drive on right side of roadway

A. Upon all roadways of sufficient width, the driver of a vehicle shall drive upon the right half of the highway except:

- 1. When overtaking and passing another vehicle proceeding in the same direction;
- 2. When the right half of the roadway is closed to traffic while under construction or repair of sign-posted for one-way traffic or other conditions.

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Title 22, § 1-110

B. No person shall, at any time, drive a vehicle to the left side of the roadway:

1. When approaching the crest of a grade or upon a curve in the highway where the operator’s view of the highway is obstructed within such a distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing, or;

3. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

[NCA 92-26, § 1-107, approved March 4, 1992.]

Historical and Statutory Notes

Derivation

NCA 90-112, § 102, § 2-107.

Library References

Automobiles ⇨10, 153, 172.	C.J.S. Motor Vehicles §§ 38 to 40, 545, 547 to
Indians ⇨210, 223, 226.	553, 556 to 567, 602, 604, 606 to 612, 614,
Westlaw Topic Nos. 48A, 209.	621, 629 to 652, 690 to 692, 768, 1299.
C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to	
75, 140 to 149, 161 to 162, 180.	

§ 1-109. Following too closely

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon the condition of the roadway.

[NCA 92-26, § 1-108, approved March 4, 1992.]

Historical and Statutory Notes

Derivation

NCA 90-112, § 102, § 2-108.

Library References

Automobiles ⇨10, 172(7).	C.J.S. Motor Vehicles §§ 38 to 40, 629 to 630,
Indians ⇨210, 223, 226.	633, 639 to 640.
Westlaw Topic Nos. 48A, 209.	
C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to	
75, 140 to 149, 161 to 162, 180.	

§ 1-110. Failure to observe school zone

Any driver who, drives through a school zone at a greater speed than fifteen (15) miles per hour shall, upon conviction thereof, be sentenced in accordance with Title 22, § 1-117.

[NCA 92-26, § 1-109, approved March 4, 1992.]

Historical and Statutory Notes

Derivation

NCA 90-112, § 102, § 2-109.

Library References

Automobiles ☞331.
 Indians ☞210, 223, 226, 620.
 Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 151 to 180.
 C.J.S. Motor Vehicles §§ 1358, 1435 to 1453.

§ 1-111. Failure to stop for school bus flashing lights

A. Every driver shall stop before reaching a school bus receiving or discharging school children when flashing lights are in operation and shall not proceed until the school bus resumes motion or signaled by the driver to proceed.

B. Any driver failing to stop and wait at such signal shall, upon conviction thereof, be sentenced in accordance with Title 22, § 1-117.

[NCA 92-26, § 1-110, approved March 4, 1992.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-110.

Library References

Automobiles ☞333.
 Indians ☞210, 223, 226, 620.
 Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 151 to 180.
 C.J.S. Motor Vehicles §§ 1542, 1549 to 1550.

§ 1-112. Failure to yield right-of-way

A. The driver of a vehicle about to enter or cross a highway from a private drive or road shall yield the right-of-way to all vehicles approaching on the highway.

B. When two vehicles from different streets enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

C. The driver of a vehicle within an intersection intending to turn left shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard.

D. The driver of a vehicle approaching, but not having entered, an intersection shall yield the right-of-way to a vehicle already within such intersection and making a left turn, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn.

E. 1. Upon the immediate approach of an authorized emergency vehicle making use of audible or flashing light signals, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position as close as possible to the right hand edge of the road and stop until the emergency vehicle has passed.

2. This subsection shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

F. The driver of any vehicle upon a highway within a business or residence district shall yield the right-of-way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.

[NCA 92-26, § 1-111, approved March 4, 1992.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-111.

Library References

Automobiles ☞167(3), 171(4).

Indians ☞210, 223, 226.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 149, 161 to 162, 180.

C.J.S. Motor Vehicles §§ 684 to 692, 729 to

739, 741 to 742, 744 to 746, 748 to 750.

§ 1-113. Driving in violation of court order

Any person whose right to operate a motor vehicle on the Nation's property has been suspended by the court and who, within the period fixed by the court's order, drives or attempts to drive a motor vehicle in the Muscogee (Creek) Nation territorial jurisdiction is in contempt of court, and his or her motor vehicle shall be towed off the Nation's property at the owner's expense.

[NCA 92-26, § 1-112, approved March 4, 1992; amended by NCA 01-164, § 10, approved Sept. 7, 2001.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-112.

§ 1-114. Duties in event of accident

A. The driver of any vehicle involved in as accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any Indian shall immediately stop at the scene of such accident or as close thereto as possible, and shall give his name, address and driver's license information to the person struck, or the driver, or any person injured in such accident reasonable assistance, and exchange insurance information with other driver or person.

B. The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway on Tribal property shall take reasonable steps to locate and notify the owner or person in charge of such property of the accident and or his name and address and or the registration number of the vehicle he is driving and shall, upon request and if available, exhibit his operator's license.

C. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to another or others to an apparent extent of fifty dollars (\$50.00) or more shall, as soon as practicable thereafter give notice of such accident to the Chief of Lighthorse, Law Enforcement Department.

[NCA 92-26, § 1-113, approved March 4, 1992.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-113.

Library References

Automobiles ☞336.
 Indians ☞210, 223, 226.
 Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to
 75, 140 to 149, 161 to 162, 180.
 C.J.S. Motor Vehicles §§ 1488 to 1504.

§ 1-115. Open receptacle containing alcoholic beverage

No person shall drink or consume alcoholic beverages in a motor vehicle nor keep in the vehicle or have in his possession or on his person while in such vehicle any bottle or receptacle containing alcoholic beverages which has been opened or the contents of which have been partially consumed.

[NCA 92-26, § 1-114, approved March 4, 1992.]

Historical and Statutory Notes**Derivation**

NCA 90-112, § 102, § 2-114.

Library References

Automobiles ☞332.
 Indians ☞210, 223, 226.
 Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to
 75, 140 to 149, 161 to 162, 180.
 C.J.S. Motor Vehicles §§ 1382 to 1394.

§ 1-116. Requirement of safety seat belt and child restraint system

A. Every driver and front seat passenger of a passenger car, included but not limited to passenger compartment of pickups, vans, minivans, and sport utility vehicles operated in Muscogee (Creek) Nation territorial jurisdiction shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R. § 571.208.

B. This section shall not apply to any person who possesses a written verification from a licensed physician that the person is unable to wear a safety seat belt system for medical reasons. Provided, the issuance of such verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a safety seat belt system.

C. Every driver, when transporting a child under age of thirty months or weighing forty pounds or less in a motor vehicle operated in Muscogee (Creek) Nation territorial jurisdiction, shall provide for the protection of said child by properly using a child passenger restraint system, which meets the standards as set by 49 C.F.R. § 571.213.

D. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service nor to the driver of a school or commercial bus, taxicab, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to federal law.

[NCA 92-26, § 1-115, as amended by NCA 01-164, § 11, approved Sept. 7, 2001.]

Library References

Automobiles ☞10, 148.
 Indians ☞133, 210, 223, 226.

Westlaw Topic Nos. 48A, 209.

TRAFFIC CODE

Title 22, § 1-117

C.J.S. Indians §§ 32 to 35, 57 to 59, 62, 66 to 75, 140 to 150, 161 to 162, 180.

C.J.S. Motor Vehicles §§ 38 to 40, 530 to 536, 588.

§ 1-117. Penalty and punishment

Any person who violates any provision of Title 22, §§ 1-102 through 115 shall be subject to a civil penalty and fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for each violation.

[NCA 92-26, § 1-116, approved March 4, 1992; amended by NCA 01-164, § 13, approved Sept. 7, 2001.]

Cross References

Disorderly conduct, see Title 22, § 2-101.

Property subject to forfeiture, see Title 22, § 2-102.

CHAPTER 2. PUBLIC SAFETY

Section

2-101. Disorderly conduct.

2-102. Property subject to forfeiture.

§ 2-101. Disorderly conduct

A. No person shall, with intent to harass, alarm or annoy another person or interfere with a commercial enterprise or business activity of the Muscogee (Creek) Nation or any Board of the Muscogee (Creek) Nation, or in reckless disregard of the fact that another person is harassed, annoyed or alarmed by his/her behavior, or in reckless disregard of the fact that a commercial enterprise or business activity of the Muscogee (Creek) Nation or a Board of the Muscogee (Creek) Nation is suffering or has suffered interference by his/her behavior:

1. Engage in fighting, or in violent, tumultuous, or threatening behavior;
2. Make unreasonable noise;
3. In a public place, use abusive or obscene language, or make an obscene gesture;
4. Obstruct vehicular or pedestrian traffic, or the use of a public facility;
5. Persistently follow another person in or about a public place or places;
6. Solicit sexual activity while loitering in a public place; or
7. Create a hazardous, physically offensive, or seriously alarming condition by any act which serves no legitimate purpose; or
8. Appear in a public place or building or any public gathering while being intoxicated by illegal drugs, alcohol, inhalants or other mind-altering substance; or
9. Possess, use or distribute or attempt to distribute any illegal drug or intoxicating liquor as defined in the Muscogee (Creek) Nation Criminal Offenses Code; or
10. Solicit to sale items of merchandise without prior authorization of the Muscogee (Creek) Nation.

B. Every person found by the District Court in violation this section shall be fined in accordance with Title 22, § 1-117 and in addition to the civil fines, the violator may be delivered to the custody of federal or state law enforcement officers, or reported to such officers for prosecution under applicable federal or state law, as the case may be.

[NCA 01-164, § 13, approved Sept. 7, 2001.]

Cross References

Criminal disorderly conduct, see Title 14, § 2-903.

Definition of "illegal drug," see Title 14, § 2-101.

Illegal drugs, criminal offenses, see Title 14, § 2-701 et seq.

Intoxicating liquor, criminal offenses, see Title 14, § 2-708.

Library References

Disorderly Conduct \approx 102.
Westlaw Topic No. 129.
C.J.S. Disorderly Conduct §§ 1 to 4.

§ 2-102. Property subject to forfeiture

A. Any person who possesses, transports, carries or causes to be carried any illegal drug or intoxicating liquor as defined in the Muscogee (Creek) Nation Criminal Offenses Code on property owned by Muscogee (Creek) Nation or any Board of the Muscogee (Creek) Nation or under the jurisdiction of by the Muscogee (Creek) Nation in addition to the civil fines under Title 22, § 1-117, the following personal property of said violator shall be subject to forfeiture:

1. All controlled dangerous substances which have been manufactured, distributed, dispensed, acquired, concealed or possessed in violation of the Muscogee (Creek) Nation Criminal Offenses Code;

2. All raw materials, products and equipment of any kind and all drug paraphernalia as defined by applicable federal or Muscogee (Creek) Nation law which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled dangerous substance in violation of applicable federal or Muscogee (Creek) Nation law;

3. All property which is used, or intended for use, as a container for property described in paragraphs 1 and 2 of this subsection;

4. All conveyances, including aircraft, vehicles, vessels, or farm implements which are used to transport or conceal for the purpose of distribution, or which are used in any manner to facilitate the transportation for purpose of sale or receipt of property described in paragraph 1 or 2 of this subsection or when the property described in paragraph 1 or 2 of this subsection is unlawfully possessed by an occupant thereof, except that:

a. No conveyance used by a person as common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this Act unless it shall appear that he owner or other person in charge of such conveyance was a consenting party or privy to a violation of either the Muscogee (Creek) Nation Criminal Offenses Code and/or this chapter, and

b. No conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and if the act is committed by any person other than such owner the owner shall establish further that the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the Muscogee (Creek) Nation, United States, or of any state or Tribe;

5. All books, records and research, including formulas, microfilm, tapes and data which are used in violation of applicable federal or Muscogee (Creek) Nation law;

6. All things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of applicable federal or Muscogee (Creek) Nation law, all proceeds traceable to such an exchange, and all monies,

negotiable instruments, and securities used, or intended to be used, to facilitate any violation of either federal law or the Muscogee (Creek) Criminal Offenses Code;

7. All moneys, coin and currency found in close proximity to forfeitable substances, to forfeitable drug manufacturing or distribution paraphernalia or to forfeitable records of the importation, manufacture or distribution of substances, which are rebuttably presumed to be forfeitable under the laws of the Muscogee (Creek) Nation. The burden of proof is upon claimants of the property to rebut this presumption;

8. All weapons possessed, used or available for use in any manner to facilitate a violation of applicable federal or Muscogee (Creek) Nation law.

B. All items forfeited in this section be forfeited under the procedures established under the Muscogee (Creek) shall Nation Judicial Procedures Code. Whenever any item is forfeited pursuant to this section, the district court shall order that any money or monies derived from the sale of such item be deposited in a revolving fund, with the proceeds of an forfeiture of items seized to be used for law enforcement purposes as approved by the Lighthorse Chief, Attorney General, Controller and the Principal Chief. At the request of the Lighthorse Chief, the District Court may order that proceeds be divided between the Nation and one (1) or more assisting law enforcement agencies. The District Court may also order that items seized may be used by Lighthorse rather than sold at a public sale.

[NCA 01-164, § 14, approved Sept. 7, 2001; amended by NCA 04-131, § 2, eff. Oct. 01, 2004.]

Cross References

Criminal offenses, see Title 14, § 2-101 et seq.
Illegal drugs, criminal offenses, see Title 14, § 2-701 et seq.

Library References

Controlled Substances ◊164, 176.	C.J.S. Drugs and Narcotics §§ 238 to 244, 249 to 254, 257 to 260.
Indians ◊274, 278, 323.	C.J.S. Indians §§ 177 to 188, 191 to 194.
Westlaw Topic Nos. 96H, 209.	

CHAPTER 3. FIRE PROTECTION

Subchapter

1. Agreements or Compacts
2. Rural Volunteer Fire Departments

SUBCHAPTER 1. AGREEMENTS OR COMPACTS

Section

3-101. Authorization.

Historical and Statutory Notes

NCA 92-44, § 101, provides:

“Section 101. The Muscogee National Council finds that:

“A. The Muscogee Nation, as a sovereign nation, has the sole responsibility to safeguard its citizens and property from harm and destruction while on tribal and/or trust lands.

“B. The Muscogee Nation does not have the equipment, manpower or expertise to adequately fight fires on tribal and/or trust lands.

“C. Because of its vast holdings of land and real property throughout the eight (8) districts of the Muscogee Nation, it would not be economically feasible for the Muscogee Nation to implement or organize its own fire department at this time.

“D. Jurisdictional and liability issues deter local entities from providing police and fire protection on tribal and/or trust lands.

“E. The State of Oklahoma does not provide these services to tribal and/or trust lands.”

Cross References

Budget, fire protection, see Title 37, § 2-103.

§ 3-101. Authorization

A. The Muscogee National Council authorizes the Principal Chief, or his designee, to negotiate and enter into an agreement/compact with municipal, county or rural fire districts for fire protection on Tribal and/or trust lands, or Indian-owned lands throughout the Muscogee (Creek) Nation.

B. The fee negotiated shall be consistent with the fees charged by the respective fire districts for fire protection on non-restricted lands.

[NCA 92-44, § 102, approved April 1, 1992; amended by NCA 96-79, § 103, approved Oct. 2, 1996.]

Library References

Indians ⇨210, 216.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72.

SUBCHAPTER 2. RURAL VOLUNTEER FIRE DEPARTMENTS

Section

- 3-201. Definitions.
- 3-202. Eligibility.
- 3-203. Applications.
- 3-204. Limitation on grants.
- 3-205. Approval.

Cross References

Budget, rural volunteer fire department assistance, see Title 37, § 2–113.

§ 3–201. Definitions

A. Fire fighting equipment shall mean any necessary equipment, tools, supplies, or provisions for the purpose of this subchapter.

B. New construction shall mean an original or new building built on site. New construction funds are not to be used to add additional structures to an existing building or on a new site. The intent of new construction funds are to assist those departments that do not currently have a structure in place.

C. Maintenance or improvements shall mean any equipment, tools, vehicles, etc. necessary to enable the rural fire departments to improve and maintain the upkeep of the Rural Fire stations/houses.

D. Rural volunteer fire departments shall mean recognized fire fighting organizations that exist to assist rural areas in fire fighting and fire prevention.

[NCA 96–66, § 102, approved Sept. 4, 1996. Amended by NCA 07–008, § 1, eff. Feb. 1, 2007.]

Library References

Indians ⇄210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 3–202. Eligibility

Rural volunteer fire departments which have received ANY funding for fire fighting purposes from the Nation ARE NOT eligible to apply for and are not to receive funds for a period of three (3) years from the funding date.

[NCA 96–66, § 103, approved Sept. 4, 1996.]

§ 3–203. Applications

A. Rural volunteer fire departments must submit a proposal to the Tribal Affairs Committee of the National Council for (1) new construction or (2) firefighting equipment or (3) maintenance or improvements. Funding for new construction is limited to five thousand dollars (\$5,000). Funding for fire fighting equipment is two thousand dollars (\$2,000). Funding for maintenance or improvement is limited to five thousand dollars (\$5,000).

B. Rural volunteer fire departments must submit a “Certificate of Incorporation.”

C. Rural volunteer fire departments must submit a “Certificate of Self Insurance” or equivalent verification of insurance.

D. Upon receiving a rural volunteer fire department grant, the grant recipient must agree to waive the annual fee(s) for all Creek citizens that reside within the rural fire department district.

[NCA 94–66, § 103, approved Sept. 4, 1996; amended by NCA 03–194, § 1, approved Nov. 3, 2003; NCA 07–280, § 2, eff. Nov. 7, 2007.]

Library References

Indians ↔210, 227.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72, 76.

§ 3-204. Limitation on grants

Rural volunteer fire departments may receive no more than five thousand dollars (\$5,000) assistance per request. A newly formed rural volunteer fire department would NOT receive new construction and fire fighting equipment funds collectively.

[NCA 96-66, § 103, approved Sept. 4, 1996.]

§ 3-205. Approval

The Tribal Affairs Committee of the National Council shall forward approved proposals to the Chief's office after verifying pertinent information contained within the applications.

[NCA 96-66, § 103, approved Sept. 4, 1996.]

CHAPTER 4. MUSCOGEE (CREEK) NATION HEALTH SYSTEMS

Section

- 4-101. Purpose.
- 4-102. Definitions.
- 4-103. Muscogee (Creek) Nation Division of Health.
- 4-104. Muscogee (Creek) Nation Health System Board of Directors.
- 4-105. Division of Health Director.
- 4-106. Controller.
- 4-107. Planning and organization.
- 4-108. Administration of Division of Health.
- 4-109, 4-110. Repealed.
- 4-111. Funding compacts, contracts, and grants.
- 4-112. Patient care standards; patient complaints; personal injury and wrongful death claims.
- 4-113. Funding and agreements.
- 4-114, 4-115. Repealed.
- 4-116. Muscogee (Creek) Nation Okemah Community Hospital Board of Directors.
- 4-117 to 4-121. Repealed.
- 4-122 to 4-124. Renumbered.

Table of Prior Statutes

Former Section	New Sections	Former Section	New Sections
4-101	4-101	4-113	none
4-102	4-106	4-114	4-104
4-103	4-103, 4-110	4-115	4-105
4-104	4-110	4-116	4-108, 4-112
4-105	none	4-117	4-112
4-106	4-104	4-118	4-108
4-107	4-108	4-119	4-112
4-108	4-109	4-120	none
4-109	4-112	4-121	4-108, 4-109, 4-110
4-110	4-104	4-122	4-113
4-111	4-111	4-123	4-114
4-112	4-104	4-124	4-115

United States Code Annotated

Indian health care, see 25 U.S.C.A. § 1611 et seq.

§ 4-101. Purpose

The purpose of this chapter is to establish the framework for the planning, organization, policy, administration, management and operation of the Muscogee (Creek) Nation Division of Health.

[NCA 04-004, § 102, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation:

NCA 92-88, § 103; repealed by NCA 94-10, § 116.

NCA 88-79, § 101; amended by NCA 89-104, § 102; repealed by NCA 92-88, § 107.

Title 22, § 4-102, added by NCA 94-10, § 103; and replaced by NCA 04-004, § 2. Said

§ 4-102 was derived from NCA 88-79, § 102; amended by NCA 89-104, § 103; and repealed by NCA 92-88, § 107.

Former section:

Former § 4-101, which established the Muscogee (Creek) Nation Health Systems Board,

was added by NCA 94-10, § 102 and repealed by NCA 04-004, § 2.

Library References

Indians ⇄210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 4-102. Definitions

- A. “Controller” means the Muscogee (Creek) Nation Controller.
- B. “CMO” means the Chief Medical Officer of the Muscogee (Creek) Nation Division of Health.
- C. “Director” means the Director of the Muscogee (Creek) Nation Division of Health.
- D. “Division of Health” means the Muscogee (Creek) Nation Division of Health.
- E. “Health Administrator” means the administrator of the Division of Health hospitals, clinics and other facilities that provide health care.
- F. “Nation” means the Muscogee (Creek) Nation.
- G. “Personnel” means all employees including IHS contractual employees and contractors, except Muscogee (Creek) Nation Okemah Community Hospital Board members.

[NCA 04-004, § 103, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation:

NCA 88-79, § 102; amended by NCA 89-104, § 103; repealed by NCA 92-88, § 107.
Title 22, § 4-103, added by NCA 94-10, § 104, and repealed by NCA 04-004, § 2. Said § 4-103 was derived from NCA 88-79, § 103; repealed by NCA 92-88, § 107.

Former section:

Former § 4-102, which stated the purpose of the Muscogee (Creek) Nation Health Systems Board, was added by NCA 94-10, § 103 and repealed by NCA 04-004, § 2.

Library References

Health ⇄100, 350.
Indians ⇄210.
Westlaw Topic Nos. 198H, 209.
C.J.S. Drugs and Narcotics §§ 14, 22.
C.J.S. Health and Environment §§ 1 to 2, 70.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 4-103. Muscogee (Creek) Nation Division of Health

The Muscogee (Creek) Nation Division of Health shall be a division within the Executive Branch of the Muscogee (Creek) Nation in accordance with Title 16, § 1-102 of the Muscogee (Creek) Nation Code Annotated Laws established to provide inpatient, outpatient and emergency health care, rehabilitative services, and other health-related services within the boundaries of the Nation to citizens of the Nation and other health consumers. The Division of Health shall consist of a comprehensive health care delivery system, including hospitals, clinics, Community Health Representatives Program, food nutrition and other special health projects, programs and associated activities.

[NCA 04-004, § 104, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation

NCA 88-79, § 103; repealed by NCA 92-88, § 107.

Former section:

Former § 4-103, which provided definitions, was added by NCA 94-10, § 104 and repealed by NCA 04-004, § 2.

Library References

Health ☞ 100, 350.
Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics §§ 14, 22.
C.J.S. Health and Environment §§ 1 to 2, 70.

§ 4-104. Muscogee (Creek) Nation Health System Board of Directors

A. Health System Board of Directors. The Muscogee (Creek) Nation Health System Board of Directors is established for the performance of planning functions, establishment of policies and procedures and oversight and governance of the Health System.

B. Composition, appointments, confirmations, and terms. The Board shall be composed of five (5) positions filled by citizens of the Muscogee (Creek) Nation with staggered terms as follows:

1. **Position One.** The citizen of the Muscogee (Creek) Nation filling this term shall be a person that is a consumer of the Health System who is not a health professional and who can offer a consumer perspective regarding consumer health needs and issues. This position shall be nominated by the Principal Chief with confirmation by the National Council. This position shall have a term of two (2) years beginning January 2, 2007, without holdover, and each new term shall begin on January 2 of the year ending the prior term.

2. **Position Two.** The citizen of the Muscogee (Creek) Nation filling this term shall be a person that is a consumer of the Health System who is not a health professional and who can offer a consumer perspective regarding consumer health needs and issues. This position shall be nominated by the Community Services and Cultural Committee of the National Council of the Muscogee (Creek) Nation and with confirmation by the National Council. This position shall have a term of three (3) years beginning January 2, 2007, without holdover, and each new term shall begin on January 2 of the year ending the prior term.

3. **Position Three.** The citizen of the Muscogee (Creek) Nation filling this term shall be a person with knowledge and experience in business administration, finance and budgets. This position shall be nominated by the Principal Chief with confirmation by the National Council. This position shall have a term of three (3) years beginning January 2, 2007, without holdover, and each new term shall begin on January 2 of the year ending the prior term.

4. **Position Four.** The citizen of the Muscogee (Creek) Nation filling this term shall be a person with knowledge and experience in business administration, finance and budgets. This position shall be nominated by the Community Services and Cultural Committee of the National Council of the Muscogee (Creek) Nation and with confirmation by the National Council. This position shall have a term of two (2) years beginning January 2, 2007, without holdover, and each new term shall begin on January 2 of the year ending the prior term.

5. Position Five. The citizen of the Muscogee (Creek) Nation filling this term shall be a person possessing knowledge and experience of operational functions of hospitals and clinics. This position shall be nominated by the Community Services and Cultural Committee of the National Council of the Muscogee (Creek) Nation and with confirmation by the National Council. This position shall have a term of two (2) years beginning January 2, 2007, without holdover, and each new term shall begin on January 2 of the year ending the prior term.

6. Upon the establishment of a vacancy due to a removal, death or resignation of the Board Member, a qualified person may be appointed to serve the remainder of that member's term; provided that the Principal Chief shall have the power to temporarily fill vacancies on the Board by granting commissions which shall expire at the beginning of the next National Council meeting in accordance with the Muscogee (Creek) Nation Constitution Article V, § 2(c). No such commission shall be valid unless in writing and delivered to the National Council office.

C. Ex-officio member. The Community Services and Cultural Committee shall elect one (1) Committee member to serve as an ex-officio to the Board in order to act as a liaison between the Board and the National Council. The ex-officio member may participate in discussions at Board meetings, but may not be counted for purposes of a quorum and may not make motions or vote at said meetings. The Community Services and Cultural Committee shall also elect one Committee member to serve as an alternate for the purpose of attending Board meetings if and when the ex-officio is unable to attend such meetings.

D. Bylaws. The Board shall adopt by-laws related to the organization of the Board, internal operations of the Board, election of Board officers, Board meetings and the appointment of committees as necessary to affect the discharge of Board responsibilities. The Board shall review said bylaws annually and amend them as necessary.

E. Meetings of the Board; election of officers; open meetings requirements

1. Regular meetings of the Health Board shall occur monthly at a designated place within the jurisdiction of the Muscogee (Creek) Nation. The date and time of such regular meetings shall be set by the Chairman, provided that proper notice is given according to the provisions herein. The Board shall adopt procedures governing its meetings, which shall address, among other matters, that election of a Chairman and a Vice Chairman of the Board.

2. The Chairman (or in his or her absence, the Vice-Chairman) shall give notice of the time and place of any regular monthly meeting of the Health Board in writing to each Board member, the Principal Chief, the Speaker of the National Council, at least forty-eight (48) hours before such meeting. Service of said notice may be effected by first class U.S. mail, facsimile, and shall be effective on the date of delivery to the official entitled to such notice or to the office of said official's regular place of business or facsimile transmission; or, in the case of notice sent by U.S. mail, one (1) day after the notice, in a properly addressed envelope with sufficient postage thereon, is deposited in the U.S. mail. The date of the postmark on such envelope shall be conclusive evidence of its date of deposit in the U.S. mail. In addition, such notice of the regular

monthly meeting shall be posted in each of the Nation's health facilities at least forty-eight (48) hours before such regular meeting.

3. Special meetings of the Health Board may be held when circumstances require such a meeting. Special meetings may be called by the Chairman, or by a majority of the Board. Notice of special meetings shall be given in the same manner as in regular meetings.

4. Emergency meetings may only be held in the most extraordinary circumstances. Emergency meetings may be called by giving telephone or facsimile notice to each member of the Board, the Principal Chief and the Speaker of the National Council, provided that no action in an emergency meeting shall have any valid or binding effect unless ratified at the next regular or special meeting of the Health Board.

5. All meetings of the Health Board shall require a majority of the Board members to be present to constitute a quorum and conduct business.

6. All meetings of the Health Board shall be public meetings and therefore open to the public, except for executive sessions. The Board may exclude any person from an executive session except the Principal Chief, Second Chief, any National Council Member, or Attorney General or Assistant Attorney General of the Muscogee (Creek) Nation. The Board may go into executive session only to: (1) discuss personnel matters of medical privilege or patient confidentiality, or matters of confidentiality that relate to one or more specific employees, or, (2) meet and consult with the Board's attorney on confidential legal matters. All other matters shall be discussed audibly to all persons in the room in open session. Executive sessions may only be held after they have been posted as an item on the agenda for the meeting in which the executive session is held. The general subject of the executive session must be described in the posted agenda, and no action by the Board may occur in executive session. It shall be unlawful for any person present in a meeting held in executive session to make public, or otherwise disclose or describe to any person not so present, any discussion or statements made during such executive session. Violation of any of the open meetings requirements of this provision shall constitute a criminal offense punishable by up to a five hundred dollar (\$500.00) fine and a violator may be banned from attending any further Board meetings.

7. Notice of meetings of the Health Board, either regular or special, shall contain an agenda which describes each item of business to be conducted. There may be an agenda item for new business which shall only be for gathering of the Board to discuss Health Board business shall be considered a meeting subject to the requirements stated herein.

8. Minutes of all meetings of the Health Board, other than meetings or portions thereof held in executive session, shall be kept by a recording secretary. In addition thereto, an audio recording of all meetings shall be made, except for that part of the meeting in executive session.

9. Any action taken by the Board during a meeting convened or held in violation of this subsection shall be null and void.

F. Stipends. Board members may receive a stipend for their services in an amount not to exceed five hundred and no/100 dollars (\$500.00) a month plus

telephone and mileage reimbursement in accordance with a mileage policy established by the Board, in those circumstances where Board members are required to drive their personal vehicles to places other than the Board office for Board business. The ex-officio Board member may receive mileage from the National Council budget in accordance with any applicable National Council Policies and Procedures.

G. Removal. Any Board member may be removed in accordance with Title 31, § 1-101 et seq., of the Muscogee (Creek) Nation Code of Laws or any other applicable laws of the Nation; provided that a member’s failure to attend three (3) consecutive scheduled meetings of the Health System Board by a member shall constitute an automatic removal.

H. Orientation and training. An annual orientation of the Board shall be provided by the Chief Executive Officer (CEO) in areas of programs and policies, federal regulations, budgets, state certification requirements and other needed information for continuity and quality health care to citizens of the Muscogee (Creek) Nation and other health consumers. All Board members shall receive a minimum of sixteen (16) hours per year of Board training as arranged by the CEO. Documentation of the Board training shall be on file at the Health System administrative office.

[NCA 04-004, § 105, eff. April 1, 2004; amended by NCA 06-215, §§ 1 and 2, eff. Nov. 6, 2006.]

Historical and Statutory Notes

Derivation

NCA 88-79, § 105; amended by NCA 89-58, § 100; repealed by NCA 92-88, § 107.

Derivation:

Title 22, § 4-101, added by NCA 94-10, § 102, and repealed by NCA 04-004, § 2. Said § 4-101 was derived from NCA 88-79, § 101; amended by NCA 89-104, § 102; and repealed by NCA 92-88, § 107; and NCA 92-88, § 103; repealed by NCA 94-10, § 116. Title 22, § 4-104, added by NCA 94-10, § 105; amended by NCA 94-90, § 102; NCA 95-78, § 103; NCA 96-106, § 102; NCA 01-221, § 1; and repealed by NCA 04-004, § 2. Said § 4-104 was derived from NCA 88-79, § 105; amended by NCA 89-58, § 100; and repealed by NCA 92-88, § 107. Title 22, § 4-105, added by NCA 94-10, § 105, and repealed by NCA 04-004, § 2. Title 22, § 4-106, added by NCA 94-10, § 106, and repealed by NCA 04-004, § 2. Title 22,

§ 4-110, added by NCA 94-10, § 109, and repealed by NCA 04-004, § 2. Said § 4-110 was derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107. Title 22, § 4-112, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said § 4-112 was derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107. Title 22, § 4-114, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said § 4-114 was derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107.

Former sections:

Former § 4-104, which described the composition of the Muscogee (Creek) Nation Health Services Board of Directors, was added by NCA 94-10, § 105; amended by NCA 94-90, § 102; NCA 95-78, § 103; NCA 96-106, § 102; NCA 01-221, § 1; and repealed by NCA 04-004, § 2.

Cross References

Juvenile adjudication not to disqualify from employment or office, see Title 6, § 1-404.

Library References

Administrative Law and Procedure ⇌124.
 Health ⇌361.
 Indians ⇌215.
 Westlaw Topic Nos. 15A, 198H, 209.

C.J.S. Health and Environment §§ 7 to 27, 44 to 45, 65 to 73, 77 to 83, 98 to 100.
 C.J.S. Indians § 59.
 C.J.S. Public Administrative Law and Procedure §§ 32 to 35.

§ 4-105. Division of Health Director

The Division of Health shall be administered by a Director, who shall supervise, direct and monitor the day-to-day work and activities of the Division of Health consistent with the duties and authorities of the Director established by this act. The Director shall be appointed by the Principal Chief and confirmed by the National Council by duly enacted Tribal Resolution. The term of the Director shall run with the term of the Principal Chief and there shall be no holdover.

[NCA 04-004, § 106, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes**Derivation:**

Title 22, § 4-115, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said § 4-115 was derived from NCA 88-79, § 107; and repealed by NCA 92-88, § 107.

Former section:

Former § 4-105, which provided for the compensation of Muscogee (Creek) Nation Health Systems Board members, was added by NCA 94-10, § 105 and repealed by NCA 04-004, § 2.

Library References

Indians ⇨210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 4-106. Controller

The Controller shall be responsible for the fiscal affairs of the Division of Health, subject to generally accepted accounting principles, the Governmental Accounting Standards Board rules and regulations and consistent with the Controller's fiduciary responsibility to the Muscogee (Creek) Nation.

[NCA 04-004, § 107, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes**Former section:**

Former § 4-106, which required an annual orientation of the Muscogee (Creek) Nation

Health Systems Board, was added by NCA 94-10, § 106 and repealed by NCA 04-004, § 2.

Library References

Indians ⇨210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 4-107. Planning and organization

The Director shall develop an organizational structure identifying the purposes of each unit within the Division of Health for the comprehensive service system for the delivery of health care services to meet the health care needs of its consumers, shall provide the organizational plan to the Principal Chief for review and approval and periodically review said organizational plan as needed. The Director shall be responsible for guiding, directing and managing all approved organizational changes within the Division of Health, ensuring that the organizational changes are consistent with the Division of Health mission,

and ensuring consistency between the organizational plan and Division of Health policies and procedures.

[NCA 04–004, § 108, eff. April 1, 2004; NCA 09–028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation:

NCA 92–88, § 104; repealed by NCA 94–10, § 116.
 NCA 88–79, § 106; repealed by NCA 92–88, § 107.

Health Systems to the Health Division Director and authorized the Board to establish cost rates, was added by NCA 94–10, § 108; amended by NCA 95–78, § 103; NCA 98–80, § 102; and repealed by NCA 04–004, § 2.

Former section:

Former § 4–107, which assigned administrative duties for the Muscogee (Creek) Nation

Cross References

Juvenile adjudication not to disqualify from employment or office, see Title 6, § 1–404.

Library References

Health ☞361.	C.J.S. Health and Environment §§ 7 to 27, 44 to 45, 65 to 73, 77 to 83, 98 to 100.
Indians ☞210.	C.J.S. Indians §§ 57 to 59, 66 to 72.
Westlaw Topic Nos. 198H, 209.	

§ 4–108. Administration of Division of Health

A. Policies and procedures. The Division of Health shall adhere to the policies and procedures of the Nation. In addition, the Director shall prepare necessary administrative policies and procedures for the effective operation of health programs and services and for compliance with contractual and regulatory requirements, including policies and procedures involving organization, procurement, contract health services, facilities management, planning, information resources management, records management, emergency preparedness, medical billing, communications, patient registration and any other areas related to the operation of the Division of Health. All policies and procedures of the Division of Health existing as of the effective date of this Act shall remain in full force and effect until such time as such policies and procedures are amended or replaced in accordance with this act; provided that the provisions of this act shall be controlling over any inconsistent policies and procedures of the Division of Health.

B. Signatory authority. The Director shall have the authority to approve contracts dealing with the day-to-day operations of the Division of Health and shall have the authority to approve contracts for goods and services of the Division of Health. However, only the Principal Chief shall have the authority to execute contract(s) relating to construction, renovation, property purchases and contract(s) wherein a limited waiver of the Nation’s sovereign immunity is contained in said document; provided further that said waiver has been specifically approved by the National Council by duly enacted Tribal Resolution.

C. Personnel.

1. Hiring and termination. The Director shall be responsible for the hiring and termination of Division of Health personnel in accordance with personnel policies and procedures of the Nation, including the hiring of Health Adminis-

trator(s); provided that all employment contracts shall be subject to review by the Attorney General. The CMO shall be responsible for the granting of hospital privileges. The Director shall determine the personnel needs of the Division of Health. All Health employees shall become Muscogee (Creek) Nation employees no later than October 1, 2009. Health employees' benefits, including accrued annual leave, accrued sick leave, insurance and retirement benefits shall remain intact; provided that the Controller is not authorized to expend or obligate funds related to transfer of employee benefits unless such funds were expressly appropriated or obligated for such purposes as of October 1, 2009.

2. Supervision. The Director shall report directly to the Executive Director. The Director shall maintain supervision over all personnel in accordance with the chain of command established by the organizational structure approved by the Principal Chief.

D. Transfer of funds and securities. No later than October 1, 2009, the Health Systems shall transfer all funds and securities held in Health Systems accounts, to one or more qualified accounts held by the Nation in accordance with the instructions of the Nation's Controller. The Health Systems shall prepare, execute and deliver any and all documents, forms, account agreements or other instruments that may be required to complete the transfer.

E. Other actions related to transfer of health systems functions. The Principal Chief is authorized to execute leases and lease assignments of Health Systems office sites, equipment leases, equipment maintenance agreements and such other documents necessary for the transfer to the Division of Health, including those containing waivers of sovereign immunity provided they were previously approved by way of Tribal Resolution.

[NCA 04-004, § 109, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation:

NCA 88-79, § 104; repealed by NCA 92-88, § 107.

Title 22, § 4-107, added by NCA 94-10, § 108; amended by NCA 95-78, § 103; NCA 98-80, § 102; and repealed by NCA 04-004, § 2. Said § 4-107 was derived from NCA 88-79, § 106; repealed by NCA 92-88, § 107; and derived from NCA 92-88, § 104; repealed by NCA 94-10, § 116. Title 22, § 4-116, added by NCA 94-10, § 113 and repealed by NCA 04-004, § 2. Said § 4-116 was derived from NCA 88-79, § 107; and repealed by NCA 92-88, § 107. Title 22, § 4-118, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said

§ 4-118 was derived from NCA 88-79, § 107; and repealed by NCA 92-88, § 107. Title 22, § 4-121, added by NCA 94-10, § 115; amended by NCA 01-221, § 2; and repealed by NCA 04-004, § 2. Said § 4-121 was derived from NCA 92-88, § 106, and repealed by NCA 94-10, § 116.

Former section:

Former § 4-108, which established the Muscogee (Creek) Nation Health Systems Board's jurisdiction over funds secured and related personnel and activities, was added by NCA 94-10, § 109 and repealed by NCA 04-004, § 2.

Library References

Health ☞361.

Indians ☞210.

Westlaw Topic Nos. 198H, 209.

C.J.S. Health and Environment §§ 7 to 27, 44 to 45, 65 to 73, 77 to 83, 98 to 100.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§§ 4-109, 4-110. Repealed by NCA 09-028, § 1, eff. Feb. 13, 2009**Historical and Statutory Notes**

Repealed Title 22, § 4-109, relating to fiscal affairs of the Health System, was derived from:

Title 22, § 4-108, as added by NCA 88-79, § 104.

Title 22, § 4-1212, as added by NCA 92-88, § 106.

Title 22, § 4-108, as added by NCA 94-10, § 109.

Title 22, § 4-121, as added by NCA 94-10, § 115.

A prior § 4-109, which required the Muscogee (Creek) Nation Health Systems Board to

maintain system standards, was added by NCA 94-10, § 109 and repealed by NCA 04-004, § 2.

Repealed Title 22, § 4-110, relating to reports, was derived from:

Title 22, § 4-121, as added by NCA 92-88, § 106.

Title 22, § 4-121, as added by NCA 94-10, § 115 and amended by NCA 01-221, § 2.

A prior § 4-110, relating to open meetings was added by NCA 94-10, § 109 and repealed by NCA 04-004, § 2.

§ 4-111. Funding compacts, contracts, and grants

A. Federal self-government contracts, self-governance compact and annual funding agreements. The Controller and the Director shall provide technical assistance to the Principal Chief in the Principal Chief's negotiations with federal government representatives for all self-government contracts and modifications, self-governance compacts and modifications, and annual funding agreements, each of which shall be subject to approval of the National Council by Tribal Resolution.

B. Other grant funds. The Principal Chief may authorize the Director to submit proposals to other federal and non-federal funding entities for the delivery of health service programs, including inpatient, outpatient and emergency care; provided that a standard form summarizing such proposal shall be provided to the Principal Chief within ten (10) days of submission to the potential funding source, for informational purposes only. No funds shall be sought, applied for or otherwise received which do not apply directly to carrying out the functions of the Division of Health. Upon award of a grant, the Director is authorized to execute any necessary documents accepting said grant; however, the grant budget award must be appropriated by law before any grant funds are expended by the Division of Health. The Director shall then have the authority to approve the expenditures of such grant funds received by the Muscogee (Creek) Nation for health care services in accordance with the approved grant award.

C. Other contracts. The Director shall procure any necessary consultant service contracts for the Division of Health in accordance with the Nation's procurement policies and subject to any applicable limitations of Tribal law, provided that such contracts shall be reviewed by the Attorney General prior to execution. The Director may procure, approve and execute on behalf of the Division of Health employment contracts, vendor contracts and other contracts required for office, clinic and hospital operations, subject to Division of Health policies and restrictions stated in this chapter. No proposed contract which waives sovereign immunity, which may be argued to include a waiver of sovereign immunity, which includes a choice of law provision or which includes an arbitration provision shall be valid unless approved by Tribal Resolution and executed by the Principal Chief.

[NCA 04-004, § 112, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes**Derivation:**

NCA 88-79, § 104; amended by NCA 89-104, § 104; repealed by NCA 92-88, § 107.

Title 22, § 4-111, added by NCA 94-10, § 112; and repealed by NCA 04-004, § 2. Said § 4-111 was derived from NCA 88-79, § 104; amended by NCA 89-104; and repealed by NCA 92-88, § 107.

Former section:

Former § 4-111, which authorized the Muscogee (Creek) Nation Health Systems Board to raise funds for the administration of the system, was added by NCA 94-10, § 112 and repealed by NCA 04-004, § 2.

Library References

Indians ⇄ 139, 142, 210.
Westlaw Topic No. 209.

C.J.S. Indians §§ 11, 37 to 38, 54 to 55, 57 to 59, 66 to 72.

§ 4-112. Patient care standards; patient complaints; personal injury and wrongful death claims

A. Compliance with laws and regulations. The Division of Health shall be operated in conformance with all applicable licensing requirements. All Division of Health personnel shall take all responsible steps to ensure conformance to all applicable Tribal, federal, state and local laws and regulations, including but not limited to those relating to licenses, fire inspection and other safety measures.

B. Standard of performance. Division of Health personnel shall at all times endeavor to provide appropriate physical resources and personnel required to meet the health care needs of its consumers and to protect and enhance the Division of Health so that the health care needs of its consumers are met in accordance with the highest possible standard of performance.

C. Patient quality assurance policies and procedures. The CMO of the Division of Health and the medical staff shall assist the Director in the preparation of patient quality assurance policies and procedures, including effective formal means for the medical staff to participate in the development of clinic and hospital policy relative to clinic management and patient care, procedures for the evaluation of the professional competence of medical staff members and applicants for staff privileges, recommendations to the Director concerning initial medical staff appointments, reappointments and the assignment or curtailment of privileges and the establishment of controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practices.

D. Patient complaint policies and procedures; patient advocate group. The CMO of the Division of Health and the medical staff shall assist the Director in the preparation of policies and procedures for the receipt and handling of patient complaints. Said policies and procedures shall include the establishment of a patient advocate group responsible for advocating specific ways of improving the health services provided by the Division of Health.

[NCA 04-004, § 113, eff. April 1, 2004; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Derivation:

NCA 88-79, § 107; repealed by NCA 92-88, § 107.

Title 22, § 4-109, added by NCA 94-10, §§ 109, 113, and repealed by NCA 04-004, § 2. Said § 4-109 was derived from NCA 88-79, § 107; and repealed by NCA 92-88, § 107. Title 22, § 4-116, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said § 4-116 was derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107. Title 22, § 4-117, added by NCA 94-10, § 113, and repealed by NCA 04-004, § 2. Said § 4-117 was

derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107. Title 22, § 4-119, added by NCA 94-10, §§ 109, 113, and repealed by NCA 04-004, § 2. Said § 4-119 was derived from NCA 88-79, § 107, and repealed by NCA 92-88, § 107.

Former section:

Former § 4-112, which required the Muscogee (Creek) Nation Health Systems Board to create rules, regulations, and by-laws, was added by NCA 94-10, § 113 and repealed by NCA 04-004, § 2.

Library References

Health ☞191, 256.

Indians ☞210, 226.

Westlaw Topic Nos. 198H, 209.

C.J.S. Drugs and Narcotics §§ 69 to 70.

C.J.S. Hospitals § 18.

C.J.S. Indians §§ 57 to 59, 66 to 72, 140 to 149.

C.J.S. Physicians, Surgeons, and Other Health Care Providers §§ 30 to 33, 54, 71 to 75, 77.

§ 4-113. Funding and agreements

A. The Muscogee (Creek) Nation’s Division of Health through the Director is hereby authorized to seek, apply, negotiate, and execute documents for all funds available from all federal sources for funding of health related programs.

B. The Muscogee (Creek) Nation’s Division of Health through the Director is hereby authorized to submit, negotiate, and execute model agreements and annual funding agreements and related amendments as required.

C. The Muscogee (Creek) Nation’s Division of Health through the Director is hereby authorized to contract/compact under P.L. 93-638¹ as amended for all health services programs and functions funded by the Department of Health and Human Services.

D. All resources received from Notices of Award from all contracts/compacts and grants will be submitted to the National Council for the appropriation of funds as required by law.

E. The Muscogee (Creek) Nation’s Division of Health through the Director is hereby authorized to apply for the Tribal Self-Governance Demonstration Program Planning and Negotiation Cooperative Agreements grants from Indian Health Service and to continue the process to negotiate and enter into a Self-Governance Compact with Indian Health Service.

[Formerly § 4-122. NCA 97-73, § 103, approved July 30, 1997; amended by NCA 99-63, § 103, approved May 26, 1999; renumbered § 4-113 by NCA § 04-004 § 2; amended by NCA 09-028, § 1, eff. Feb. 13, 2009.]

¹ See 25 U.S.C.A. § 450 et seq.

Historical and Statutory Notes

Derivation:

NCA 88-79, § 107; repealed by NCA 92-88, § 107.

Former section:

Former § 4-113, which required disclosure of ownership and control of each unit within the Muscogee (Creek) Nation Community Health

Title 22, § 4-113

HEALTH AND SAFETY

System, was added by NCA 94-10, § 113 and repealed by NCA 04-004, § 2.

United States Codes Annotated References

Indian Self-Determination and Education Assistance Act, see 25 U.S.C.A. § 450 et seq.

§§ 4-114, 4-115. Repealed by NCA 09-028, § 1, eff. Feb. 13, 2009

Historical and Statutory Notes

Repealed § 4-114, relating to the WIC program, was derived from:

Title 22, § 4-123, as added by NCA 99-204, § 103.

Title 22, § 4-114, as added by NCA 99-205, § 103.

NCA 4-004, § 2.

A prior § 4-114, relating to officers, committees, meetings and minutes of the Health System Board, was derived from by NCA 88-79, § 107, which was repealed by NCA 92-88, § 107, and NCA 94-10, § 113, which was repealed by NCA 04-004, § 2.

Repealed § 4-115, which related to the Clinics Master Plan, was derived from:

Title 22, § 4-124, as added by NCA 02-006, §§ 2, 3 and renumbered by NCA 04-004, § 2.

A prior § 4-115, which related to the Health Systems Administrator, was derived from NCA

88-79, § 107, which was repealed by NCA 92-88, § 107, and NCA 94-10, § 113, which was repealed by NCA 04-004, § 2.

Derivation

NCA 88-79, § 107; repealed by NCA 92-88, § 107.

Former sections:

Former § 4-114, which required the Muscogee (Creek) Nation Health Systems Board to provide for the election of officers and appoint committees, was added by NCA 94-10, § 113 and repealed by NCA 04-004, § 2.

Former § 4-115, which authorized the Muscogee (Creek) Nation Health Systems Board to approve a Health Systems Administrator, was added by NCA 94-10, § 113 and repealed by NCA 04-004, § 2.

§ 4-116. Muscogee (Creek) Nation Okemah Community Hospital Board of Directors

There is hereby established a five (5) member Okemah Community Hospital Board of Directors, whose function is to serve as the governing body of the Okemah Community Hospital and to ensure that the Okemah Community Hospital is complying with state and federal regulations. The Board shall consist of the Director, the CMO and three (3) citizens appointed by the Principal Chief and confirmed by the National Council by duly adopted Tribal Resolution. Each appointed Board member shall serve a three (3) year term with no holdover. Each appointed Board member shall receive a One Hundred Dollars (\$100.00) a month stipend for his/her services, plus mileage reimbursements in accordance with the mileage policy of the Nation.

[Added by NCA 09-028, § 1, eff. Feb. 13, 2009.]

Historical and Statutory Notes

Former section:

A former § 4-116, relating to the planning for adequate physical resources and personnel, was derived from NCA 88-79, § 107, which was repealed by NCA 92-88, § 107 and 94-10, § 113, which was repealed by NCA 04-004, § 2.

Another former § 4-116, relating to the repeal of prior laws, was derived from NCA 04-004, § 2.

§§ 4-117 to 4-121. Repealed by NCA 04-004, § 2, eff. April 1, 2004

§§ 4-122 to 4-124. Renumbered as Title 22, §§ 4-113, 4-114, 4-115

CHAPTER 5. MEDICAL ASSISTANCE PROGRAM

Section

- 5-101. Purpose.
- 5-102. Application.
- 5-103. Benefit amounts.
- 5-104. Implementation.
- 5-105. Funding.

Cross References

Budget, Medical Assistance Program, see Title 37, § 2-117.

§ 5-101. Purpose

The Medical Assistance Program shall be utilized to assist enrolled Muscogee (Creek) Citizens of any age who would otherwise be eligible for services within the Muscogee (Creek) Nation Health System in acquiring prescribed medication, prostheses (artificial limbs), or prescribed medical equipment necessary to sustain health and well-being when no other resource is available. The benefit amounts are not necessarily intended to be all inclusive of all medical needs or to cover the amount of total prescription costs.

[NCA 97-05, § 103, approved May 8, 1997; amended by NCA 99-23, § 103, approved March 2, 1999.]

Library References

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| Health ☞460. | C.J.S. Indians §§ 57 to 59, 66 to 72. |
| Indians ☞210. | C.J.S. Social Security and Public Welfare § 247. |
| Westlaw Topic Nos. 198H, 209. | |

§ 5-102. Application

A. Applicant must document citizenship by furnishing Tribal Enrollment Card. Any minor under the age of one (1) shall have an enrolled parent and be enrollment eligible.

B. Applicant shall be on file as a patient or shall establish a patient file with Muscogee (Creek) Nation Health System.

C. Applicant must present the original prescription and a statement from the Tribal or IHS health facility that the prescription or a reasonable alternative prescription is unavailable at those facilities.

D. The applicant shall furnish documentation which shall assure that all other available resources (Medicaid, Medicare, private insurance, etc.) have been exhausted.

E. The program administrator shall assist all Tribal citizens in their efforts to attain satisfaction of this program.

[NCA 97-05, § 103, approved May 8, 1997; amended by NCA 99-23, § 103, approved March 2, 1999.]

Library References

- Indians ☞222.
- Westlaw Topic No. 209.
- C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 5-103. Benefit amounts

A. One (1) grant of up to two thousand five hundred dollars (\$2,500.00) per year (365 days) per applicant for health maintenance medications and medical equipment (oxygen, nebulizers, crutches, walkers, etc.).

B. One (1) grant of up to five thousand dollars (\$5,000.00) per year (365 days) for life sustaining medications only (cancer, dialysis, heart-related, etc.).

C. One (1) grant of up to four thousand dollars (\$4,000.00) for eligible applicants, one time for prosthesis (artificial limb).

[NCA 97-05, § 104, approved May 8, 1997; amended by NCA 99-23, § 103, approved March 2, 1999; NCA 04-092, § 2, eff. May 27, 2004; NCA 09-222, § 1, eff. Dec. 28, 2009.]

§ 5-104. Implementation

The Principal Chief is hereby authorized to implement this chapter and to delegate its administration to the most appropriate agency under the guidelines prescribed by this chapter.

[NCA 97-05, § 106, approved May 8, 1997.]

§ 5-105. Funding

The Muscogee (Creek) Nation Health Systems Board and the Director of the Health Administration are directed to improve the collection to eighty-five percent (85%) or better. Further, the Health Systems Board and Director of the Health Administration are directed to pursue appropriate grant applications from the state, federal and other private funding sources available.

[NCA 00-130, § 103, approved Sept. 1, 1999.]

CHAPTER 6. VISION ASSISTANCE PROGRAM

Section

- 6-101. Authorization.
- 6-102. Priority.
- 6-103. Providers.
- 6-104. Benefits.
- 6-105. Period of ineligibility.

§ 6-101. Authorization

A. The Vision Assistance Program will be implemented and managed by the Division of Health Administration.

B. The Division of Health Administration will develop detailed guidelines for the implementation of this program.

C. Guidelines shall require Creek Nation Health Systems Board approval.

D. The Division of Health Administration is authorized to negotiate and enter into contracts with local optometrists in the Creek Nation to obtain reduced prices for optical services, eyeglasses and contact lenses.

E. The Division of Health Administration is authorized to expend appropriations approved by the National Council for the Vision Assistance Program.

[NCA 98-43, § 104, approved May 27, 1998.]

Library References

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| Health ☞460. | C.J.S. Indians §§ 57 to 59, 66 to 72. |
| Indians ☞210. | C.J.S. Social Security and Public Welfare § 247. |
| Westlaw Topic Nos. 198H, 209. | |

§ 6-102. Priority

Services provided by this law shall be available to all citizens of the Muscogee (Creek) Nation. Priority will be given to the following:

A. Creek citizens who are Original Allottees;

B. Creek citizens who are children, eighteen (18) years of age or less;

C. Elderly Creek citizens age fifty (50) and over;

D. Creek citizens who are between the ages of 19-50 and who are visually handicapped with a medical and refractive eye condition. Final decision regarding eligibility under this priority category shall be made by the Creek Nation Chief Optometry Officer.

[NCA 98-43, § 105, approved May 27, 1998.]

Library References

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| Indians ☞222. |
| Westlaw Topic No. 209. |
| C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180. |

§ 6-103. Providers

Citizens residing within the Muscogee (Creek) Nation will be required to use the Creek Nation Eye Clinic or optometrist with whom the Division of Health

Title 22, § 6-103

HEALTH AND SAFETY

Administration has entered into contracts with for the provision of optical services and eyeglasses/contact lenses.

[NCA 98-43, § 106, approved May 27, 1998.]

§ 6-104. Benefits

A. The program will provide up to sixty dollars (\$60.00) for a complete and comprehensive eye examination. Any amount over the total of sixty dollars (\$60.00) for the eye exam will be the responsibility of the patient.

B. Each Creek citizen will be required to contribute a ten dollars (\$10.00) co-payment (or a useable pair of prescription eye glass frames) to be used toward the purchase of eyeglasses. After the co-payment, the program will provide up to one hundred twenty-five dollars (\$125.00) of the remainder owed per person for each new eyeglass order or repair. Any amount over the total of one hundred twenty-five dollars (\$125.00) contributed to the Vision Assistance Program for eyeglasses /repairs will be the responsibility of the patient.

C. Contact lenses are allowable only in medically indicated and not for cosmetic purposes. Each Creek citizen will be required to contribute a ten dollars (\$10.00) co-payment (or a useable pair of prescription glass frames) to be used toward the purchase of contact lenses. After the co-payment, the program will provide up to ninety dollars (\$90.00) of the remainder owed per person for new contact lenses. Any amount over the total of ninety dollars (\$90.00) contributed by the Vision Assistance Program for contact lenses will be the responsibility of the patient.

D. The Division of Health Administration will be responsible for collecting from third party resources (i.e., Medicare, Medicaid, and private insurance) prior to payment being made by the Vision Assistance Program.

[NCA 98-43, § 106, approved May 27, 1998; Amended by NCA 04-093, § 2, eff. May 27, 2004.]

§ 6-105. Period of ineligibility

Creek citizens will be eligible for the Vision Assistance Program once every two years.

[NCA 98-43, § 106, approved May 27, 1998.]

CHAPTER 7. ENVIRONMENTAL PROTECTION

Subchapter

1. Environmental Policy
2. Department of Environmental Services

SUBCHAPTER 1. ENVIRONMENTAL POLICY

Section

7-101. Policy.

§ 7-101. Policy

The Muscogee (Creek) Nation establishes a policy for the environment of the Muscogee (Creek) Nation as follows:

A. The attainment and maintenance of a high quality environment is a primary goal of the Muscogee (Creek) Nation in furtherance of the goals of the Nation.

B. The quality of the environment is a fundamental and primordial prerequisite to the health and welfare of the members of the Muscogee (Creek) Nation, to the proper use and conservancy of its natural resources and to the attraction of business enterprises and other economic benefits.

C. The Muscogee (Creek) Nation is sovereign and possesses all the attributes necessary to assert regulation and control of activities within its jurisdiction, including those activities resulting from consensual relations with the Nation, and those affecting the economic security or the health and welfare of the Nation or its members.

D. The physical, chemical, and biological properties of the Nation's waters, surface and sub-surface, shall be of good quality and activities must not degrade those waters.

E. The Nation's land is inviolate and too valuable a resource to be indiscriminately or needlessly polluted. Disposal of solid or liquid hazardous waste or any refuse, in or on land shall be prohibited, unless authorized by the Nation and strictly regulated to avoid danger to personal property.

F. Any party responsible for pollution within the Nation's boundaries on Tribal land shall remedy, clean up or otherwise take corrective action to return the land and water to its original natural state.

G. The preservation of the Nation's air, water, and land quality is necessary to protect public health and welfare and such shall be a primary goal of the Nation.

H. The Nation recognizes that it is the primary authority for maintaining a high quality environment within its governmental jurisdiction. It shall be a policy of the Muscogee (Creek) Nation to exercise its authority as a sovereign Nation to further the goals of subsections D through G of this section.

I. The Muscogee (Creek) Nation recognizes that there are federal laws that regulate and control air and water pollution, that control or limit disposal of

wastes in or on the land, and that control storage of materials underground and otherwise protect the environment. It is the policy of the Muscogee (Creek) Nation to insure that those laws are faithfully and fully enforced where applicable.

J. The Muscogee (Creek) Nation recognizes that various provisions of federal law provide for funds and other benefits to the Tribe. The policy of the Nation is to take advantage of those provisions where beneficial to the Tribe, and to enter into cooperative agreements and grants to jointly protect the Nation’s environment. Those benefits may be financial or technical, and where technical, the Muscogee (Creek) Nation intends to seek such technical help.

K. The Muscogee (Creek) Nation may, where administratively, financially or technically desirable or advantageous, voluntarily enter into agreements with the agencies of the State of Oklahoma, to further protect the environment.

L. All contracts and agreements will be implemented in accordance with Article VI, Section 7 of the Muscogee (Creek) Constitution.

M. In its business contracts and other consensual relationships, whether written or oral, the Muscogee (Creek) Nation will examine the nature of the activity and apply any enacted codes or employ consensual conditions to further the goals and aims of this policy.

[NCA 90-70, § 102, approved Aug. 30, 1990.]

Library References

Environmental Law ☞13.	C.J.S. Health and Environment §§ 101, 106,
Indians ☞210.	130 to 132, 173.
Westlaw Topic Nos. 149E, 209.	C.J.S. Indians §§ 57 to 59, 66 to 72.

SUBCHAPTER 2. DEPARTMENT OF ENVIRONMENTAL SERVICES

Section

- 7-201. Establishment of Department.
- 7-202. Responsibilities.
- 7-203. Administrator.

Historical and Statutory Notes

NCA 98-132, §§ 101, 106, provide:
 “Section 101. Findings: The National Council finds that:

“A. The various programs, divisions and agencies of the Nation engage in programs and activities which from time to time require environmental review services.

“B. The Nation has elected to perform certain environmental review functions under the Native American Housing Assistance and Self-Determination Act of 1996 (“NAHASDA”) [24 U.S.C.A. § 4101 et seq.] and has so informed the United States Department of Housing and Urban Development (“HUD”), creating an immediate need for an agency staffed with quali-

fied environmental professionals and supporting personnel capable of performing said functions.

“C. The United States Environmental Protection Agency (“EPA”) conducts programs applicable to Indian tribes and Indian country under the Clean Water Act, Clean Air Act and other federal environmental laws, some of which programs may be delegated to tribes qualified to carry out the delegated functions or activities. However, at present the Nation has no department, office or agency solely responsible for investigating, applying for and/or carrying out such programs.

“D. There is a need to establish a Department of Environmental Services to fulfill the

Nation's environmental review responsibilities under NAHASDA, to protect the environment and the Nation's environmental and natural resources, to serve as a centralized agency providing environmental services to all tribal divisions, programs, and independent agencies, and to seek additional funding from agencies of federal and local governments and private founda-

tions in support of the Nation's environmental programs."

"Section 106. Severability

"In the event any provision of this Act is determined by a court of competent jurisdiction to be invalid, the provision determined to be invalid shall be severable from all other provisions of this Act, and all such other provisions shall remain in full force and effect."

§ 7–201. Establishment of Department

There is hereby established within the Executive Branch, and under the direction of the Principal Chief, the Muscogee Nation Department of Environmental Services, and Title 16, § 1–102 is hereby amended accordingly. The Department of Environmental Services shall provide the environmental services and conduct the environmental activities and programs described in Title 22, § 7–202, and shall be under the direction and control of an Administrator employed pursuant to Title 22, § 7–203.

[NCA 98–132, § 103, approved Dec. 28, 1998.]

Library References

Environmental Law ☞15.

Indians ☞210.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment §§ 105, 109, 130 to 132, 135, 173.

C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 7–202. Responsibilities

The Department of Environmental Services shall provide environmental services to the divisions, offices, programs and independent agencies of the Muscogee (Creek) Nation, including without limitation the Nation's housing program carried out pursuant to, and funded by HUD under the provisions of, NAHASDA,¹ as well as the environmental review activities and functions in support and furtherance of the self-governance programs conducted by the Office of Realty. Subject to the availability of funding, the Department shall also be responsible for administering environmental programs delegated to the Nation by the EPA or any other agency of the federal government; for assuring that the Nation's activities on Tribal and other lands under its jurisdiction are conducted in compliance with applicable Tribal and federal environmental laws; and for assessing the environmental condition of the Nation's lands and natural resources and recommending appropriate action in connection therewith to the Principal Chief and National Council.

[NCA 98–132, § 104, approved Dec. 28, 1998.]

¹ 25 U.S.C.A. § 4101 et seq.

Library References

Environmental Law ☞13.

Indians ☞210, 227.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment §§ 101, 106, 130 to 132, 173.

C.J.S. Indians §§ 57 to 59, 66 to 72, 76.

Code of Federal Regulations

Native American housing assistance, see 24 CFR 1000.1 et seq.

§ 7-203. Administrator

A. Administrator of Department. The Department of Environmental Services shall be under the direction and control of an Administrator, who shall answer directly to the Principal Chief and who shall have the minimum qualifications and duties set forth in subsections B and C of this section.

B. Minimum qualifications. The Administrator of the Department shall have at least a Bachelor's Degree in environmental science, biology, chemistry, or other field of natural science from an accredited four-year college or university and shall have some work experience or training in environmental services or science and in programs dealing with or applying federal environmental laws, including the National Environmental Policy Act of 1969 ("NEPA").¹

C. Duties. The Administrator of the Department shall have the following duties:

1. Perform or cause to be performed all environmental review functions and activities required under NAHASDA,² HUD's NAHASDA implementing regulations, NEPA and HUD's NEPA regulations, laws of the Muscogee (Creek) Nation and the provisions of the Nation's Indian Housing plans;

2. Perform or cause to be performed all environmental review functions, activities and related documentation required in connection with programs conducted by the Office of Realty pursuant to the Nation's Compact of Self-Governance;

3. Perform or cause to be performed all environmental and administrative activities required by the terms of any grant or award by the EPA or other governmental agency to the Muscogee (Creek) Nation;

4. Subject to the availability of funds appropriated by the National Council, perform or cause to perform investigations or assessments of the environmental condition of the Nation's lands and natural resources, and to report and make recommendations to the Principal Chief and National Council as to the appropriate action which should be taken in connection therewith;

5. To the extent feasible and appropriate, coordinate the Department's environmental programs and activities with programs of federal, state and local governments;

6. Search and make application for additional funding for the Department from governmental agencies and/or private foundations;

7. Supervise, oversee and direct the personnel and support staff of the Department in accordance with the Nation's polices and procedures;

8. Develop internal protocols, policies and procedures to be followed by the Department in conducting its authorized activities, provided that such protocols, policies and procedures shall not be inconsistent with the administrative and personnel policies and procedures of the Nation;

9. Report to and advise the Principal Chief and National Council as to all activities of the Department, except for information or materials required to be kept confidential under applicable federal or Tribal laws;

10. Appear before the National Council or any Committee of the National Council, whenever so requested by the Speaker, and at that time report or give information on, and respond to inquiries about, any of the activities of the Department, subject only to applicable federal or Tribal confidentiality laws; and

11. At all times exercise independent judgment and, in the best interest of the Nation's environment and the health of its citizens, administer and manage the activities and expenditures of the Department in accordance with all applicable laws, including the laws and policies of the Muscogee (Creek) Nation.

D. Procedures for selection and hiring of Administrator. The Administrator of the Department shall be selected and hired by the Principal Chief in accordance with the following procedures, which shall be followed in filling the vacancy existing at the time of the adoption of this act and any future vacancies in said position:

1. The Office of Personnel Services shall advertise the position of the Administrator in one or more newspapers of general circulation within the jurisdiction of the Muscogee (Creek) Nation, setting forth a brief description of the duties of the position and a statement of Indian preference, and shall otherwise give notice of the position in accordance with the procedures of said Office. The Office of Personnel Services shall initiate the advertising and the giving of notice in accordance with this paragraph as soon as practicable after any vacancy in said position exists or occurs.

2. The Office of Personnel Services shall screen all applicants in accordance with the Nation's personnel policies and shall identify in writing and recommend to the Principal Chief all candidates for the position of Administrator who meet the minimum qualifications set forth in subsection B of this section. The list of the names of such qualified candidates, their application forms and any evidence of their qualifications shall be furnished to the Principal Chief for his review.

3. The Principal Chief shall select from the list of qualified candidates furnished by the Office of Personnel Services not less than three candidates whom he determines to be the most qualified for the position and shall forward their names and copies of their applications and evidence of qualifications to the Speaker of the National Council, who shall distribute copies of said materials to the Chairperson of the Committee of jurisdiction, who in turn shall place the matter on the agenda of the Committee's next meeting. No candidate shall be referred to the Council or otherwise considered for the position of Administrator unless he or she meets the minimum qualifications set forth in subsection B of this section. If Personnel Services identifies and recommends less than three qualified candidates, then the Principal Chief may forward the list of less than three candidates, applications and qualifications to the Speaker or he may, instead, request the Office of Personnel Services to readvertise the position in accordance with paragraph 1 of this subsection in order to increase the number of qualified candidates.

4. At the next monthly or special meeting of the Committee next following the submittal of qualified candidates and supporting materials, the Committee

of jurisdiction shall review the applications and evidence of qualifications of all candidates forwarded to it. The Committee may request any or all such candidates to appear before it at such meeting and respond to questions in order to verify that all candidates referred to the Committee meet the minimum qualifications set forth in subsection B of this section. The Committee may recommend any one candidate to the Principal Chief for employment but shall not be required to do so.

5. After the Committee of jurisdiction has had an opportunity to review the qualifications of submitted candidates in accordance with the foregoing paragraphs, the Principal Chief shall select from the names submitted to the Committee the candidate who, in the Principal Chief's judgment, is the most qualified for the position, giving due regard and weight to the Committee's recommendation, if any; provided, however, that Indian preference shall be given and provided further that if any two or more of the most qualified candidates are Indian and are equally qualified, and one is a citizen, then preference in hiring shall be given to the citizen.

[NCA 98-132, § 105, approved Dec. 28, 1998.]

¹ 42 U.S.C.A. § 4321 et seq.

² 25 U.S.C.A. § 4101 et seq.

Code of Federal Regulations

National environmental policy, housing and urban development, see 24 CFR 50.1 et seq.
Native American housing assistance, see 24 CFR 1000.1 et seq.

**CHAPTER 8. REINTEGRATION
CODE [RENUMBERED]**

**§§ 8-101 to 8-110. Renumbered as Title 16, §§ 7-101, 7-102, 7-103,
7-104, 7-105, 7-106, 8-107, 8-108, 8-109, 8-110**

CHAPTER 9. EMERGENCY MANAGEMENT AUTHORITY

Section

- 9-101. Findings.
- 9-102. Purpose.
- 9-103. Creation.
- 9-104. Criteria.
- 9-105. Appropriation.
- 9-106. Budget modification.
- 9-107. Authorization.
- 9-108. Accountability.

§ 9-101. Findings

The National Council finds that:

A. At various times throughout history, the Muscogee People have endured every natural disaster known to mankind.

B. Low economy has placed financial hardships on many of our citizens, leaving many of our citizens unable to recover from the compounded hardships that have been created by the recent ice storm.

C. Most citizens who reside in the eastern and southeastern areas within the Muscogee (Creek) Nation boundaries have been affected severely; the ice storm has resulted in the total loss of food, generally stored in refrigerators or deep freezers; loss of electricity, heat and water; all of these items are considered necessities of modern living. The most severely affected areas are Hanna, Dustin, Ryal, Hichita, Checotah, Muscogee, Eufaula, Dewar, and Wilson.

D. Currently there is no program or authority in place to adequately aid the citizens in the event of natural disasters; the Constitution of this Nation mandates the National Council under Article VI, Section 7(a) to promote the public health and safety, education and welfare that may contribute to the social, physical well-being and economic advancement of citizens of the Muscogee (Creek) Nation; and to create authorities with attendant powers to achieve objectives within the scope of this Constitution.

E. There is a need to create an emergency preparedness and response authority to ensure that this Nation is prepared to aid its citizens in the event of natural disasters.

[Added by NCA 07-031, § 1, eff. Jan. 22, 2007.]

§ 9-102. Purpose

The purpose of this Act is to create the Muscogee (Creek) Nation Emergency Management Authority that will be responsible for evaluating, coordinating and administering emergency relief assistance during declared states of emergency and appropriating funds for said purpose.

[Added by NCA 07-031, § 2, eff. Jan. 22, 2007.]

Library References

Indians ↻210.
Westlaw Topic No. 209.
C.J.S. Indians §§ 57 to 59, 66 to 72.

§ 9–103. Creation

The Muscogee (Creek) Nation Emergency Management Authority shall at this time, for purposes of executing urgent emergency assistance, consist of the Director of Risk Management; Director of Housing; Director of Transportation; Construction Services Manager of Housing Division; Tribal Driveways Manager; Community Research and Development Manager; Social Services Manager; Manager of GSA; CEO of Health Systems; Lighthorse Police Chief; Finance (Budgets and Contracts); Office of the Attorney General; Bureau of Indian Affairs (BIA) Creek Firefighters.

Director of Risk Management shall serve as Coordinator of the Muscogee (Creek) Nation Emergency Management Authority and develop operating policies and procedures to control the efficiency of this Authority. The Coordinator shall have discretionary authority to authorize purchases requested by communities based on evaluations by the Muscogee (Creek) Nation Emergency Management Authority. The Coordinator may delineate certain authorities to any of the service program members who compose the Muscogee (Creek) Nation Emergency Management Authority; i.e., the temporary employment for clean up purposes may conducted by the Construction Services Department of the Housing Division, however all temporary employment requests shall be coordinated with the Office of Risk Management.

[Added by NCA 07–031, § 3, eff. Jan. 22, 2007; amended by NCA 07–039, § 1, eff. Jan. 26, 2007.]

§ 9–104. Criteria

1. Items that may be purchased include, but are not limited to based upon the overall evaluation by the Emergency Management Authority Coordinator; groceries, water, blankets, lanterns, lamps, lamp oils, kerosene, lantern fuel sources and batteries.

2. Community Centers who have purchased and provided items of necessity to Creek citizens in its community shall be reimbursed from funds appropriated by this act, provided that purchases were directed and authorized by the Office of Risk Management;

A. Funds for items and articles purchased by Community Centers may be reimbursed provided that receipts are submitted to the Office of Risk Management for determination of whether purchases are related to a declared State of National Emergency within the Muscogee (Creek) Nation.

3. Employ local Creek citizens in the affected area for purposes of temporary employment and assist in the clean up of disaster areas. Employees shall be at a rate equivalent to rates charged for the same duties performed for the general public. Temporary employment shall be coordinated through the Office of Risk Management, for record keeping purposes; i.e., employee identification, time keeping and other general information.

4. Equipment purchases for the purpose of cleanup; all equipment purchases shall be authorized and coordinated through the Emergency Management Authority.

5. Citizens who are not in the Housing Division service system and have no homeowner insurance will be assisted from this appropriation with electrical and water connections, from the utility pole or water meter to the house and debris removal will be provided.

6. The Controller is hereby authorized to transfer, distribute, allocate, or otherwise make available funds appropriated under this act, upon receipt of request from a Division Director for the reimbursement of documented costs and expenditures, identified and enumerated herein as allowable, which have been incurred as a result of executing any program, function, activity or services consistent with the intent and purpose specified in this act.

[Added by NCA 07–031, § 4, eff. Jan. 22, 2007; amended by NCA 07–039, § 2, eff. Jan. 26, 2007; NCA 07–057, § 2, eff. March 2, 2007.]

§ 9–105. Appropriation

The amount of four hundred thousand and no/100 dollars (\$400,000.00) is hereby appropriated from the General Tax License Fund Account for the implementation of this act. All unexpended funds appropriated by implementation of this act shall be returned to the Tribal Treasury and shall be available for future appropriation by the National Council.

[Added by NCA 07–031, § 5, eff. Jan. 22, 2007.]

§ 9–106. Budget modification

The National Council hereby authorizes the Muscogee (Creek) Nation Emergency Management Authority Coordinator to modify the budget as deemed necessary and to submit through the Emergency Management Authority for approval. The Muscogee (Creek) Nation Emergency Management Authority Coordinator shall provide a written summary report to the Business and Governmental Committee justifying the budget modifications.

[Added by NCA 07–039, § 3, eff. Jan. 26, 2007.]

§ 9–107. Authorization

The National Council hereby authorizes the Principal Chief or his designee to expend the sum of four hundred thousand and No/100 dollars (\$400,000.00) from the General Tax and License Fund Account. This appropriation shall be included in the Fiscal Year 2008 Comprehensive Annual Budget and annually thereafter.

[Added by NCA 07–031, § 6, eff. Jan. 22, 2007; amended by NCA 07–039, § 4, eff. Jan. 26, 2007.]

§ 9–108. Accountability

The Muscogee (Creek) Nation Procurement Policies and Procedures shall be waived for all entities and agencies during the declared National State of Emergency. Upon completion of the disaster clean-up activities the collected

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woods of the affected areas shall be stored and later distributed to ceremonial grounds, traditional churches and citizens. The equipment and unused supplies will be returned to the Muscogee (Creek) Nation for inventory and oversight by the Muscogee (Creek) Nation Emergency Management Authority. The Coordinator will develop and implement policies and procedures whereby equipment inventory may be utilized by ceremonial ground, churches and citizens within the boundaries of the Muscogee (Creek) Nation. Any person who shall misuse or apply any portion of this legislation for personal gain, or otherwise take advantage of this act and its intentions without cause shall be punished in accordance with the Title 14, Chapter 2, Subchapter 5, Criminal Code of the Muscogee (Creek) Nation.

[Added by NCA 07–031, § 7, eff. Jan. 22, 2007; amended by NCA 07–039, § 5, eff. Jan. 26, 2007.]