

TITLE 23. HUNTING AND FISHING

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United States Code Annotated

Hunting, trapping, or fishing on Indian lands, see 18 U.S.C.A. § 1165.

CHAPTER 1. REGULATION OF HUNTING, FISHING, TRAPPING AND GATHERING

Section

1-101. Promulgation of rules and regulations.

Historical and Statutory Notes

NCA 99-192, § 101, provides:

“A. The Muscogee (Creek) Nation enjoys hunting rights guaranteed by the treaties between the Nation and the United States that have not been abrogated.

“B. It is necessary for the good of the Nation that wildlife not be depleted or taken without the oversight and regulation of the Muscogee (Creek) Nation.

“C. Careful study needs to be conducted in order to determine what type of wildlife existing on the lands of the Nation; what method(s) of regulation shall be employed to regulate the

conservation and use of the Nation’s plant and animal population including a licensing procedure if it is determined that licensing is desirable after careful consideration of same. Recommendations regarding the findings shall be made to the National Council.

“D. Rules and regulations shall be promulgated after research is conducted governing the use and taking of the Nation’s plants and animals including the enforcement of same; licensing, tagging and/or permitting if feasible; fee amounts; and safety precautions.”

§ 1-101. Promulgation of rules and regulations

The Nation’s Natural Resources Manager together with the Nation’s Tax Commissioner and any other interested persons or entities are hereby authorized to conduct a study regarding the plant and animal populations of the Nation and to promulgate rules and regulations regarding the conservation of the Nation’s natural resources to be presented to the National Council and approved by law. Said rules and regulations shall contain provisions for hunting, fishing and gathering on Tribal lands and shall recommend a procedure to be employed in order to preserve the Nation’s plants and animals and regulate the taking of same. Consideration shall be given to who may hunt, fish and gather; how the Natural Resources Department proposes to govern said hunting, fishing and gathering of plants; a licensing, permitting and/or tagging procedure, if desirable; registration requirements, if any; the number of licenses, permits and/or tags to be let for each season and/or game if it is determined that such is desirable; the amount of the fee, if any; enforcement provisions; and any other appropriate matter. The Manager of the Natural Resources

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Department shall work with the Attorney General to determine what, if any, wildlife conservation laws are implicated.

[NCA 99-192, §§ 103, 104 approved Dec. 29, 1999.]

Library References

Indians ↻350.

Westlaw Topic No. 209.

C.J.S. Indians §§ 133 to 137.

CHAPTER 2. CONSERVATION CODE

Subchapter

1. General Provisions
2. Administration
3. General Rules
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SUBCHAPTER 1. GENERAL PROVISIONS

Section

- 2-101. Title.
2-102. Findings.
2-103. Purpose.
2-104. Jurisdiction, preemption and retention of rights.
2-105. Definitions.

§ 2-101. Title

This law shall be cited as the Muscogee (Creek) Nation Conservation Code.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ⇌350.
Westlaw Topic No. 209.
C.J.S. Indians §§ 133 to 137.

§ 2-102. Findings

A. The Muscogee (Creek) Nation enjoys hunting, fishing, trapping and gathering rights guaranteed by treaties between the Nation and the United States of America, which have not been abrogated.

B. It is necessary for the good of the Nation that fish, wildlife, plants and other natural resources not be taken or depleted without the oversight and regulation of the Muscogee (Creek) Nation.

C. There is a need to adopt a Conservation Code to protect and manage the fish, wildlife, plants and other natural resources of the Muscogee (Creek) Nation.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ⇌350.
Westlaw Topic No. 209.
C.J.S. Indians §§ 133 to 137.

§ 2-103. Purpose

The purpose of this Code is to:

A. Provide for the creation of an orderly system for Tribal control and regulation of hunting, fishing, trapping, gathering and outdoor recreation on certain lands within the Muscogee (Creek) Nation;

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B. Provide a means of conservation, enhancement, protection and management of the Nation’s fish, wildlife, and plant populations through the regulation of fishing, hunting and harvesting; and,

C. Provide a means of enforcing rules and regulations promulgated under this Code.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ⇄350.
Westlaw Topic No. 209.
C.J.S. Indians §§ 133 to 137.

§ 2–104. Jurisdiction, preemption and retention of rights

A. This Code shall govern hunting, fishing, trapping, gathering and outdoor recreation activities on lands of the Muscogee (Creek) Nation, whether held in fee simple title or in trust, and on lands, the alienation of which is restricted by Tribal or federal law, of citizens of the Muscogee (Creek) Nation.

B. It shall not be a defense to any infraction under this Code that the alleged activity may be lawful under state law.

C. Nothing in this Code shall be construed to limit or waive any aspect of the Muscogee (Creek) Nation’s sovereign authority to regulate activities conducted in whole or in part within the exterior boundaries of the Muscogee (Creek) Nation.

D. Nothing in this Code shall be construed to waive or limit any usufructuary rights or attendant regulatory authority heretofore vested in the Muscogee (Creek) Nation and its citizens.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ⇄5. C.J.S. Fish §§ 4 to 5, 9, 18 to 23.
Game ⇄3. C.J.S. Game; Conservation and Preservation
Indians ⇄350, 352, 353. of Wildlife §§ 3 to 4.
Westlaw Topic Nos. 176, 187, 209. C.J.S. Indians §§ 133 to 139.

§ 2–105. Definitions

For the purposes of this Code, the following definitions shall apply:

A. Bag limit—the maximum number of a particular species of fish or wildlife that may be lawfully taken in one day or one open season.

B. Bait—any substance that is placed by any person and which may serve as an attraction to any wildlife, and may include but is not limited to fruits, vegetables, grains, or animal remains; however, artificial decoys used to hunt migratory birds or turkeys shall not be deemed bait.

C. Baited area—any area where any bait whatsoever capable of luring, attracting, or enticing wildlife is directly or indirectly placed, exposed or distributed.

D. Baiting—the placing, exposing, or distributing of bait so as to constitute a lure, attraction, or enticement to, on, or over any areas where hunters are attempting to take wildlife.

E. Bow—any hunting instrument, including a crossbow, designed for the purpose of propelling arrows.

F. Carcass—the dead body of fish or wildlife or parts thereof.

G. Crossbow—any bow which, once drawn, is held by means other than the effort of the person firing it.

H. Endangered or threatened species—any species of fish, wildlife, or wild plant listed under the authorities of 50 CFR Sections 17.11 and 17.12 or species classified pursuant to the Endangered Species Act of 1973¹, as may be amended from time to time, or which the Muscogee (Creek) Nation, by law, may declare as endangered or threatened.

I. Firearm—a rifle, shotgun, BB gun, handgun or other type of gun.

J. Fish—for purposes of this Code, an aquatic animal normally sought after by sportsmen and women, including but not limited to, largemouth bass, smallmouth bass, white bass, spotted bass, black crappie, white crappie, northern pike, trout, striped bass, walleye, blue catfish and channel catfish.

K. Fishing—taking of fish of any variety by hook and line, net, seine, bow and arrow, spear or by hand.

L. Furbearers—shall include but are not limited to mink, muskrat, beaver, otter, weasel, marten, fisher, fox, coyote, bobcat, badger and raccoon.

M. Gathering—to take or acquire, or attempt to take or acquire, possession of any wild plants or parts thereof, including live or downed timber.

N. Hunt or hunting—includes shooting, shooting at, pursuing, taking, catching, or killing any wildlife, except that “hunt” or “hunting” does not include the recovery of any wild animal which has already been lawfully reduced to possession.

O. Law enforcement officer—includes the Game Ranger, any Lighthorse Police officer, the Criminal Investigator of the Attorney General’s Office and any cross-commissioned Police officer.

P. License—a written document granting Tribal authority to engage in activities covered in this Code.

Q. Migratory birds—shall include but are not limited to all species of ducks, geese, and swans; all shorebirds and wading birds; and the mourning dove.

R. Nation, National, Tribe or Tribal—the, or relating to the, Muscogee (Creek) Nation.

S. Outdoor recreation—shall include but not be limited to picnicking, camping, hiking, swimming, bird watching, nature photography and other related activities.

T. Permit—a written document granting Tribal authority to enter a specific area, harvest a specific resource, or engage in specific conduct.

U. Plant—any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem.

V. Possession—having killed, harvested, taken, or otherwise obtained or acquired any fish, wildlife or plant subject to the provisions of this Code.

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W. Possession limit—the amount of fish and/or wildlife that may be legally possessed at any one time.

X. Size limit—the specific size of a species of fish and/or wildlife that may be possessed legally.

Y. Tag—any identification device issued for the purpose of attaching to the carcass of any fish or wildlife.

Z. Take or taking—pursuing, shooting, shooting at, hunting, fishing, netting, capturing, killing, snaring or trapping, or harvesting any fish, wildlife or plant, or attempting any of the foregoing.

AA. Timber—any woody vegetation that is 10 feet or greater in height and which has 6 inches of diameter or greater.

BB. Trapping—taking, or attempting to take, fish or wildlife by means of setting or operating any device that is designed or made to close upon, hold fast, or otherwise capture fish or wildlife.

CC. Usufructuary Rights—legal rights to use others' property, for example, to hunt, fish, trap, or gather, including but not limited to rights acknowledged by the Treaties of 1835² and 1837³ with the United States and other Indian Nations, which treaties guarantee to the Muscogee (Creek) Nation “free permission to hunt and trap in the Great Prairie west of the Cross Timber to the western limits of the United States.”

DD. Waterfowl—shall include but not be limited to all varieties of geese, brant, swans, ducks, rails, coots and Wilson snipe.

EE. Wildlife—wild birds, mammals, reptiles, amphibians, aquatic animals other than fish and all other animals which normally can be found in a wild state, regardless of classification, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall include any and every part of any individual species of wildlife, whether or not bred, hatched or born in captivity, and including any part, product, egg or offspring thereof.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

¹ 16 U.S.C.A. § 1531, et seq.

² Treaty with the Comanche, etc., 1835.

³ Treaty with the Kiowa, etc., 1837.

SUBCHAPTER 2. ADMINISTRATION

Section

- 2-201. Powers and duties of Game Ranger.
- 2-202. Conservation regulations.
- 2-203. Collection of permit fees, forfeitures and fines.
- 2-204. Expenditure of funds.
- 2-205. Cooperative agreements.
- 2-206. Annual report.

§ 2-201. Powers and duties of Game Ranger

The Game Ranger is authorized and directed to:

- A. Implement and enforce the provisions of this Code;

- B. Establish, implement and enforce conservation regulations approved pursuant to § 2–202 of this Code;
- C. Design and implement a plan for the issuance of licenses, permits and tags, and for the collection of fees;
- D. Establish applications for special permits for the taking of fish, wildlife and plants for subsistence and ceremonial purposes, on the basis of need, and in accordance with federal law;
- E. Establish applications for special permits for the taking of fish, wildlife and plants by persons with disabilities, on the basis of need, and in accordance with federal law, providing for reasonable accommodations in access and methods of harvest;
- F. Maintain records of all licenses, permits and tags issued for the purpose of hunting, fishing, trapping, gathering and outdoor recreation;
- G. Order closure of any hunting, fishing, gathering or outdoor recreational area or season whenever, in his/her professional judgment, activity is likely to result in a harvest exceeding harvest goals and quotas or present a danger to the public;
- H. Establish checking stations to gather biological data and inspect licenses, permits, tags, equipment and vehicles for compliance with this Code and conservation regulations;
- I. Cooperate with and assist the National Council; the Principal Chief and executive officers; the Lighthouse Administration; the Attorney General's Office; federal, state, county and local agencies; non-profit organizations; and individuals; and,
- J. Delegate authority as needed.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ☞11.
Westlaw Topic No. 176.
C.J.S. Fish § 29.

§ 2–202. Conservation regulations

- A. Within six (6) months of the effective date of this Code, the Game Ranger shall draft Conservation regulations. The Conservation regulations shall include specific provisions relating to:
 - 1. The issuance and monitoring of licenses, permits and tags;
 - 2. The establishment of a schedule of fees;
 - 3. The setting of annual seasons for various species of fish, wildlife and plants;
 - 4. Bag and size limits for various species of fish, wildlife and plants;
 - 5. Approved and prohibited methods of harvesting various species of fish, wildlife and plants, and for the utilization of outdoor recreational resources;
 - 6. Approved and prohibited methods of accessing and using Tribal property or specific areas of Tribal property;

7. Approved and prohibited vehicles such as automobiles, motorcycles, bicycles, all-terrain vehicles, boats, trailers and personal water craft on Tribal property or within specific areas of Tribal property; and,

8. Approved and prohibited methods of transporting different species of fish, wildlife and plants onto and off of lands subject to this Code.

B. The Conservation regulations shall not conflict with, or be held to limit or waive, any aspect of this Code.

C. The Game Ranger shall present the conservation regulations to the Principal Chief who shall then submit said regulations to the National Council for approval by Tribal Resolution.

D. Once approved, the conservation regulations shall have the full force of the law.

E. At the time of application, this Code and the Conservation regulations shall be provided to all applicants for Tribal licenses, permits or tags. However, it is the duty of all licensees to keep abreast of any amendments to this Code and/or the Conservation regulations.

F. Revisions to the Conservation regulations maybe made on an annual basis, in accordance with § 2–206(E) of this Code, and shall be approved by the National Council by Tribal Resolution.

G. A copy of this Code and the Conservation regulations, along with any amendments and revisions shall be kept in the Muscogee (Creek) Nation District Court library and shall be made available to the public.

H. The National Council hereby authorizes the Lighthorse Chief or his designee to grant permission to Tribal citizens to hunt, fish, and gather plants and other natural resources on Tribal government lands until such time as the Lighthorse Police Department hires a Game Ranger who shall implement rules and regulations for hunting, fishing and gathering on Tribal government lands as required under this section.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005; amended by NCA 06–247, § 3, approved Nov. 26, 2007.]

Library References

Fish ☞12.	C.J.S. Fish §§ 30 to 39, 41.
Game ☞3.5.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 5 to 6, 9 to 24, 27 to 37, 39 to 40, 44 to 49, 51, 54, 58.
Indians ☞350, 365.	C.J.S. Indians §§ 133 to 139.
Westlaw Topic Nos. 176, 187, 209.	

§ 2–203. Collection of permit fees, forfeitures and fines

The Muscogee (Creek) Nation shall establish the Conservation Fund, a fund account in which to deposit monies collected from the sale of licenses, permits and tags, and from fees, forfeitures and fines assessed pursuant to the provisions of this Code or Conservation regulations.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞350.	Westlaw Topic No. 209.
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C.J.S. Indians §§ 133 to 137.

§ 2–204. Expenditure of funds

The Game Ranger shall have the authority to expend appropriated funds and monies deposited in the Conservation Fund for:

- A. Enforcement of provisions of this Code or the Conservation regulations adopted pursuant to this Code;
- B. Conservation, protection and enhancement of the Muscogee (Creek) Nation’s fish, wildlife, plant and outdoor recreation resources;
- C. Acquisition of land, or interests in land, for conservation and/or outdoor recreation, subject to approval by the National Council by Tribal Resolution; and,
- D. Information, outreach and cultural education programs.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻11.	C.J.S. Fish § 29.
Game ↻6.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 7, 23 to 24, 27, 29, 31, 46, 50.
Indians ↻350.	C.J.S. Indians §§ 133 to 137.
Westlaw Topic Nos. 176, 187, 209.	

§ 2–205. Cooperative agreements

The Principal Chief, on behalf of the Game Ranger Division within the Lighthouse Administration, is authorized to enter into cooperative agreements with any federal, state, county, local or Tribal government agency or non-profit organization, for the purpose of promoting and implementing fish, wildlife, plant and outdoor recreation management plans and programs, provided all such agreements are reviewed by the Attorney General to ensure that there are no attempted waivers of sovereign immunity and that agreements comply with Tribal and federal law. The Game Ranger shall seek to maintain a cooperative agreement with the Oklahoma Department of Wildlife Conservation, by which the State of Oklahoma will recognize Tribal licenses, permits and tags for the transportation of fish, wildlife and plants taken lawfully pursuant to this Code, provided that such agreement is reviewed by the Attorney General to ensure that there is no attempted waiver of sovereign immunity and that the agreement complies with Tribal and federal law.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻8.	C.J.S. Fish §§ 24 to 26.
Game ↻3.5.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 5 to 6, 9 to 24, 27 to 37, 39 to 40, 44 to 49, 51, 54, 58.
Indians ↻350, 367.	C.J.S. Indians §§ 133 to 137.
Westlaw Topic Nos. 176, 187, 209.	

§ 2–206. Annual report

On or before November 30th of each fiscal year, the Game Ranger shall present a written report to the National Council, which shall include:

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- A. A summary of licenses, permits, tags, assessments, enforcement activities, enhancement activities and expenditures;
- B. A summary of community outreach and education programs;
- C. A summary of the status of cooperative agreements with federal, state, county, local or Tribal government agencies or non-profit organizations;
- D. Fish and wildlife counts, lists of endangered and threatened species, endangered and threatened habitats, species historically native to Tribal areas but now rare or absent, and programs to establish priorities and action plans for the enhancement of each; and,
- E. Proposed revisions, if any, to the conservation regulations, and a request for National Council approval of said revisions by Tribal Resolution.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

SUBCHAPTER 3. GENERAL RULES

Section

- 2-301. Requirement of Tribal license, permit, and/or tag.
- 2-302. Landowner exemption.
- 2-303. Trespass.
- 2-304. Issuance of license.
- 2-305. Termination of license.
- 2-306. Presentation of license.
- 2-307. Seasons.
- 2-308. Bag, possession, and size limits.
- 2-309. Sharing of licenses, permits, and tags.
- 2-310. Harvesting with another's license, permit, or tag.
- 2-311. Age restrictions.
- 2-312. Orange clothing required.
- 2-313. Restricted areas and activities.
- 2-314. Safe transportation of firearms and crossbows.
- 2-315. Safe use of firearms and bows.
- 2-316. Hunting hours.
- 2-317. Introduction of fish, wildlife, and plants.
- 2-318. Spotlighting.
- 2-319. Baiting.
- 2-320. Waste.
- 2-321. Commerce.

§ 2-301. Requirement of Tribal license, permit, and/or tag

Except as provided for in § 2-302 of this Code, no person shall engage in the activity of hunting, fishing, trapping or gathering, including cutting or harvesting live or downed timber which requires approval from the United States government, or any other activity regulated by this Code or conservation regulations, without acquiring or having in his/her possession a valid Tribal license, permit and/or tag as this Code or conservation regulations may require, validated for the particular season and activity in which that person is engaged.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻10.	C.J.S. Fish § 28.
Game ↻5.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 4 to 5, 49, 52 to 53.
Indians ↻195, 350, 359.	C.J.S. Indians §§ 45, 122 to 125, 133 to 139, 177 to 188, 191 to 194.
Westlaw Topic Nos. 176, 187, 209.	

§ 2-302. Landowner exemption

A landowner shall not be required to obtain a license or permit, or pay a fee, for the right to hunt, fish, trap or gather exclusively on his/her own land. This exemption shall extend to the landowner's immediate family members, owners of undivided partial interests in the land, and owners of divided interests in the land to the extent of such divided interest. A landowner may further grant permission to another to hunt, fish, trap or gather on said landowner's property without a Tribal license or permit and without paying a fee to the Muscogee (Creek) Nation. Nothing in this section shall exempt any person from obtaining a Tribal tag for the transportation of fish, wildlife or plants off of the land subject to the landowner exemption or from any other provision of this Code or approved conservation regulations, including but not limited to bag and size limits, seasons, and safety regulations.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻10.
Westlaw Topic No. 176.
C.J.S. Fish § 28.

§ 2-303. Trespass

Nothing in this Code or conservation regulations shall be construed to limit or repeal any Tribal law regarding trespass, including but not limited to MCNCA Title 14, § 2-909, and any amendments thereto. Nor shall any provision of this Code or conservation regulations be construed to permit otherwise unlawful entry onto private or Tribal land, or to limit or waive the Muscogee (Creek) Nation's right to eject any person from Tribal property.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ↻199, 223.	C.J.S. Indians §§ 32 to 35, 59, 62, 67, 73 to 75, 93, 161 to 162, 180.
Westlaw Topic No. 209.	

§ 2-304. Issuance of license

The form of licenses, permits and tags issued pursuant to this Code shall be left to the discretion of the Game Ranger, provided such form shall list the license number and shall describe the licensee, including the licensee's weight, height, color of eyes, color of hair, address, phone number, date of birth and social security number. The form of license shall also contain the date of issuance, date of expiration, type of license, and the words "non-transferable."

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻10.
 Westlaw Topic No. 176.
 C.J.S. Fish § 28.

§ 2–305. Termination of license

All licenses shall terminate on December 31st of the year issued. Any person convicted of violating any of the provisions of this Code may have any or all licenses held by that person or the privilege of applying for, obtaining or exercising the benefits conferred by the licenses revoked by the Game Ranger for a period of not less than one year. For purposes of this paragraph, a court conviction, a plea of guilty, a plea of nolo contendere or the imposition of a deferred or suspended sentence shall be deemed a conviction.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻10.	C.J.S. Fish § 28.
Game ↻5.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 4 to 5, 49, 52 to 53.
Indians ↻226, 350, 359.	C.J.S. Indians §§ 45, 133 to 149, 177 to 188, 191 to 194.
Westlaw Topic Nos. 176, 187, 209.	

§ 2–306. Presentation of license

No person may engage in any hunting, fishing, trapping or gathering activity without carrying a license on their person and producing said license for inspection upon the demand of any authorized law enforcement officer. Any person required to produce a license must also identify himself/herself as the person to whom such license was issued, and failure or refusal to produce adequate identification and a proper license shall be deemed prima facie evidence of a violation of this section.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻10.	C.J.S. Fish § 28.
Game ↻5.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 4 to 5, 49, 52 to 53.
Indians ↻226, 350, 359.	C.J.S. Indians §§ 45, 133 to 149, 177 to 188, 191 to 194.
Westlaw Topic Nos. 176, 187, 209.	

§ 2–307. Seasons

No person shall engage in the privileges regulated by or pursuant to this Code except during the respective seasons established by the Game Ranger pursuant to this Code.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ↻195, 350, 359.	C.J.S. Indians §§ 45, 122 to 125, 133 to 139, 177 to 188, 191 to 194.
Westlaw Topic No. 209.	

§ 2–308. Bag, possession, and size limits

No person shall have in his/her possession or under his/her control any fish, wildlife or plant in excess of the bag or possession limits, or above or below the size limits for such fish, wildlife or plants, as established by the Game Ranger pursuant to this Code.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞350, 365, 366.
Westlaw Topic No. 209.
C.J.S. Indians §§ 133 to 139.

§ 2–309. Sharing of licenses, permits, and tags

No person shall lend, share, give, transfer, sell, barter or trade to any person any license, permit or tag issued by the Game Ranger pursuant to this Code.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞226, 350, 359. C.J.S. Indians §§ 45, 133 to 149, 177 to 188,
Westlaw Topic No. 209. 191 to 194.

§ 2–310. Harvesting with another’s license, permit, or tag

No person shall hunt, fish, trap or gather while in possession of any license, permit or tag issued to another.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞226, 350, 359. C.J.S. Indians §§ 45, 133 to 149, 177 to 188,
Westlaw Topic No. 209. 191 to 194.

§ 2–311. Age restrictions

No person under the age of sixteen (16) years may hunt while possessing a firearm or bow and arrow unless he or she is accompanied by a licensed or permitted parent, guardian or other adult designated by a parent or guardian. There are no age restrictions with regard to fishing. However, a person under the age of twelve (12) years must be accompanied by a parent, guardian or other adult designated by a parent or guardian.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞350, 359. C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
Westlaw Topic No. 209. 191 to 194.

§ 2–312. Orange clothing required

No person shall hunt any wildlife except waterfowl unless four hundred (400) square inches of the person’s clothing above the waist is of a highly visible color referred to as Hunter Orange, Blaze Orange, Fluorescent Orange or Flame Orange.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ⇨350.
 Westlaw Topic No. 209.
 C.J.S. Indians §§ 133 to 137.

§ 2–313. Restricted areas and activities

A. No person shall hunt within seventeen hundred (1700) feet of any hospital and/or grounds, school and/or grounds or any public establishment and/or grounds.

B. No person shall discharge a firearm within five hundred (500) feet of any occupied building without the express permission of the owner or occupant thereof.

C. No person shall hunt or pursue any wildlife, enter for the purpose of hunting or pursuing any wildlife, or trap or pursue furbearers, on any legally posted lands, without the express permission of the owner or occupant.

D. No person shall leave any gate, bars or other devices used to enclose land or livestock open upon entering or exiting the premises for the purposes of hunting or pursuing wildlife.

E. No person shall drive off any established roadway while hunting, fishing, trapping, gathering or recreating.

F. No person shall in any manner deface, destroy or remove any signs posted in a legal manner.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Game ⇨2.5 to 3.5. C.J.S. Indians §§ 133 to 137.
 Indians ⇨350.
 Westlaw Topic Nos. 187, 209.
 C.J.S. Game; Conservation and Preservation
 of Wildlife §§ 3 to 7, 9 to 24, 27 to 37, 39 to
 40, 44 to 49, 51, 54, 58.

§ 2–314. Safe transportation of firearms and crossbows

A. No person shall at any time transport a firearm with a round in the chamber, or revolvers with cartridges in the cylinder, or a shotgun with more than two (2) shells in the magazine.

B. If a special cross bow permit is allowed by conservation regulations, no person shall transport a crossbow unless in possession of such permit and unless the crossbow is encased or unstrung.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Game ⇨2.5 to 3.5. C.J.S. Indians §§ 133 to 137.
 Indians ⇨350.
 Westlaw Topic Nos. 187, 209.
 C.J.S. Game; Conservation and Preservation
 of Wildlife §§ 3 to 7, 9 to 24, 27 to 37, 39 to
 40, 44 to 49, 51, 54, 58.

§ 2-315. Safe use of firearms and bows

A. No person shall hunt while possessing a loaded firearm or strung bow of any type within fifty (50) feet of the center of a maintained roadway.

B. No person shall load or discharge a firearm or bow of any type across a maintained roadway.

C. No person shall load or discharge a firearm or bow of any type in or from a motor vehicle.

D. No person shall lean or place any loaded firearm against any vehicle.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Game ⇌2.5 to 3.5.

C.J.S. Indians §§ 133 to 137.

Indians ⇌350.

Westlaw Topic Nos. 187, 209.

C.J.S. Game; Conservation and Preservation
of Wildlife §§ 3 to 7, 9 to 24, 27 to 37, 39 to
40, 44 to 49, 51, 54, 58.

§ 2-316. Hunting hours

No person shall pursue, shoot, kill or attempt to take any wildlife, except waterfowl and migratory birds, between one half (1/2) hour after sunset of one (1) day and one half (1/2) hour before sunrise of the next day. No person shall pursue, shoot, kill or attempt to take any waterfowl or migratory birds between sunset of one (1) day and sunrise of the next day.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Game ⇌2.5 to 3.5.

C.J.S. Indians §§ 133 to 137.

Indians ⇌350.

Westlaw Topic Nos. 187, 209.

C.J.S. Game; Conservation and Preservation
of Wildlife §§ 3 to 7, 9 to 24, 27 to 37, 39 to
40, 44 to 49, 51, 54, 58.

§ 2-317. Introduction of fish, wildlife, and plants

No person shall transplant onto any lands of the Muscogee (Creek) Nation any fish or eggs into any body of water, or any wildlife, animal or plant species without the express written authorization of the Game Ranger.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ⇌350, 359.

C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
191 to 194.

Westlaw Topic No. 209.

§ 2-318. Spotlighting

No person shall cast the rays of an artificial light on any road, forest, field, lake, creek or stream for the purpose of locating, taking, attempting to take, driving or harassing any fish or wildlife.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Title 23, § 2–318

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Library References

Indians ↻350, 359.
Westlaw Topic No. 209.

C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
191 to 194.

§ 2–319. Baiting

No person shall harvest any wildlife by the aid of baiting or on or over any baited area.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ↻350, 359.
Westlaw Topic No. 209.

C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
191 to 194.

§ 2–320. Waste

No person shall needlessly permit any fish, wildlife, or plant to go to waste after capturing, killing, wounding or gathering the same.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ↻350, 359.
Westlaw Topic No. 209.

C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
191 to 194.

§ 2–321. Commerce

No person shall buy or sell fish, wildlife or plants taken pursuant to this Code.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ↻350, 359.
Westlaw Topic No. 209.

C.J.S. Indians §§ 45, 133 to 139, 177 to 188,
191 to 194.

SUBCHAPTER 4. ENFORCEMENT

Section

- 2–401. Enforcement by law enforcement officers.
- 2–402. Coordination with federal authorities.
- 2–403. Search and seizure, when authorized.
- 2–404. Investigations and citations.
- 2–405. Arrests.
- 2–406. License, permit, and tag information.
- 2–407. Penalties and sanctions.
- 2–408. Parties to a violation.
- 2–409. Harvesting after revocation or suspension.

§ 2–401. Enforcement by law enforcement officers

Any authorized law enforcement officer may enforce any provision of this Code. The Game Ranger shall establish procedures and communications for such enforcement.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻11.	C.J.S. Fish § 29.
Game ↻6.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 7, 23 to 24, 27, 29, 31, 46, 50.
Westlaw Topic Nos. 176, 187.	

§ 2-402. Coordination with federal authorities

Any law enforcement officer authorized to enforce the provisions of this Code and Conservation Regulations shall provide notice of alleged violations to the Attorney General's Office and the appropriate federal authorities for investigation of potential violations of federal law, where applicable, including but not limited to 16 U.S.C. § 3372 (prohibiting any person from transporting, selling, receiving, acquiring, or purchasing any fish, wildlife, or plant taken or possessed in violation of federal or Tribal law), 18 U.S.C. § 1165 (prohibiting any person from going upon Indian trust lands for the purpose of hunting, trapping, or fishing without lawful authority or permission), 16 U.S.C. § 1538 (Endangered Species Act), 16 U.S.C. § 668 (Eagle Protection Act), and 16 U.S.C. § 703 (Migratory Bird Treaty Act).

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻11.	C.J.S. Fish § 29.
Game ↻6.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 7, 23 to 24, 27, 29, 31, 46, 50.
Westlaw Topic Nos. 176, 187.	

§ 2-403. Search and seizure, when authorized

Any law enforcement officer authorized to enforce the provisions of this Code may conduct a search of a person, object or place and seize objects when the search is made:

- A. With consent;
- B. Pursuant to a valid search warrant;
- C. Within the authority and scope of a lawful inspection;
- D. As otherwise authorized by law, provisions of this Code or MCNCA Title 14; or
- E. Incident to arrest.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ↻16.	C.J.S. Fish §§ 45 to 46.
Game ↻10.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 60 to 66.
Westlaw Topic Nos. 176, 187.	

§ 2-404. Investigations and citations

Any law enforcement officer authorized to enforce the provisions of this Code may:

- A. Conduct routine inspections, in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, wagons, trailers, automobiles, vehicles, con-

Title 23, § 2-404

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tainers, packages, tents and other receptacles contained therein, and records of commercial transactions, utilized by any person engaged in an activity authorized by this Code;

B. Execute and serve warrants and other process issued by the Muscogee (Creek) Nation District Court in accordance with applicable law;

C. With or without a warrant, open, enter and examine vessels, wagons, trailers, automobiles, vehicles, packages and other receptacles contained therein, in which the officer has probable cause to believe that contraband fish, wildlife, plants, carcasses or parts thereof, may be contained;

D. Issue a citation on a form approved by the Muscogee (Creek) Nation District Court to any person upon finding probable cause that such person has violated any provision of this Code or conservation regulations; and

E. Seize and hold any alleged contraband or property which any law enforcement officer reasonably believes may be needed as evidence in connection with the institution of proceedings or which is otherwise authorized to be seized by any provision of this Code.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ☞16.	C.J.S. Fish §§ 45 to 46.
Game ☞10.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 60 to 66.
Westlaw Topic Nos. 176, 187.	

§ 2-405. Arrests

An arrest may be executed by any law enforcement officer through a Tribally or federally approved arrest warrant or reasonable belief of eminent danger to life or property.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ☞11.	C.J.S. Fish § 29.
Game ☞6.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 7, 23 to 24, 27, 29, 31, 46, 50.
Westlaw Topic Nos. 176, 187.	

§ 2-406. License, permit, and tag information

The Lighthorse Chief of Police may request and receive from the Game Ranger information regarding license, permit and tag issuance and personal identification.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

§ 2-407. Penalties and sanctions

A. Civil penalties. Any person who engages in conduct prohibited by any provision of this Code or conservation regulations, and who, in the exercise of due care, should know that the activity engaged in, or that the fish, wildlife or plants were taken, possessed, transported, bought or sold in, an unlawful manner, may be assessed a civil penalty by the appropriate court authority of

not more than one thousand dollars (\$1000.00) for each violation. Each violation shall be deemed a separate offense.

B. Criminal penalties. In addition to civil penalties, any Indian person who knowingly violates any provision of this Code or conservation regulations shall have committed a misdemeanor, as defined by Muscogee (Creek) Nation law, and may be assessed a criminal fine by the appropriate court authority in accordance with Muscogee (Creek) Nation Code Title 14, § 2-101 et seq., and amendments thereto. Each violation shall be deemed a separate offense.

C. Notice and hearing. No civil or criminal penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

D. Jurisdiction. Civil jurisdiction over all matters under this Code shall lie in the Muscogee (Creek) Nation District Court, which shall adjudicate all questions, complaints and alleged violations involving the provisions of this Code and conservation regulations. Criminal jurisdiction over all matters under this Code shall lie in the Muscogee (Creek) Nation District Court or an appropriate federal court, which shall adjudicate all questions, complaints and alleged violations involving the provisions of this Code and conservation regulations.

E. Revocation or suspension. For any violation, the Court may impose a revocation or suspension of hunting, fishing, trapping, gathering or recreational privileges for a period of time within the discretion of the court, but not less than one year.

F. Remedial forfeiture. The court shall impose a civil remedial forfeiture of all fish, wildlife, and plants taken in violation of this Code or Conservation Regulations, and shall endeavor to avoid waste by donating the same to needy or worthy individuals or organizations. The Court may impose a civil remedial forfeiture of any property used in the commission of any violation of this Code or conservation regulations. Upon conviction of any person for a violation of this Code when such person has been convicted of a previous violation of this law within a period of two (2) years, the Court may enhance any civil remedial forfeiture or other penalty as the Court deems appropriate.

[Added by NCA 05-169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ☞14, 16.	C.J.S. Fish §§ 42 to 46.
Game ☞8, 10.	C.J.S. Game; Conservation and Preservation of Wildlife §§ 60 to 66, 72, 80 to 82.
Indians ☞534.	C.J.S. Indians §§ 151 to 179.
Westlaw Topic Nos. 176, 187, 209.	

§ 2-408. Parties to a violation

Whoever participates in the commission of a violation of this Code shall be deemed a principal and may be charged with the violation although he/she did not directly commit it and although the person who directly committed the violation has not been convicted of the violation. A person participates in the commission of the violation if the person:

- A. Directly commits the violation;

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B. Aids or abets in the commission of the violation; or

C. Is a party to a conspiracy with another to commit the violation, or advises, hires, or counsels or otherwise procures another to commit the violation.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Fish ☞13(1).

Game ☞7.

Westlaw Topic Nos. 176, 187.

C.J.S. Fish §§ 30, 34 to 39.

C.J.S. Game; Conservation and Preservation of Wildlife §§ 8, 10, 26 to 29, 33, 37 to 38, 41, 43, 46 to 49, 51, 54 to 59, 67 to 69, 73 to 75.

§ 2–409. Harvesting after revocation or suspension

No person whose hunting, fishing, trapping, gathering or outdoor recreational privileges have been revoked or suspended, shall hunt, fish, trap, gather or so recreate, if such activity is regulated by this Code or Conservation Regulations, during such revocation or suspension.

[Added by NCA 05–169, § 1, eff. Sept. 2, 2005.]

Library References

Indians ☞350, 361.

Westlaw Topic No. 209.

C.J.S. Indians §§ 45, 133 to 137.