

conducting all KTC business openly without taint of impropriety, serving the KTC, Kayenta Chapter and the Navajo Nation to the very best of their ability in full compliance with the Navajo Nation Ethics in Government Law.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section generally.

CN-86-85, November 5, 1985.

#### **§ 4086. Amendments and revisions**

This Subchapter may from time to time be amended as necessary and appropriate by a two-thirds majority of the full Navajo Nation Council with recommendations from the KTC and the Kayenta Chapter.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section to create Kayenta Township as home rule municipality.

CN-86-85, November 5, 1985.

### **Title 3**

#### **Agriculture and Livestock**

##### **United States Code**

Loans of livestock by United States to Indians, cash settlements, disposition of moneys received in settlement of, 25 U.S.C. §§ 442, 443.

Relief in stricken agricultural areas, expenditures not considered in offsetting gratuities in suits of Tribes against United States, 25 U.S.C. § 475a.

#### **Chapter 1. Agricultural Leases, Assignments, and Permits**

##### **Subchapter 1. Leases**

#### **§ 1. Authority to negotiate and grant**

A. The Resources Committee of the Navajo Nation Council is authorized and empowered, with the approval of the General Superintendent, to negotiate and grant leases of economic unit sized tracts of Navajo Nation land to qualified members of the Navajo Nation for agricultural purposes.

B. The President of the Navajo Nation, with the approval of the General Superintendent, is authorized to enter into lease agreements upon approval of

the Resources Committee on behalf of the Navajo Nation.

### **History**

CJN-37-59, June 5, 1959.

**Note.** References to "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 691 *et seq.*

### **Cross References**

Powers of the Resources Committee, see 2 N.N.C. § 691 *et seq.*

Powers and Duties of the President, see 2 N.N.C. § 1005 *et seq.*

### **United States Code**

Lease of Indian lands generally, see 25 U.S.C. § 391 *et seq.*

### **Code of Federal Regulations**

Agricultural leases, see 25 CFR § 162.200 *et seq.*

### **Annotations**

See annotations under Licenses and Permits in digest.

## **1. Easements**

*RE: dispute involving Red Lake Irrigation Project:* " ... [N]o prescriptive right can be acquired in property belonging to the Navajo Nation or dedicated to a community use. To allow prescription is similar to authorizing only a few individuals to utilize public property to the exclusion of others. This process would disrupt the beneficial use of that property and result in numerous disputes." *Yazzie v. Jumbo*, 5 Nav. R. 75, 77 (Nav. Sup. Ct. 1986).

## **§ 2. Regulations, procedures, and forms; adoption**

The Resources Committee is authorized to adopt regulations, procedures, and forms to govern the granting of agricultural leases to individual applicants.

### **History**

CJN-37-59, June 5, 1959.

ACJL-100-59, July 17, 1959, approved United States Department of Interior, Bureau of Indian Affairs Lease Form 5-180-January 1957 with addendum attached. The same Resolution also approved form of application for lease which was to be made a part of each lease.

**Note.** References to "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 691 *et seq.*

### **§ 3. Rentals**

Rentals for leases of tracts of Navajo Nation land for agricultural purposes shall be established by the Resources Committee with the approval of the Commissioner or his/her authorized representative.

#### **History**

CJN-37-59, June 5, 1959.

**Note.** References to "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 691 *et seq.*

### **§ 4. Permits**

Permits issued and in force under provisions of §§ 41-43 of Subchapter 3 shall remain in effect and the procedures set forth in such sections shall continue to be effective should any Navajo Indian desire a permit instead of a lease as provided in this Subchapter.

#### **History**

CJN-37-59, June 5, 1959.

**Note.** ACS-118-80, September 11, 1980. Sections 41-43 of Subchapter 3 referenced above have been rescinded.

### **Subchapter 3. Irrigated lands generally**

**§§ 41 to 43. [Rescinded]**

#### **History**

ACS-118-80, September 11, 1980.

ACO-38-54, October 19, 1954.

### **§ 44. Regulations, procedures, and forms; authority to adopt**

The Resources Committee is authorized to adopt regulations, procedures, and forms to govern the duties of the Land Boards in administering the provisions of §§ 41-43 of this Subchapter.

#### **History**

CJN-37-59, June 5, 1959.

**Note.** References to "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 691 *et seq.* Also, ACS-118-80, §§ 41-43 of Subchapter 3 referenced above have been rescinded.

### **§ 45. Hogback and Navajo Irrigation Projects**

A. There is established a policy of establishing farm units containing sufficient land to sustain and provide Navajo families with an adequate livelihood.

B. The farm units for the Hogback and Navajo Irrigation Projects are established at not less than 120 acres each.

C. The Resources Committee of the Navajo Nation Council, in full cooperation with the appropriate offices of the Bureau of Indian Affairs, shall formulate forms and implement procedures it may deem necessary for the orderly allocation of the farm units as set forth in Subsection (B) of this Section, and to take whatever other steps which in its opinion are necessary to fully protect the best interests of the Navajo Nation and that of its individual members in carrying out the provisions of this Section.

#### **History**

ACJ-67-58, June 13, 1958.

**Note.** Subsection (A) slightly reworded for statutory form. "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 691 et seq. and for purposes of conformance with the 1989 amendments to Title 2, CD-68-89.

### **Subchapter 4. Major Irrigation Projects Farm Boards**

#### **History**

Scope of Subchapter. Introduction to Plan of Operation for Major Irrigation Projects Farm Boards, in ACD-228-85, states in part: "This Plan of Operation will only cover the major irrigation projects, including Many Farms; Ganado; Red Lake, NM; Cudei, Hogback and Fruitland, which are regularly administered and maintained by the Division of Water Resources and such other projects as are designated by the Resources Committee of the Navajo Tribal Council. All other irrigation projects are classified as Miscellaneous Projects and remain under the jurisdiction of the District Grazing Committee."

#### **§ 61. Establishment**

Farm Boards are hereby established.

A. There are hereby established Farm Boards within the Executive Branch of the Navajo Nation Government.

B. Farm Boards shall be established through the Government Services Committee of the Navajo Nation Council upon the recommendation of the Resources Committee, provided the following criteria are met:

1. A proposed Plan of Operation is submitted and approved by the Navajo Nation Department of Agriculture; and

2. A certified Chapter(s) of the Navajo Nation supports the formation of a Farm Board; and

3. The Farm Board is comprised of farm lands which meet one of the following projects:

a. "Lake Projects" means that the farm lands are located near lakes, man-made or natural or reservoirs.

b. "River Projects" means that farm lands are located near rivers, or perennial streams.

c. "Miscellaneous Projects" means that farm lands are located in areas that receive high amounts of rain fall, from 0-18, more or less, inches per year, and have the capacity to sustain viable crops: or areas that receive run off water from mountains, i.e. intermittent streams, and have capacity to sustain viable crops.

C. A Farm Board may be comprised of several chapters or districts, but a Chapter shall have no more than one Farm Board.

D. Unless otherwise stated, applicable District Grazing Committees or District Land Boards shall maintain authority over farmlands not under the jurisdiction of a Farm Board.

### **History**

CAU-67-97, August 7, 1997.

ACD-228-85, December 12, 1985.

CJA-1-81, January 28, 1981.

ACS-118-80, September 11, 1980.

CAU-51-80, August 7, 1980.

**Note.** Slightly reworded.

### **§ 62. Purposes**

It is the purpose of the Farm Boards:

1. To build up locally the capacity and responsibility to ensure the proper and full protection, conservation, management, sustainable and economic use and development of local farmland and irrigation water systems.

2. To promote coordination among the Navajo Nation, private entities, state and federal agencies, local Navajo farmers and farm communities for ensuring proper operation, maintenance, rehabilitation and improvement of local irrigation systems.

3. To promote coordination among the Navajo Nation, private entities, state and federal agencies to provide Navajo farming communities with adequate research, education and training in all aspects of agricultural production, irrigation management, marketing and

financial mismanagement, and other areas related to agriculture within the Navajo Nation.

4. To promote full utilization of idle farmland.

#### **History**

CAU-67-97, August 7, 1997.

ACD-228-85, December 12, 1985.

ACS-118-80, September 11, 1980.

**Note.** Slightly reworded for purposes of statutory form.

References to "Division of Water Resources" have been changed to "Division of Natural Resources" pursuant to CAP-41-94, April 20, 1994.

#### **Cross References**

Division of Community Development, 2 N.N.C. § 1451.

Division of Natural Resources, 2 N.N.C. § 1901 *et seq.*

#### **§ 63. Personnel Officers**

Each Farm Board shall select from its membership, the following officers:

A. Chairperson. The Chairperson shall preside over Farm Board meetings and insure that the business of the Farm Board is conducted in an orderly manner.

B. Vice-Chairperson. The Vice-Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson as well as other duties that may be delegated to him or her.

C. Secretary. The Secretary shall be responsible for keeping the records of the Farm Board.

#### **History**

CAU-67-97, August 7, 1997.

ACJA-27-89, January 24, 1989.

ACD-228-85, December 12, 1985.

ACS-118-80, September 11, 1980.

#### **§ 64. Meetings**

A. Monthly meetings. Each Farm Board must hold at least two scheduled meetings per month to address issues of farming, land use permits, land use matters, and disputes.

B. Special Meetings. Special meetings may be called by over one-half of the Farm Board members, subject to availability of funds.

C. Quorum. A quorum shall consist of a simple majority of the Farm Board members.

### **History**

CAU-67-97, August 7, 1997.

ACD-228-85, December 12, 1985.

ACD-18-80, September 11, 1980.

**Note.** Reference to "Division of Water Resources" has been changed to "Division of Natural Resources" pursuant to CAP-41-94, April 20, 1994.

### **Cross References**

Resources Committee of the Navajo Nation Council, see 2 N.N.C. § 691, *et seq.*

### **§ 65. Powers**

Subject to applicable laws, each Farm Board shall have the following powers:

#### **A. Enumerated Powers.**

1. To review and approve the granting, assignment, reassignment, cancellation, relinquishment, transfer, agriculture leasing and subleasing of agricultural land use permits with the concurrence of the Division of Natural Resources and Department of Agriculture;

2. To review and recommend approval to the Resources Committee of the Navajo Nation Council of the granting of agricultural land use permits, and the construction of irrigation project boundary fences, irrigation canal rights-of-way, water use assessments or other matters involving agricultural land or irrigation water management in accordance with applicable laws;

3. To assess and collect fees for water assessments, which shall revert directly to the Farm board collecting such assessments and be used to improve local irrigation operations and maintenance;

4. To mediate and maintain official written records of any disputes which may arise among agricultural land use permit holders. Copies of all such official written records shall be furnished to the Navajo Nation's Division of Natural Resources and to the Bureau of Indian Affairs.

5. To serve as mediators by resolving disputes of land use rights, fences, land boundaries, rights-of-way, weed or pest control, water use assessments or other agricultural related disputes, within the Navajo

Reservation, except disputes involving divorce, separation, and probate which shall be resolved by the Navajo Nation Courts. The Board may submit recommendations to the Court in agricultural matters regarding divorce, separation, and probate. Unresolved disputes shall be submitted to the Office of Hearings and Appeals, although the Board may submit its own recommendations.

6. To resolve inter-district agricultural-related disputes by holding joint meetings with the adjoining Farm Boards. Unresolved matters shall be submitted to the Office of Hearings and Appeals.

7. To submit in writing to the Resources Committee of the Navajo Nation Council, any recommendations and suggestions of general interest and any problem which the Farm Board is unable to resolve or beyond its authority.

#### B. Management Functions

1. To develop and recommend for Resources Committee approval, such policies, procedures, rules and regulations as may be required to implement the provisions of this plan of operation.

2. To develop, review and implement standard procedures manuals and short and long-range plans for the rehabilitation, improvement, operation and maintenance of irrigation systems, in coordination with appropriate Navajo Nation, private, state and federal agencies.

3. To oversee plans, budgets, staffing, decisions and activities of Navajo Nation agriculture land with the responsibility for management, operations, maintenance and repairs on irrigation projects under the authority of the local Farm Board.

4. To cooperate and enter into agreements, consistent with applicable Navajo Nation laws, with Navajo Nation, private, state, and federal agencies to carry out programs for the construction, rehabilitation, improvement, operation and maintenance of any irrigation structures or systems.

5. To conduct surveys, investigation, research, education and demonstrations relating to methods and results of agricultural production, farm management and crop marketing, irrigation management and other measures as well as aiding agricultural productivity and irrigation water management, in coordination and cooperation with appropriate Navajo Nation, private, state and federal agencies.

6. Subject to the availability of funds to employ administrative, clerical and technical staff personnel.

7. To acquire, administer, and make available on such terms as the Farm Board may prescribe, all plant materials, supplies, tools, machinery, equipment and other property necessary for the implementation of proper economic agriculture and irrigation system rehabilitation, improvement, operations and maintenance, in coordination with appropriate Navajo Nation and federal agencies.



8. To perform other duties as may be directed by the Resources Committee of the Navajo Nation Council, the President of the Navajo Nation, and the Navajo Nation Council.

9. To sign Homesite applications pursuant to rules and regulations adopted by the Resources Committee of the Navajo Nation Council and Navajo Nation laws.

#### **History**

CO-59-03, October 21, 2003.

CAU-67-97, August 7, 1997.

ACD-228-85, December 12, 1985.

ACS-118-80, September 11, 1980.

**Note.** Slightly reworded for purposes of statutory form. Also, "Enumerated Powers" and "Management Functions" designated as Subsections (A) and (B), respectively. Accordingly, sections thereunder were redesignated by numerical sequence.

References to "Division of Water Resources" have been changed to "Division of Natural Resources" pursuant to CAP-41-94, April 20, 1994.

#### **§ 66. Accountability**

A. Farm Board members shall be accountable to their respective local Chapters by attending Chapter meetings and submitting monthly reports.

B. Farm Board members shall be accountable to the Executive Director, Division of Natural Resources, or his/her designee by submitting monthly reports.

#### **History**

CAU-67-97, August 7, 1997.

**Note.** Central Farm Board plan of operation was removed from the Code and currently exists as an uncodified administrative regulation/code.

#### **§ 67. Compensation**

A. Farm Board members shall be paid from funds provided annually in the Navajo Nation budget for that purpose, subject to the availability of funds.

B. Farm Board members shall be compensated at a rate determined by the Navajo Nation Council for per diem for attending official meetings. Per diem shall be made pursuant to the submittal of an official claim form together with a roll sheet and meeting agenda. Compensation of the Farm Board may be withheld for failure to cooperate with officials of the Navajo Nation or attending chapter meetings or any other official scheduled meetings.

### **History**

CAU-67-97, August 7, 1997.

CMA-16-90, March 29, 1990.

ACD-228-85, December 12, 1985.

### **§ 68. Legislative Oversight**

Farm Boards shall operate under the legislative oversight of the Resources Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 695(B) (15).

### **History**

CAU-67-97, August 7, 1997.

**Note.** Reference to "2 N.N.C. § 695(B) (14)" changed to "2 N.N.C. § 695(B) (15)" pursuant to CAP-17-03 and CO-59-03.

### **§ 69. Amendments**

The Plan of Operation of the Farm Boards may be amended from time to time by the Navajo Nation Council upon the recommendation of the Resources Committee and the Government Services Committee of the Navajo Nation Council.

### **History**

CAU-67-97, August 7, 1997.

ACD-228-85, December 12, 1985.

ACS-118-80, September 11, 1980.

**Note.** Reference to "Advisory committee" was deleted and substituted therein is the "Government Services Committee" pursuant to CD-18-89, 2 N.N.C. § 343(B) (2).

## **Subchapter 5. [Reserved]**

## **Subchapter 7. Small Irrigation Projects; District Grazing Committees**

### **Article 1. Land Assignments**

#### **§ 151. Applications for land assignment; land use permit**

A. Applications for assignments of land outside the six major irrigation projects shall be made to the Grazing Committee which has jurisdiction over the District in which the land is located. The Grazing Committee shall review all applications, select the best applicant, and forward his/her application to the General Superintendent recommending approval and issuance of a land use permit.

B. No land assignment shall be made to a person under 18 years of age.

C. Before an owner's claim to a tract of farm land is valid he/she must have in his/her possession a land use permit describing the tract of land signed by the General Superintendent.

#### **History**

ACS-144-59, September 23, 1959.

#### **§ 152. Plan of operation**

Land users should have a Plan of Operation for tracts of land under their use. Such a plan may be developed in cooperation with Navajo Nation Range and Livestock Department (or its successor) and Bureau of Indian Affairs Branch of Land Operation in the subagency.

#### **History**

ACS-144-59, September 23, 1959.

**Note.** "Agriculture and Livestock Department" changed to "Range and Livestock Department" to conform with CMA-34-66, 2 N.N.C. § 3151.

#### **§ 153. Cancellation of land use permits**

Land use permits may be canceled by the General Superintendent upon recommendation of the local Grazing Committee for reason of non-use for two years, failure to pay assessments, request for relinquishment, or any other valid reason presented by the local District Grazing Committee to the Office of Hearings and Appeals and the General Superintendent.

#### **History**

CO-59-03, October 21, 2003.

ACS-144-59, September 23, 1959.

#### **§ 154. Death of assignee**

A. Upon the death of an assignee, his/her land use permit shall be transferred to his/her most logical heir as determined by the Navajo Nation Court. The Court shall make every effort to assign the land assignment as one unit or combine it with another. The Court should make every effort to keep the land assignment in one tract and not subdivide it.

B. The disposition of personal property and improvements placed by the deceased upon the land assigned must be determined by the Navajo Nation Court. Probable heirs shall be advised to file a probate petition to bring such matters to the attention of the Court for settlement.

#### **History**

ACS-144-59, September 23, 1959.

## **Cross References**

Decedents' estates generally, 8 N.N.C. § 1 *et seq.*

## **Annotations**

### **1. Construction and application**

"The Navajo Nation has long disapproved of fragmenting agricultural and grazing lands." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 82 (Nav. Sup. Ct. 1986).

## **Article 2. Regulation by District Grazing Committees**

### **§ 171. Authority**

A. The Grazing Committee of each District shall have the authority to enforce and carry out the duties and responsibilities for small irrigation projects and scattered farm acreage within their districts and outside the six major irrigation projects as a part of their regular duties.

B. No fences shall be built on Navajo Nation land without the approval of the Grazing Committee.

## **History**

ACS-144-59, September 23, 1959.

## **Cross References**

Grazing Committees generally, see § 831 *et seq.* of this title.

## **Annotations**

### **1. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).

### **§ 172. Procedures for fencing of lands**

The Navajo Nation Council hereby instructs and directs the District Grazing Committees to follow the procedures set forth herein whenever any lands are proposed to be fenced.

A. Advise each and every stockman who has customary use rights or interest in the area proposed to be fenced.

B. Give each and every stockman who has such an interest an opportunity to protest such proposed fencing.

C. Advise each and every stockman of his/her rights to appeal according to the procedures set forth in the Navajo Nation Code.

D. Advise the Central Grazing Committee in writing of the decision of the District Grazing Committees to recommend a fencing project (list of names and addresses of all parties who may be affected by such a fencing project and further advise the Central Grazing Committee that the District Grazing Committees have fully complied with the requirements set forth herewith).

E. Refrain from recommending fencing to the Agency Superintendent until concurrence and approval of such fencing project has been obtained from the Chapter officers and the Council delegate of the district.

F. All stockmen who have fenced their customary use areas shall confine the grazing of their livestock to within the fenced area at all times. No relative from a distant area or from another district shall move his/her livestock into the fenced area.

#### **History**

CO-59-03, October 21, 2003.

CMY-34-67, May 9, 1967.

#### **Annotations**

##### **1. Customs**

"The Navajo Nation has long disapproved of fragmenting agricultural and grazing lands." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 82 (Nav. Sup. Ct. 1986).

##### **2. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).

#### **§ 173. Duties and responsibilities**

The District Grazing Committees shall have the following duties and responsibilities:

A. Make every effort to assign a tract large enough to comprise an economic unit.

B. Devise plans for the proper distribution of available irrigation water and recommend penalties for failure to comply with water use regulations. Such regulations and penalties shall be made by each Grazing Committee in writing and explained to all assignees of the project.

C. Arbitrate land disputes and recommend action to be taken to the Office of Hearings and Appeals.

D. Cooperate with the Bureau of Indian Affairs and Navajo Nation personnel in carrying out their program and policies.

E. In cooperation with the Navajo Nation Range and Livestock Department (or its successor) and Bureau of Indian Affairs Branch of Land Operations, plan an education program for families in their jurisdiction.

F. Perform other duties as assigned by the Central Grazing Committee.

#### **History**

CO-59-03, October 21, 2003.

ACS-144-59, September 23, 1959.

**Note.** "Agriculture and Livestock Department" changed to "Range and Livestock Department" to conform Section to CMA-34-66, 2 N.N.C. § 3151.

#### **§ 174. Meetings**

One regular meeting shall be held each month which may be part of a meeting for grazing matters. Special meetings may be called by the Chairperson but notices must be posted in conspicuous places at least 10 days before such meeting date.

#### **History**

ACS-144-59, September 23, 1959.

#### **§ 175. Expenses**

The expenses for conducting the business under this Subchapter shall be paid from the regular Grazing Committee fund using the same procedures as for Grazing Committee business.

#### **History**

ACS-144-59, September 23, 1959.

#### **§ 176. Appeal of decisions**

Appeal of decisions of the local Grazing Committee shall be made to the Office of Hearings and Appeals.

#### **History**

CO-59-03, October 21, 2003.

ACS-144-59, September 23, 1959.

#### **Annotations**

##### **1. Allotment fencing**

"The Council clearly authorizes OHA to hear fencing disputes on appeal from a recommendation of a district grazing committee." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 3 (Nav. Sup. Ct. June 4, 2008).

### **Subchapter 9. Farm or Grazing Land; Land Boards**

#### **Article 1. Land Assignments**

##### **§ 211. Application for land assignment; land use permit**

A. An application for a land assignment or permit for farm or range land shall be made to the Land Board in the District where the land is located. The Land Board shall review all applications and select the best applicant and forward his/her application either to the General Superintendent or his/her authorized representative on Navajo Nation trust lands or the President of the Navajo Nation on all other lands under Navajo Nation control, recommending approval and issuance of a land use permit.

B. No land assignment or permit shall be made to a person under 18 years of age.

C. Before an owner's claim on a tract of farm or grazing land is valid he/she must have in his/her possession a land use permit describing the tract of land signed either by the General Superintendent or his/her authorized representative or the President of the Navajo Nation.

#### **History**

ACS-144-59, September 23, 1959.

##### **§ 212. Plan of operation**

Each land user should have a Plan of Operation for all tracts of land under his/her use. Such plans must be developed in cooperation with the Navajo Nation Range and Livestock Department (or its successor) and Bureau of Indian Affairs, Branch of Land Operation in the subagency.

#### **History**

ACS-144-59, September 23, 1959.

**Note.** "Agriculture and Livestock Department" changed to "Range and Livestock Department" to conform Section to CMA-34-66, 2 N.N.C. § 3151.

#### **§ 213. Fencing of range land**

Range land in Navajo Nation trust status or lands leased or purchased by the Navajo Nation may be fenced only after an applicant has received a written permit signed by the Subagency Superintendent. All applications to fence must be submitted to the District Land Board and forwarded with recommendations to the Subagency Superintendent for the issuance of fencing permits for approved applications.

#### **History**

ACS-44-59, September 23, 1959.

#### **Cross References**

Fences generally, see §§ 2401, 2402 of this title.

#### **§ 214. Disputes; settlement**

Any farming disputes, boundary disputes, grazing disputes, rights-of-way disputes, water disputes, weed and plant disease control disputes, etc., shall be taken before the Land Board for settlement.

#### **History**

ACS-144-59, September 23, 1959.

#### **§ 215. Transfer of assignment; construction of buildings**

No land user may give or transfer any part of his/her land assignment permit or lease to another person without the recommendation of the Land Board and approval of either the General Superintendent or his/her authorized representative or the President of the Navajo Nation, nor shall anyone except himself/herself be allowed to construct buildings on his/her assignment.

#### **History**

ACS-144-59, September 23, 1959.

#### **Cross References**

Death of assignee, transfer on, see § 217 of this title.

#### **§ 216. Cancellation of land use permits**

Land use permits may be canceled either by the General Superintendent or the President of the Navajo Nation upon recommendation of the local Land Board for reason of non-use for two years, failure to pay assessments, request for relinquishment, or any other valid reason presented by the local Land Board to



the Office of Hearings and Appeals.

#### **History**

CO-59-03, October 21, 2003.

ACS-144-59, September 23, 1959.

#### **§ 217. Death of assignee**

A. Upon the death of an assignee, his/her land use permit shall be transferred to his/her most logical heir as determined by the Navajo Nation Court. The Court shall make every effort to assign the land assignment as one unit or combine it with another. The Court should make every effort to keep the land assignment in one tract and not subdivide it.

B. The disposition of personal property and improvements placed by the deceased upon the land assigned must be determined by the Navajo Nation Court. Probable heirs shall be advised to file a probate petition to bring such matters to the attention of the Court for settlement.

#### **History**

ACS-144-59, September 23, 1959.

#### **Cross References**

Decedents' estates generally, see 8 N.N.C. § 1 *et seq.*

Transfer of assignment generally, see § 215 of this title.

#### **Annotations**

##### **1. Construction and application**

"In *Begay v. Keedah*, 6 Nav. R. 416, 421 (Nav. Sup. Ct. 1991), this Court acknowledged the following Navajo Nation policies gleaned from Navajo statutes to be considered when determining the award of a grazing permit: 1) animal units in grazing permits must be sufficiently large to be economically viable, 2) land must be put to its most beneficial use, 3) the most logical person should receive land use rights, 4) use rights must not be fragmented, and 5) only those who are personally involved in the beneficial use of land may be awarded it. *Id.* The Court now holds that these factors are to be considered and applied consistent with the Navajo Fundamental Law which defines the role and authority of Diné women in our society." *Riggs v. Estate of Tom Attakai*, No. SC-CV-39-04, slip op. at 3 (Nav. Sup. Ct. June 13, 2007).

"The Navajo Nation has long disapproved of fragmenting agricultural and grazing lands." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 82 (Nav. Sup. Ct. 1986).

#### **Article 2. Land Boards**

##### **§ 231. Number of Boards**

There shall be three District Land Boards. There shall be one each for Districts 15, 16 and 19. Ramah, Canonicito and Alamo will be included with District 16, until such time as a different management plan is specifically adopted for one or more of those communities. There shall be a total of twenty individual Board members participating in the three Boards, divided as indicated in § 234(A).

### **History**

CD-92-85, December 4, 1985.

ACS-144-59, September 23, 1959.

**Note.** See also CD-59-64, which directed drafting a Land Code, which included the functions and responsibilities of the District 15, 16 and 19 Land Boards. ACMY-73-66, as amended by ASC-187-68, accepted the Cooperative Agreement for the Administration of the Checkerboard Area. The Resources Committee of the Navajo Nation Council, by Resolution dated March 15, 1966, delegated to the District Land boards implementation of the Land code.

### **§ 232. Definitions**

The terms used herein shall be given the same meanings as they have in the Off-Reservation Grazing Code.

A. "Commissioner" means the Commissioner of Indian Affairs.

B. "Area Director" means the Director of the Navajo Area, Bureau of Indian Affairs.

C. "Superintendent" means the Superintendent of the Eastern Navajo Agency of the Bureau of Indian Affairs.

D. "Individually Owned Lands" means land or any interest therein held in trust by the United States for the benefit of individual Navajo Indians and land or any interest therein held by individual Indians subject to federal restrictions against alienation or encumbrance.

E. "Tribal Trust Land" means land or any interest therein held by the United States in trust for the Navajo Nation, and land that is held by the Navajo Nation subject to federal restrictions against alienation or encumbrance. This term also includes assignments of Navajo Nation land. Unless the terms of the assignment provide for the leasing of the land by the holder of the assignment, the Navajo Nation must join with the assignee to issue a grazing permit.

F. "Tribal Fee" means land owned in fee simple by the Navajo Nation.

G. "Government Land" means land, other than Navajo Nation land, acquired or reserved by the United States for Indian Bureau administrative purpose which are not immediately needed for the purposes for which they are acquired or reserved, and land transferred to or placed under the jurisdiction of the Bureau of Indian Affairs but does not include unreserved public domain land

leased to the Navajo Nation under Section 15 of the Taylor Grazing Act.<sup>1</sup>

H. "Tribal Lease Lands" means land leased to the Navajo Nation under Section 15 of the Taylor Grazing Act,<sup>1</sup> and the state lands leased to the Navajo Nation but shall not include land within Navajo Nation ranches.

I. "Permit" means a revocable privilege granted to an individual, in writing, to enter on and use a specified tract of land for a specified purpose.

J. "Animal Unit" means one mature cow (or calf, six months or over) or other approved equivalent. Example: five sheep = one cow; five sheep = one horse (or as amended).

K. "Range Unit"—A range unit shall consist of such lands as the District Land Board, after consultation with land users and the Bureau of Indian Affairs range technicians, shall consider the nearest to fitting the conditions required by Range Management, land status, conservation, and Indian needs.

L. "Grazing Community"—A grazing community shall consist of range units combined into a larger administrative unit, as determined by the District Land Boards based on common interests.

M. "Immediate Family" means the Indian's descendants as controlled by the state laws of descent wherein the land is situated.

N. "Allocation" means the assignment of range use without competitive bidding, including the determination of who may graze livestock, the number and kind of livestock, and the place such livestock will be grazed.

O. "District Land Board" means a board comprised of representative Navajo Indian membership elected for the purpose of administering grazing and resolving problems attendant thereto, and representing one of the Land Management Districts in the Eastern Agency.

P. "Joint Agency Land Board" means a board comprised of the combined membership of all District Land Boards in the Off-Reservation area.

Q. "Tribal Office" means the Tribal Land Office of Crownpoint or such other office as may assume these responsibilities.

R. "Indians" means enrolled Navajo Indians.

S. "Resources Committee" means the duly appointed Resources Committee of the Navajo Nation Council.

T. "Livestock" means all neat animals (horses and cattle) and sheep, goats and swine.

### **History**

CD-92-85, December 4, 1985.

**Note (2006).** Letter designation of subsections were corrected from "M. Immediate Family" to "T. Livestock".

## United States Code

Taylor Grazing Act, see 43 U.S.C. § 315 *et seq.*

### § 233. Purposes and objectives of the District Land Boards

It is the purpose of the District Land Boards to:

A. Preserve, through proper grazing management, the land, water, forest, forage, wildlife and recreational values in the Off Reservation area and improve and build up these resources where they may have deteriorated.

B. Promote use of the range resources by Indians to enable them to earn a living, in whole or in part, through the grazing of their own livestock.

C. Balance the rights and equities of the individual landowners and land users with the demands of Navajo Nation programs through the granting of grazing privileges in a manner which will yield a fair return to land users consistent with undiminished future use.

### History

CD-92-85, December 4, 1985.

### § 234. Representatives, qualifications, and election procedures

A. District Land Board Composition. There shall be a total of 20 District Land Board representatives. In the event that the volume of work justifies additional members, additional representatives may be authorized by the Government Services Committee of the Navajo Nation Council. The Land Board members shall represent the following Chapters:

1. District 15 - Seven Representatives.

- a. Standing Rock (1)
- b. Dalton Pass (Nahodishgish) (1)
- c. White Rock (1)
- d. Lake Valley and Becenti (1)
- e. Crownpoint and Littlewater (1)
- f. Whitehorse Lake (1)
- g. Pueblo Pintado and Torreon (1)

2. District 16 - Nine Representatives.

- a. Mariano Lake and Smith Lake (1)
- b. Thoreau, Baca and Casamero Lake (1)

- c. Pinedale and Iyanbito (1)
- d. Church Rock, Bread Springs, and Red Rock (1)
- e. Manuelito and Chichiltah (1)
- f. Rock Springs and Tsayatoh (1)
- g. Ramah (1)
- h. Alamo (1)
- i. Tóhajtílee (1)

3. District 19 - Four Representatives.

- a. Huerfano (2)
- b. Nageezi (1)
- c. Counselor and Ojo Encino (1)

B. Qualifications for Land board Members.

[This Section has been superseded by CAP-23-90. Qualifications for Land Board members are listed in the Election Code, 11 N.N.C. § 8(D)(1)].

C. Nominations and Election Procedures for the Land Boards.

[This Section has been superseded by CAP-23-90. Candidacy and election procedures for Land Board members are now in the Election Code at 11 N.N.C. § 21 *et seq.*]

### **History**

CAP-23-90, April 6, 1990.

CD-68-89, December 15, 1989.

CAP-24-87, April 29, 1987.

CD-92-85, December 4, 1985.

**Note.** "Advisory Committee" changed to "Government Services Committee".

### **Cross References**

Navajo Nation Election Code, see 11 N.N.C. § 1 *et seq.*

### **§ 235. Officers of the District Land Boards**

A. Positions and Responsibilities. Each District Land Board shall select from its membership the following officers:

1. Chairperson. The Chairperson shall preside over the meeting and insure that the business of the boards is conducted in an orderly manner.

2. Vice-Chairperson. The Vice-Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson as well as other duties which may be delegated to him/her.

3. Secretary. The Secretary shall be responsible for the records of the Board and shall insure that the Bureau or Navajo Nation employees which assist with the minutes or record keeping do so in a proper manner.

B. Election and Terms. The officers of the district Land boards shall be elected by majority vote of the Board members at the first regular meeting following the election of the Boards' members. The officers shall serve four year terms.

#### **History**

CD-92-85, December 4, 1985.

#### **§ 236. Removal of Board members [Superseded]**

#### **History**

**Note.** Sections pertaining to grounds and procedure for removal of Land Board members have been superseded by CAP-23-90. Removal procedures for all elected officials covered by the Navajo Nation Code at 11 N.N.C. § 240 *et seq.* See also, removal provisions of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741 *et seq.*

#### **§ 237. Duties and responsibilities of the District Land Boards**

Duties and responsibilities of the District Land Boards are as follows:

A. Review all applications for grazing permits, determine eligibility, allocate grazing privileges through the permit system, and designate use areas.

B. Make every effort to permit a land tract large enough to comprise an economic unit.

C. Arbitrate land disputes, and in cases of disputes or protests that they are unable to solve, refer them in writing to the Eastern Navajo Joint Land Board.

D. In cooperation with the Division of Natural Resources and the Bureau of Indian Affairs, Branch of Land Operations, plan and implement an educational program for stockmen in their jurisdiction.

E. Cooperate and work with the Navajo Nation offices, state land office, Bureau of Indian Affairs, and the Bureau of Land Management on mutual issues including individual problems arising from mineral development or other governmental proposals.

F. Cancel grazing permits when related to forage depletion, death of permittee, failure to pay grazing fees, failure to use permits for an extended period or other reasons within their authority.

G. Act on all proposed range improvements and conservation plans for range units within the District.

H. Enforce the applicable grazing regulations and perform duties as required in said Code.

I. Organize and conduct dipping, spraying and dusting programs and assist livestock owners in organizing livestock sale programs.

J. Assist the Superintendent or his/her authorized representative in obtaining an annual livestock inventory.

K. Establish range units, after consultation with the Indians and consideration of all relevant factors, and adjust such units as may be necessary.

L. Include Navajo Nation trust, unreserved public domain land leased by the Navajo Nation, and other Navajo Nation controlled land within the range units under permit.

M. Establish grazing fees after consultation with and review by the Bureau of Indian Affairs.

N. Modify, cancel, and reissue grazing permits.

O. Authorize any improvement to be placed on any range unit prior to its construction and grant permission for removal of existing improvements. No improvements shall be constructed or removed in the absence of such authorization.

P. Review, investigate, conduct a formal hearing, and levy appropriate penalties for any livestock trespass.

Q. Approve and authorize any stud horses allowed in the District.

R. Perform other duties as assigned by the Eastern Navajo Agency Joint Land Board, the Resources Committee of the Navajo Nation Council, or the Office of the President of the Navajo Nation.

S. Assist the Navajo Nation with land acquisition and the administration of these lands after they are acquired.

T. Assist on the Navajo Irrigation Project and with energy development in such matters as livestock, land exchange, relocation of families, etc.

U. Provide input and counseling to individuals and provide comment and advice to governmental agencies on issues arising from proposed land exchanges, mineral development, or other land use in the Eastern Agency.

## **History**

### **Annotations**

#### **1. Powers of Land Board**

"The Land Board possesses the authority to settle boundary disputes, water disputes, right of way disputes, etc." *Yazzie v. Jumbo*, 5 Nav. R. 75, 77 (Nav. Sup. Ct. 1986).

#### **2. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).

#### **§ 238. Enumerated powers and responsibilities for individual Board members**

The Land Board members, in addition to their general duties and powers as members of the Boards, shall be responsible for conducting certain specific actions within the communities they represent. These include, but are not limited to, the following:

A. To conduct all local investigations and surveys necessary for the various recommendations and decisions that involve land within their Chapter(s).

B. To conduct the dipping, vaccinating, roundup, branding, inspecting, recording and counting activities within their Chapter(s).

C. To attempt to mediate all local disputes and to perform necessary investigations for appeals.

D. To verify permitted land users consent for all lease or permit applications and to investigate all proposals regarding improvements.

E. To enforce applicable Navajo grazing regulations.

F. To perform such other duties as may be delegated by the District Land Board, the Joint Land Board, the Director of the Division of Natural Resources, the Resources Committee, or the Navajo Nation Council.

### **History**



### **§ 239. Meetings and procedures**

A. Each District Land Board shall establish a meeting schedule which will provide for at least one meeting day per month. These scheduled meetings are to be known as the "regular meetings" for that District Land Board. These meetings shall be scheduled with as much advance notice as is practical under the circumstances.

B. The schedule of "regular meetings" shall be posted at all Chapters within the District, with copies forwarded to the Resources Committee and Director, Division of Natural Resources, listing the exact date, time, and location for such meetings. Any amendments shall also be posted and forwarded in this manner.

C. All "regular meetings" shall be open to the public and shall be conducted informally, in an orderly manner. In the event that rules have been adopted for the resolution of any particular type of issue, such as regulations for settlement of land and grazing disputes, those rules shall be applied.

D. The Board may at its discretion call "special meetings" or call for "executive sessions" as necessary. All special meetings and executive sessions shall be conducted in an orderly manner. Special meetings shall be open to the public.

E. All substantive actions by the Board shall be initiated and undertaken by written resolution, or memorialized in a written memorandum setting forth the action taken. Said writing shall be signed by the presiding officer and retained by the Secretary of the Board.

F. A quorum shall consist of a simple majority of all committee members for that district. All decisions shall be made by a majority vote if no consensus can be reached. All Board members, including officers, shall be eligible to vote.

### **History**

CD-92-85, December 4, 1985.

### **§ 240. Compensation**

A. The Land Board Members shall be paid from funds provided annually in the Navajo Nation budget.

B. Land Board Members shall be compensated at a rate of six hundred dollars (\$600.00) per month. All Land Board members may be paid on a regular basis and may be subject to appropriate payroll deductions for insurance coverage as determined and approved by the Navajo Nation Insurance Commission pursuant to the provisions of 2 N.N.C. § 932 (A). In addition, Land Board members shall receive a travel allowance of sixty-six dollars (\$66.00) per month (300 miles per month at 22 cents per mile).

C. Land Board Members attending their respective Chapter, District and/or agency meeting may receive fifty dollars (\$50.00) per diem for each meeting

wherein official business is conducted, subject, however, to Navajo Nation Council appropriations and availability of funds.

### **History**

CMA-16-90, March 29, 1990.

CD-92-85, December 4, 1985.

### **§ 241. Eastern Agency Joint Land Board**

A. Composition and officers of the Joint Land Board:

1. The Eastern Agency Joint Land Board shall consist of all of the members of the three District Land Boards.

2. The Joint Land Board shall, at its first regular meeting following the election of the District Land Board Members, select the following officers:

a. Chairperson. The Chairperson shall preside over the meeting and insure that the business of the Board is conducted in an orderly manner. The Chairperson is authorized to call any necessary special meetings.

b. Vice-Chairperson. The Vice-Chairperson shall perform the duties of the chairman, in the absence of the chairman, as well as other duties which may be delegated by the Board.

c. Secretary. The secretary shall be responsible for the records of the Board and shall insure that the Bureau of Indian Affairs or Navajo Nation employees which assist with the minutes or record keeping do so in a proper manner.

B. In fulfilling its duties and responsibilities, the Joint Land Board shall:

1. Act as Board of Appeals on all protests, disagreements, disputes or appeals from decisions of the District Land Boards.

2. Recommend to the Resources Committee of the Navajo Nation Council a uniform grazing fee on all Navajo Nation and Bureau of Indian Affairs controlled lands.

3. Review range and forage conditions and needs from information furnished by Branch of Land Operations personnel and make recommendations and decisions on problems posed.

4. Review, on an annual basis, the Off-Reservation Range Code, Land Code, and Cooperative Agreement, for the purpose of making recommended changes.

5. Serve as principal coordinator between District Land Boards, the Navajo People, and the Bureau of Indian Affairs, in all matters

pertaining to livestock control and improvement, and proper management of the range resources.

6. Refer all appeals that cannot be solved to the Office of Hearings and Appeals for a final decision.

C. Meetings and procedures of the Joint Land Board:

1. The Joint Land Board shall establish a meeting schedule which will provide for at least one meeting day per month. These scheduled meetings are to be known as the "regular meetings" for the Joint Land Board. These meetings shall be scheduled with as much advance notice as is practical under the circumstances.

2. The schedule of "regular meetings" shall be announced at the District Land Boards meetings with notices forwarded to the Resources Committee, the Director, Division of Natural Resources, listing the exact date, time and location for such meetings. Any amendments shall also be announced and forwarded in this manner.

3. All "regular meetings" shall be open to the public and shall be conducted informally, in an orderly manner. In the event that rules have been adopted for the resolution of any particular type of issue, such as Regulations for Settlement of Land and Grazing Disputes, those rules shall be applied.

4. The Board may at its discretion call "special meetings" or call for "executive sessions" as necessary. All special meetings and executive sessions shall be conducted in an orderly manner. Special meetings shall be open to the public.

5. All substantive actions by the Board shall be initiated and undertaken by written resolution, or memorialized in a written memorandum, setting forth the action taken. Said writing shall be signed by the presiding officer and retained by the Secretary of the Board.

6. A quorum shall consist of a simple majority of all Board members. All decisions shall be made by a majority vote if no consensus can be reached. All Board members, including officers, shall be eligible to vote.

### **History**

CO-59-03, October 21, 2003.

CD-92-85, December 4, 1985.

ACS-324-7 1, September 28, 1971.

### **§ 242. Amendments**

This Plan of Operation may be amended, as necessary, to insure the proper administration of grazing and land use within the Eastern Agency, by the Government Services Committee of the Navajo Nation Council, with the

recommendation of the Joint Land Board and the Resources Committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989.

CD-92-85, December 4, 1985.

**Note.** "Advisory Committee" changed to "Government Services Committee". "Resources Committee of the Navajo Nation Council" was added pursuant to 2 N.N.C. § 695.

### **Chapter 2. [Reserved]**

#### **History**

CAP-41-94, April 20, 1994.

**Note.** Previous Chapter 2, "Department of Range Management" deleted.

### **Chapter 3. Range Land Leases for Pasture of Livestock**

#### **§ 501. Authority**

The President of the Navajo Nation, with the advice and assistance of the Director of the Division of Natural Resources and the Department Manager of Department of Agriculture, is authorized and directed to select eligible Navajo stock owners, in accordance with the policy of the Navajo Nation contained in 16 N.N.C. § 1 et seq. for the purpose of leasing to such stock owners off-Reservation range lands for the pasture of livestock under the terms and conditions set out in the lease and Plan of Operation.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACS-185-60, September 19, 1960.

**Note.** Slightly reworded for the purposes of statutory form.

#### **Cross References**

Grazing generally, see § 701 of this title.

#### **§ 502. [Reserved]**

#### **History**

ACJA-21-89, January 13, 1989.

ACO-161-86, October 14, 1986.

**Note.** Form deleted pursuant to § 506 of this title.

### **§ 503. Navajo Nation Ranches**

A. Since 1954 the Navajo Nation has acquired a number of "Ranches" through acquisition. These "Ranches" are made up of Fee Patent Lands, Trust Lands, Allotted Lands, BLM Leased Lands, State Leased Lands, and other forms of land, in the States of New Mexico and Arizona.

B. Rationale and guidelines for the management of these Ranches, and all lands subsequently acquired by the Navajo Nation, unless specifically exempt, are contained in 3 N.N.C. §§ 1, 2, 3, 4, 501, 502, 503 and 504, 16 N.N.C. §§ 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 401, 451, 452, 453, 454, 601, 602, and 603, and ACJY-97-80 and CJA-1-81.

#### **History**

ACO-161-86, October 14, 1986.

**Note.** The list of Tribal Ranches has been deleted.

### **§ 504. Establishment-Navajo Nation Ranch Program**

There is established a Navajo Nation Ranch Program within the Department of Agriculture, Division of Natural Resources. Except as otherwise stated herein, the Resources Committee of the Navajo Nation Council is empowered to exercise oversight of activities related to the utilization of the Navajo Nation Ranches. Utilization of Navajo Nation Ranches or unobligated lands shall not be deemed an entitlement program.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

#### **Cross References**

Powers of the Resources Committee, 2 N.N.C. § 695.

### **§ 505. Purpose**

The Navajo Nation Ranch Program shall exist to fulfill the following purposes:

A. Provide for productive and optimum use of lands under the direct control of the Navajo Nation designated as Ranch lands.

B. To ensure that sufficient revenues are realized to pay taxes, land use fees, and cost of administration.

C. To carry out select purposes for land acquisition, pursuant to 16 N.N.C. § 1 *et seq.*

### **History**

ACO-161-86, October 14, 1986.

**Note.** Slightly reworded for purposes of statutory form.

### **Cross References**

Land Acquisition, 16 N.N.C. § 1 *et seq.*

### **§ 506. Powers**

A. The Resources Committee of the Navajo Nation Council is authorized to adopt a form of lease, as recommended by the Attorney General, Navajo Nation Department of Justice, that will ensure that the provisions of this Plan of Operation and provisions of the Navajo Nation Code are carried out.

B. The President of the Navajo Nation, with the advice and assistance of the Navajo Nation Ranch Program, Department of Agriculture, through the Executive Director, Division of Natural Resources and the Resources Committee, shall select eligible Navajo stock owners for the purposes of leasing Navajo Nation Ranches, in accordance with the criteria established in § 511 of this Plan of Operation.

C. The Resources Committee is authorized to establish use fees for Navajo Nation Ranch Lands and to adjust these fees as may be necessary to achieve a reasonable economic value for the use of these lands and to accomplish the purposes for which the land was acquired, as stated in the preceding Section. These fees may be adjusted annually for such reasons as unforeseen natural disasters and shall be adjusted at least every five years, based on the recommendation of the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

**Note.** Reference to "Advisory Committee" changed to "Resources Committee" pursuant to 2 N.N.C. § 695(B).

### **Cross References**

Powers of the Resources Committee, 2 N.N.C. § 695(B).

### **§ 507. Operation**

The following guidelines shall govern the operation, management and use of Navajo Nation Ranches:

A. Sound ranch management principles shall be adhered to at all times to ensure that Navajo Nation resources are adequately maintained.

B. Sound practice of livestock management shall be adhered to at all times.

C. Leasing of lands shall be done in such a manner as to ensure the optimum use of the resource and to protect the Navajo Nation's interests. For this purpose, the Resources Committee shall be authorized to determine the size of each unit to be leased, as recommended by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

D. The Resources Committee shall be authorized to set aside lands for special management purposes such as a bull pasture, livestock impoundment pasture, or special range demonstration areas. In such instance, a Plan of Operation shall be prepared and attached to the set aside action to govern the management of these lands and shall be approved by the Government Services Committee of the Navajo Nation Council.

E. Under no circumstances whatsoever shall Navajo Nation funds, equipment, or employees be used for the care of livestock belonging to the Lessee, except as provided herein.

F. Timber, firewood (alive, or dead and down), all trees, shrubs, vegetation, fish, wildlife, water, surface rights, to ingress, egress, right-of-way, subsurface rights, mineral exploration rights and any other natural, recreational, or any other such rights, resources and proceeds from such resources shall remain the sole property and within the sole and exclusive jurisdiction of the Navajo Nation. However, the leaseholder shall be provided advance notice of the intent of the Nation in exercising these rights.

G. Should any violation of this Plan of Operation or the Navajo Nation Ranch Lease Agreement occur, the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Navajo Division of Resources, shall take immediate action to protect the interests of the Navajo Nation to the fullest extent, including the power to take immediate control over said leased lands to the extent necessary to protect Navajo resources.

H. The Navajo Nation Ranch Program will establish a management plan for bull pasture, livestock impoundment pasture and other activities consistent with the purposes of the Plan of Operation as specified in § 505.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

CD-68-89, December 15, 1989.

**Note.** "Advisory Committee" changed to "Government Services Committee".

#### **§ 508. Terms of lease**

A. The Lessee shall be responsible for all costs associated with the minor upkeep as well as responsibility for maintenance of fences, minor

maintenance of livestock water delivery systems, cattle guards, corrals, roads, and any other improvements, fixtures or structures contained within his/her leased area at the time of the lease or installed thereafter, except those major repairs as provided for in Paragraph (B) below.

B. The Lessee may request, through the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, major repairs for water systems, windmills, and water tanks to the extent that such repairs are beyond the means of the Lessee. These will be referred to the Department of Water Resources (or its successor), with a recommendation from the Executive Director, and the repairs may be made, subject to the availability of funding and the existing priorities for similar work, by the Department of Water Resources (or its successor). Upkeep, maintenance (and use) of headquarters structures, housing and corrals will remain the responsibility of the Division of Natural Resources.

C. The Lessee shall be responsible for the care of his/her livestock in accordance with the Navajo Nation Livestock and Foreign Animal Disease Response Act, 3 N.N.C. § 1501 *et seq.* Neglect of livestock shall be cause for termination of the lease.

D. The Lessee shall accept the lands and improvements such as fences, cattle guards, corrals, windmills, water tanks, and forage in an "as is" condition upon acceptance of the lease.

E. A lien may be granted on any and all livestock grazed on Navajo Nation Ranches in the event of default of payment or failure to satisfy other provisions of the lease agreement.

F. Any and all improvements, including reconstruction of fences, erection of corrals and/or other structures, shall be subject to the approval of the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, or his/her designee.

G. Livestock with brands so specified in the lease agreement shall be the only livestock authorized to graze or be held on Navajo Nation Ranches.

H. Lease agreements shall be non-transferable and are not to be sublet or assigned to heirs. At the time of application, the Lessee may designate an alternate Lessee for the purpose of completing the full term of the lease period in the event that Lessee cannot (for reasons beyond his control, illness or death) complete the full term of the lease. The designated alternate Lessee must meet the eligibility criteria as set forth in § 511 of this Plan of Operation and must sign the application and lease agreement and abide by the rules and regulations of the lease agreement. If the alternate Lessee is not designated by the applicant, Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, may designate an alternate Lessee in the event that the Lessee is unable to complete the full term of the lease.

I. All Lease agreements shall be for a period of 10 years with the option for renewal for another 10 year term, provided that a recommendation is made by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources. Such recommendation shall be



based on payment history, good performance, evaluation and demonstrate sound stewardship of the Navajo Nation Ranches. At any time during the term of the lease, the lease may be terminated for any violation of the terms herein.

J. Upon expiration or any earlier termination (not due to any default on the part of the Lessee), of the lease agreement, the Navajo Nation will conduct a field inspection of all improvements on the leased premises to determine which improvements will remain on the premises. Fair compensation will be provided for such improvements pursuant to 16 N.N.C. § 1401. Any other improvements shall become the property of the Navajo Nation, after 90 days from the termination date, if the Lessee does not exercise the option to remove said improvements. Any removal of improvements shall be approved by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, per the field inspection.

### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

### **§ 509. Payment**

A. The annual grazing fee shall be due and payable in two equal payments; the first payment shall be due on or before November 15, and the second payment is due on or before January 15 of the same lease year.

B. Minimum lease fee shall be established by the Resources Committee based on the recommendation of the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, in accordance with the provisions of this Plan of Operation, on a per animal per month basis, and may be subject to adjustment to be made as needed or necessary, to cover costs as provided herein. The Lessee(s) will be informed in writing of any modifications made in the rental fee 60 days prior to the beginning of the succeeding year. Such modification will be attached as an amendment to the original lease and become a part of the lease.

C. In the event of any livestock reduction, the Lessee shall provide proof of reduction by sales receipts and/or other proof of dispersal of livestock transactions. In order for adjustments to be applied by Accounts Receivable any current invoice must be satisfied. The Lessee shall submit in writing to the Navajo Nation Ranch Program a request with supporting documents that reflects the reduction.

D. A minimum annual rental shall be stated in the lease agreement, and in no event shall the annual billing be less than the minimum rental, with the exception of § 506(C).

E. Any additional livestock over the stocking rate allowed per the lease agreement will be assessed at five times the current grazing fee and the Lessee shall remove all excess livestock within 30 days or the lease will be terminated.

F. All funds received in payment of lease fees shall be deposited into an

Enterprise Fund and used:

1. To cover such costs and amortization as provided in § 505(A) of this Plan of Operation.

2. For range conservation or improvements; and

3. Administrative costs.

G. Assessment, billing and collection of grazing fees and default procedures for delinquency and non-payment of fees.

1. The Navajo Nation Ranch Program, Division of Natural Resources, shall:

- a.<sup>1</sup> Prepare and submit a "Livestock Assessment and Fee Request" document to Accounts Receivable, Division of Finance, based on the applicable rental rate and the number of animals authorized on the leasehold. The Livestock Assessment and Fee Request document will contain the following information: (1) Name and address of the Lessee(s); (2) Lease agreement number; (3) Total Amount Due; (4) Number of livestock the fees were assessed on; and (5) Ranch/Unit Number.

2. Accounts Receivable, Division of Finance shall:

- a. Prepare and send the invoice to the Lessee(s) within 15 days of receipt of the "Livestock Assessment and Fee Request" document from the Navajo Nation Ranch Program, Department of Agriculture through the Division of Natural Resources, on or before October 31. The annual billing shall be the same as the previous year in the event that Accounts Receivable is unable, for whatever reason, to prepare a new billing by October 31. In such event, a new bill either allowing for a credit and refund or requesting additional funds shall be prepared as soon as possible.

- b. Receive payments, issue receipts, deposit receipts in the established Enterprise Fund, and submit payment information to the Navajo Nation Ranch Program.

H. Delinquency and Non-Payment Procedures: Accounts Receivable, Division of Finance, shall adopt the following procedure to collect delinquent accounts:

1. If full payment has not been received after 30 days from the due date of January 15, the account shall be considered delinquent.

2. If the bill is not paid by February 15, Accounts Receivable shall send a 30 day notice, charging the regular fee plus a two percent (2%) late charge of total fees due.

3. If the bill is not paid by March 1, Accounts Receivable shall send a 45 day late notice, charging the regular fee plus a late charge at four percent (4%) of total fees due.

4. If there is no response to the 45 days late notice by March 30,

Accounts Receivable shall send a final notice, charging the regular fees plus a late charge of six percent (6%) of total fee due.

5. After April 15, if all payments are not made or acceptable arrangements for payments are not made, the lease agreement shall be terminated.

6. After the lease is terminated, Accounts Receivable shall continue efforts to receive payments on the account to May 15. If all payments are not made, Accounts Receivable and the Navajo Nation Ranch Program shall turn the delinquent account over to the Department of Justice for collection purposes.

I. Collection. The Department of Justice shall follow established Navajo Nation Procedures for handling the collection of delinquent accounts.

### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACJA-21-89, January 13, 1989.

ACO-161-86, October 14, 1986.

### **§ 510. Termination of lease agreement and temporary use agreement**

A. Should any violation or noncompliance of this Plan of Operation or the lease agreement occur, the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, shall immediately begin administrative proceedings to remedy such violations or to terminate the lease agreement.

B. If any violation or noncompliance occurs, the Lessee shall be given written notice of such violation and action necessary to remedy the violation. Violation of nonpayment of grazing fee payment shall be handled under § 509; and termination of the lease agreement, if such violation is not remedied, shall be handled under this Section.

C. The Lessee will have 30 days to remedy the violation and give written notice of the remedial actions to the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, within the 30 days to avoid termination of the lease.

D. The Navajo Nation Ranch Program, Department of Agriculture through the Division of Natural Resources shall conduct a field inspection and determine whether the violation has been removed to the satisfaction of the stipulation of this Plan of Operation and the lease agreement. If it is determined that the violation/non-compliance has not been remedied or removed, the lease shall be terminated.

E. At any time during the term of the lease agreement, the Lessee can terminate the lease agreement for any reason(s) by providing written notice to the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, at least 60 days prior to

the "date of termination". The Lessee shall notify the Navajo Nation Ranch Program, Department of Agriculture through the Division of Natural Resources of the date that he/she will be vacating the leased premises.

F. The Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, shall acknowledge and will formally accept the relinquishment or termination of the lease agreement by providing a written statement within a reasonable time of the date of Lessee's written notice.

G. Any determination shall not relieve the Lessee from his/her obligations to pay any accrued rent. The Lessee is responsible for settling all grazing fee accounts within the 60 days before the termination becomes effective.

H. The Lessee shall not remove any livestock or other improvement (structures) from the leased premises until the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, has formally acknowledged, in writing, that no rental or other damage payments are due. If any payments are due, the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, shall exercise the rights of seizing all livestock or creating a lien for payment of said grazing fees due [per § 508(E)].

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

#### **§ 511. Eligibility**

All applicants must meet the following eligibility criteria:

A. Enrolled members of the Navajo Nation.

B. Non-Navajos are not eligible.

C. Applicants are not eligible if they hold other grazing permits, with more than 75 sheep units, issued by the Navajo Nation, BIA, or BLM within the Navajo Nation, including the Eastern Navajo Agency. For purposes of this Section, both interests of the husband and wife will be used to determine eligibility.

D. Allottees are eligible if they meet the other requirements and if they own less than a full interest in an allotment of 160 acres or more, or if they own cumulative interest in various allotments that, together, do not exceed such an interest.

E. All applicants must be at least 21 years of age, and demonstrate their ability to pay the established fees and manage land and livestock. Applicants shall submit, along with the application, a proposed Ranch Management Plan which shall include acceptable livestock management and range conservation plans for the unit(s) they are applying for.

F. Applicants are eligible to lease no more than two range units as so specified by the Resources Committee, based on recommendations by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

G. Former leaseholders whose leases were terminated due to default shall not be eligible to reapply for a period of ten years from the date of default.

H. Former leaseholders whose leases were cancelled due to adverse disposition of Navajo Nation lands shall be given first preference to other ranch lands when available.

I. In the event that two or more applicants apply for the same unit and equally meet the qualifications, tie-breaker bidding shall be allowed. The applicant bidding the highest fee, above the minimum, shall be recommended to the Resources Committee.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

#### **§ 512. Adverse disposition**

A. The Navajo Nation, through its normal governmental operations may authorize such actions as mineral exploration, development, power lines extensions, oil well projects, drilling projects and other energy development projects, right-of-ways and other "adverse disposition" which would severely impair or limit the use of the land for grazing purposes stated herein.

B. If any such adverse disposition of all or any portion of a lease is authorized, to the extent that the grazing capacity of the leasehold area is reduced, the lease shall be terminated or the leasehold description revised and the stocking rate adjusted accordingly.

C. For the purposes of this Section, the Lessee shall be entitled to compensation for the loss of grazing rights to the extent of advance payment for those rights (calculated in acreage) actually lost as determined by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 19, 1986.

#### **§ 513. Unobligated land**

A. Lands which are not adequate to comprise an economic ranch unit, or for which there are no qualified applicants, may be determined to be "unobligated lands" by action of the Resources Committee, based upon the

recommendation of the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

B. These lands shall be managed in the best interest of the Navajo Nation as determined by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources.

C. Former leaseholders who may not be eligible under the terms of this Plan of Operation may be given preference in the use of unobligated lands.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

#### **§ 514. Temporary use**

A. The Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, shall have the authority to allow temporary use of Navajo Nation Ranches when it is deemed in the best interest of the resource to do so, or continuity of use is required to retain federal or state grazing rights, or under special circumstances when so directed by the Resources Committee.

B. All temporary use authorizations shall be in writing to coincide with the general terms of the lease agreement and this Plan of Operation, shall not exceed a term of six months and shall not be renewable without the approval of the Resources Committee.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

#### **§ 515. Amendment**

This Plan of Operation may be amended from time to time as recommended by the Navajo Nation Ranch Program, Department of Agriculture through the Executive Director, Division of Natural Resources, to the Resources Committee of the Navajo Nation Council who then in turn recommends final action by the Government Services Committee of the Navajo Nation Council.

#### **History**

GSCJA-04-08%E0A, January 18, 2008.

ACO-161-86, October 14, 1986.

**Note.** "Advisory Committee" changed to "Government Services Committee" pursuant to CD-68-89.

## Chapter 4. [Reserved]

### History

CAP-41-94, April 20, 1994.

**Note.** Previous Chapter 4, §§ 601-604, "Navajo Agricultural Resources Department" deleted.

## Chapter 5. Grazing

### Cross References

Grazing offense, 17 N.N.C., § 350, §§ 460-466, and § 524.

### United States Code

Rules and regulations, restriction on number of livestock grazed on range units, 25 U.S.C. § 466.

### Code of Federal Regulations

Grazing permits, see 25 CFR § 166.1 *et seq.*

Navajo grazing regulations, see 25 CFR § 167.1 *et seq.*

## Subchapter 1. Grazing Regulations

### § 701. Authority

It is within the authority of the Secretary of the Interior to protect Indian Tribal lands against waste. Subject to regulations of this Chapter, the right exists for Indian Tribes to authorize the granting of permits upon their Tribal lands and to prescribe by appropriate Tribal action the conditions under which their lands may be used.

### History

ACO-339-71, October 8, 1971.

ACS-187-68, September 11, 1968.

ACMY-73-66, May 13, 1966.

CD-59-64, December 10, 1964.

CJ-3-56, January 27, 1956.

CJ-22-54, June 9, 1954.

ACM-14-54, March 29, 1954.

**Note.** CJ-3-56 adopted, as an ordinance of the Navajo Nation Part 72 (§§ 72.1-

72.17) of Title 25 of the Code of Federal Regulations, entitled "Navajo Grazing Regulations", which was reorganized as Part 152 (§§ 152.1-152.17) of Title 25 of the Code of Federal Regulations.

## **§ 702. General regulations**

Part 151 of Title 25 of the Code of Federal Regulations authorizes the Commissioner of Indian Affairs to regulate the grazing of livestock on Indian lands under conditions set forth therein. In accordance with this authority and that of the Navajo Nation Council, the Central Grazing Committee and the District Grazing Committees, the grazing of livestock on the Navajo Reservation shall be governed by the regulations in this Chapter.

### **History**

CJN-83-66, June 22, 1966.

ACAP-35-66, April 7, 1966.

CD-70-61, December 8, 1961.

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

ACF-14-53, February 20, 1953.

### **Cross References**

1957 Navajo Reservation Grazing Handbook.

## **§ 703. Purpose**

It is the purpose of the regulations in this Chapter to aid the Navajo Indians in achievement of the following objectives:

A. The preservation of the forage, the land, and the water resources on the Navajo Reservation, and the building up of those resources where they have deteriorated.

B. The protection of the interests of the Navajo Indians from the encroachment of unduly aggressive and antisocial individuals who may or may not be members of the Navajo Nation.

C. The adjustment of livestock numbers to the carrying capacity of the range in such a manner that the livestock economy of the Navajo Nation will be preserved.

D. To secure increasing responsibility and participation of the Navajo People, including Navajo Nation participation in all basic policy decisions, in the sound management of one of the Navajo Nation's greatest assets, its grazing lands, and to foster a better relationship and a clearer understanding between the Navajo People and the federal government in carrying out the grazing regulations.



E. The improvement of livestock through proper breeding practices and the maintenance of a sound culling policy. Buck and bull pastures may be established and maintained either on or off the Reservation through District Grazing Committee and Central Grazing Committee action.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **§ 704. Effective date; scope; exceptions**

The grazing regulations in this Chapter are effective as of the date of approval hereof, for the Navajo Reservation, the area described in Executive Order of December 16, 1882, except land Management District No. 6, all lands within the boundaries of the Navajo Reservation held in trust by the United States for the Navajo Nation and all the trust lands hereafter added to the Navajo Nation. The regulations in this Chapter do not apply in individually owned allotted lands within the Navajo Nation nor to Navajo Nation purchases, allotted or privately owned Navajo Indian lands outside the exterior boundaries of the Navajo Reservation.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

**Note.** 1957 Navajo Reservation Grazing Handbook, p.10, Executive Order of December 16, 1882, provided as follows: "It is hereby ordered that the tract of country, in the territory of Arizona, lying and being within the following described boundaries, viz: beginning on the one hundred and tenth degree of longitude west from Greenwich, at a point 36° 30' north, thence due west to the one hundred and eleventh degree of longitude west, thence due south to a point of longitude 35° 30' north; thence due east to the one hundred and tenth degree of longitude west, thence due north to place of beginning, be and the same is hereby withdrawn from settlement and sale, and set apart for the use and occupancy of the Moqui, and such other Indians as the Secretary of the Interior may see fit to settle thereon".

#### **Cross References**

Lands added to Reservation. McCracken Mesa Range Management Unit in District 12, see 16 N.N.C. § 1601 *et seq.*

#### **Annotations**

##### **1. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).

#### **§ 705. Land management districts**

The Commissioner of Indian Affairs has established and will retain the present land management districts within the Navajo Indian Reservation, based on the social and economic requirements of the Navajo Indians and the necessity of rehabilitating the grazing lands. District boundary changes may be made when deemed necessary and advisable by the District Grazing Committees, Central Grazing Committee and Navajo Nation Council, with approval by the Superintendent, Area Director, and the Commissioner of Indian Affairs.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

CJ-8-40, June 6, 1940.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

Grazing Committees generally, see § 831 *et seq.* of this title.

#### **Code of Federal Regulations**

Land management districts, see 25 CFR 167.5.

#### **§ 706. Carrying capacities**

A. The Commissioner of Indian Affairs on June 26, 1943 promulgated the authorized carrying capacity for each land management district of the Navajo Reservation.

B. Recommended adjustments in carrying capacities shall be referred by the Superintendent to District Grazing Committee, Central Grazing Committee, and the Navajo Nation Council for review and recommendations prior to presentation to the Area Director and the Commissioner of Indian Affairs for approval.

C. Upon the request of the District Grazing Committee, Central Grazing

Committee and Navajo Nation Council to the Superintendent, recommendations for future adjustments to the established carrying capacities shall be made by range technicians based on the best information available through annual utilization studies and range condition studies analyzed along with numbers of livestock and precipitation data. The recommendations of the range technicians shall be submitted to the Superintendent, the Area Director and the Commissioner of Indian Affairs.

D. Carrying capacities shall be stated in terms of sheep units yearlong, in the ratio of horses, mules, and burros one to five; cattle one to four; goats one to one. The latter figure in each case denotes sheep units. Sheep, goats, cattle, horses, mules, and burros one year of age or older shall be counted against the carrying capacity.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

**Note.** Promulgation of carrying capacity. The promulgation of the Commissioner of Indian Affairs of June 26, 1943, determined the carrying capacity of land management districts of the Navajo Reservation pursuant to 25 CFR 71.5 (151.1), setting out the area of the range in acres, length of grazing season, acres per cow unit, number of cattle and cow months under maximum stocking, and the ratio of cattle to sheep for each district.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

Carrying capacity of McCracken Mesa Range Management Unit of District 12, see 16 N.N.C. § 1606.

#### **Code of Federal Regulations**

Carrying capacities, see 25 CFR 167.6.

#### **§ 707. Records**

A. The District Grazing Committee, the Superintendent, and his authorized representatives shall keep accurate records of all grazing permits and ownership of all livestock. Master files shall be maintained by the Superintendent or his/her authorized representatives.

B. The District Grazing Committee shall be responsible for and assist in organizing the sheep and goat dipping and horse and cattle branding program and obtaining the annual livestock count.

C. In order to obtain true records of ownership the permittee shall personally appear at the dipping vat or tallying point designated by the Grazing Committee with his or her sheep and goats and at branding and tallying points for cattle and horses. Should the permittee be unable to appear personally he or she shall designate a representative to act for and in his or

her behalf. The sheep and goats will be dipped and the cattle and horses will be branded and recorded in the name of the permittee.

D. The Superintendent shall prepare and keep current a register containing the names of all permittees using the range, the number of each class of stock by age classes grazed annually and the periods during which grazing shall be permitted in each part thereof. An annual stock census will be taken to insure that the carrying capacity is not exceeded. All classes of livestock 12 months of age or over will be counted against range use and permitted number, except that yearling colts will not be counted against permitted numbers, on all permits with less than six horses.

### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

### **Cross References**

1957 Navajo Reservation Grazing Handbook.

Control of livestock disease, see § 712 of this title.

False report of livestock ownership or refusal to make true report of such ownership as offense, 17 N.N.C. § 464.

Grazing permits generally, see § 781 *et seq.* of this title.

Livestock brands generally, see §§ 2001, 2002 of this title.

### **Code of Federal Regulations**

Records, see 25 CFR 167.7.

### **§ 708. Grazing rights**

A. The Superintendent shall determine grazing rights of bona fide livestock owners based on recommendations of District Grazing Committees. Grazing rights shall be recognized for those permittees having ownership records as established in accordance with 3 N.N.C. § 707 or who have acquired grazing rights by marriage, inheritance, purchase or division of permits. Whenever the permitted number of sheep units within a district is less than the carrying capacity, new permits to the carrying capacity limit may be granted as provided in 3 N.N.C. § 781.

B. All enrolled members of the Navajo Nation over 18 years of age are eligible to acquire and hold grazing permits. Minors under 18 years of age can get possession of grazing permits only through inheritance or gift, and in each case trustees must be appointed by the Navajo Nation courts to manage the permits and livestock of such minors until they become 18 years of age and can hold grazing permits in their own right.

C. No person can hold a grazing permit in more than one district on the

Navajo Reservation.

D. Determination of rights to grazing permits involved in cases of divorce, separation, threatened family disruption, and permits of deceased permittees shall be the responsibility of the Court of the Navajo Nation under existing laws, rules, and regulations.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Grazing rights, see 25 CFR 167.8.

#### **§ 709. Grazing fees**

Grazing fees shall not be charged at this time.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Grazing fees, see 25 CFR 167.12.

#### **§ 710. Trespass**

A. The owner of any livestock grazing in trespass in Navajo Nation ranges shall be subject to action by the Courts of the Navajo Nation; however, upon recommendations of the District Grazing Committee, first offenses may be referred to the Office of Hearings and Appeals and the Superintendent or his/her authorized representative for proper settlement out of court.

B. The following acts are considered as trespass:

1. Any person who sells an entire permit must dispose of an his/her livestock or be in trespass. Any person selling a portion of his/her permit must not run more stock than covered by his/her remaining permit, or be subject to immediate trespass.

2. All persons running livestock in excess of their permitted number must either obtain permits to cover their total livestock numbers or reduce to their permitted number; or be in trespass. Additional time may be granted in unusual individual cases as determined and approved by the District Grazing Committee, Central Grazing Committee, and the Superintendent or his/her authorized representative.

3. Failure to comply with the provisions in 3 N.N.C. § 781 shall be considered as trespass.

4. Any person who willfully allows his/her livestock to drift from one district to another shall be subject to trespass action. The grazing of livestock in customary use areas extending over district boundary lines, when such customary use areas are defined and agreed upon by the District Grazing Committees involved, shall not be considered as willful trespass.

5. The owner of any livestock who violates the customary or established use units of other permittees shall be subject to trespass action.

#### **History**

CO-59-03, October 21, 2003.

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

**Note.** Amendments. 1959, 24 F.R. 1178, February 17, 1959, amended Paragraph (B) (2) by substituting "1959" for "1958".

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

For criminal offenses involving livestock, see generally 17 N.N.C. §§ 350, 460 to 466 and 524.

Trespass by livestock generally, see § 2402 of this title.

Violations of regulations covering buying and movement of livestock as trespass, see § 711 of this title.

#### **Code of Federal Regulations**

Trespass, see 25 CFR 167.13.

#### **§ 711. Movement of livestock to market**

Annually prior to the normal lamb buying season, the Central Grazing Committee after consultation with District Grazing Committees shall issue regulations covering the buying period and the procedures and methods to be used in moving livestock to market. All movements of livestock other than

trucking from buying areas to loading or shipping points must be authorized by trailing permits issued by the District Grazing Committees on the approved forms. Failure to comply with this Section and with annual lamb buying regulations will be considered as trespass.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

Trespass generally, see § 710 of this title.

#### **Code of Federal Regulations**

Movement of livestock, see 25 CFR 167.14.

#### **§ 712. Control of livestock disease**

A. The District Grazing Committees with the approval of the Superintendent shall require livestock to be dipped, vaccinated, inspected and be restricted in movement when necessary to prevent the introduction and spread of contagious or infectious disease in the economic interest of the Navajo stock owners. Upon the recommendation of the District Grazing Committee livestock shall be dipped annually when such dipping is necessary to prevent the spread of contagious diseases. These annual dippings shall be completed on or before September 1st each year. Livestock, however, may be dipped at other times when necessary. The Superintendent or his/her authorized representative and the District Grazing Committee may also require the rounding up of cattle, horses, mules, etc., in each District for the purpose of inspection for disease, vaccinating, branding and other related operations.

B. No livestock shall be brought onto the Reservation without a permit issued by the Superintendent or his/her authorized representative following inspection, in order to safeguard Indian livestock from infectious and contagious disease and to insure the introduction of good quality sires and breeding stock.

C. Any unusual disease conditions beyond the control measures provided herein shall be immediately reported by the District Grazing Committee to the President of the Navajo Nation and the Superintendent who shall attempt to obtain specialists and provide emergency funds to control and suppress the disease.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

### **Cross References**

1957 Navajo Reservation Handbook.

### **Code of Federal Regulations**

Control of livestock disease and introduction of livestock, see 25 CFR 167.15.

### **§ 713. Fences**

Favorable recommendation from the District Grazing Committee and a written authorization from the Superintendent or his/her authorized representative must be secured before any fences may be constructed in non-agricultural areas. The District Grazing Committee shall recommend to the Superintendent that the removal of unauthorized existing fences, or fences enclosing demonstration areas no longer used as such, if it is determined that such fences interfere with proper range management or an equitable distribution of range privileges. All enclosures fenced for the purpose of protecting agricultural land shall be kept to a size commensurate with the needs for protection of agricultural land and must be enclosed by legal four strand barbed wire fence or the equivalent.

### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

### **Cross References**

1957 Navajo Reservation Grazing Handbook.

Fences on cultivated lands, see §§ 2401, 2402 of this title.

### **Code of Federal Regulations**

Fences, see 25 CFR 167.16.

### **Annotations**

#### **1. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).



## **§ 714. Construction near permanent livestock water developments**

A. The District Grazing Committee shall regulate the construction of all dwellings, corrals and other structures within one-half mile of Government or Navajo Nation developed permanent livestock waters such as springs, wells, and charcos or deep reservoirs.

B. A written authorization from the District Grazing Committee must be secured before any dwellings, corrals, or other structures may be constructed within one-half mile of Government or Navajo Nation developed springs, wells and charcos or deep reservoirs.

C. No sewage disposal system shall be authorized to be built which will drain into springs or stream channels in such a manner that it would cause contamination of waters being used for livestock or human consumption.

### **History**

CJ-3-56, January 27, 1956.

### **Cross References**

ACN-83-57, November 8, 1957.

Navajo Reservation Grazing Handbook.

### **Code of Federal Regulations**

Construction near permanent livestock water developments, see 25 CFR 167.17.

## **Subchapter 3. Grazing Permits**

### **§ 781. Generally**

A. All livestock grazed on the Navajo Reservation must be covered by an authorized grazing permit issued by the Superintendent based upon the recommendations of the District Grazing Committee. All such grazing permits will be automatically renewed annually until terminated. District Grazing Committees shall act on all grazing permit changes resulting from negotiability within their respective districts. The number of livestock that may be grazed under each permit shall be the number originally permitted plus or minus any changes as indicated by transfer agreements and court judgment orders.

B. Any permittee who has five or more horses on his/her current permit will be required to apply any acquired sheep units in classes of stock other than horses. If the purchaser wishes more than his/her present number of horses, he/she must have his needs evaluated by the District Grazing Committee. Yearling colts will be counted against permitted number on all permits with six or more horses. Yearling colts will not be counted against permitted number on all permits with less than six horses. In hardship cases the District Grazing Committee may reissue horses removed from grazing permits through negotiability to permit holders who are without sufficient horses on their present permits to meet minimum needs.

C. No permittee shall be authorized to graze more than 10 head of horses or to accumulate a total of over 350 sheep units.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Grazing permits, see 25 CFR 167.9.

#### **Annotations**

##### **1. Construction and application**

Livestock grazing is not allowed on Navajo trust land without a valid grazing permit. *Yazzie v. Catron*, 7 Nav. R. 19, 21 (Nav. Sup. Ct. 1992).

##### **§ 782. Special permits**

The problem of special grazing permits shall be settled by the Bureau of Indian Affairs working in cooperation with the Navajo Nation Council, or any committee designated by it, with a view to terminating these permits at a suitable date and with the least hardship to the Indians concerned.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Special grazing permits, see 25 CFR 167.10.

##### **§ 783. Tenure of permits; unused permits**

A. All active regular grazing permits shall be for one year and shall be automatically renewed annually until terminated. Any Navajo eligible to hold a grazing permit as defined in 3 N.N.C. § 708 may become a livestock operator by obtaining an active grazing permit through negotiability or inheritance or both.

B. In many districts, and portions of all districts, unused grazing permits or portions of grazing permits are beneficial in aiding range recovery. Each District Grazing Committee will handle each matter of unused grazing permit or portions of grazing permits on individual merits. Where ample forage is available operators will be encouraged to fill their permits with livestock or dispose of their unused permits through negotiability. In those areas where forage is in need of rehabilitation permittees will not be encouraged to stock to their permitted numbers until the range has sufficiently recovered to justify the grazing of additional livestock.

#### **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Tenure of grazing permits, see 25 CFR 167.11.

#### **§ 784. Transfer**

Upon recommendation of the District Grazing Committee and with the approval of the Superintendent, grazing permits may be transferred from one permittee to another in accordance with instructions provided by the Resources Committee of the Navajo Nation Council, or may be inherited; provided that the permitted holdings of any individual permittee shall not exceed 350 sheep units or the equivalent thereof. Should inheritance or other acquisition of permits increase the holdings of any permittee to more than 350 sheep units, said permittee shall dispose of all livestock in excess of 350 sheep units not later than November 15 following date of inheritance or other acquisition, and that portion of his or her permit in excess of 350 sheep units within one year from date of inheritance.

#### **History**

CD-70-61, December 8, 1961.

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

#### **Cross References**

1957 Navajo Reservation Grazing Handbook.

#### **Code of Federal Regulations**

Grazing permits, transfer or inheritance, see 25 CFR 167.9(d).

## **Annotations**

### **1. Construction and application**

"A grazing permit can be sold, inherited or otherwise transferred and can be sub-leased to anyone eligible to receive it through inheritance." *Yazzie v. Catron*, 7 Nav. R. 19, 21 (Nav. Sup. Ct. 1992).

### **§ 785. Descent and distribution**

Upon the death of a permittee or licensee, ownership of livestock upon which grazing permit is based shall first be determined. Upon a judicial finding as to the decedent's ownership of all or a portion of the livestock then the permit or license or that portion of said permit or license for livestock, so owned by the decedent shall be subject to the following rules of descent:

A. Permittees and licensees may execute a will designating the person or persons to receive the permit or license, which must be approved by the Court of the Navajo Nation after the death of said permittee or licensee. In the absence of such an instrument approved by the Court, and unless stipulated to the contrary under agreement of the potential heirs approved by the Court, the Court is hereby authorized to distribute such permits or licenses in accordance with moral and legal rights as determined by the said Court.

B. Permits or licenses in Grazing District No. 7 shall descend as heretofore set forth subject to confirmation by the Range Conservation Committee of Grazing District No. 7, New Mexico.

C. In no event shall any agreement or will be approved or distribution made by the Court of the Navajo Nation to a person or persons not enrolled with the Navajo Nation.

D. In no event shall a grazing permit or license covering Navajo Nation lands or grazing lands in District No. 7 be subdivided into less than 10 sheep units in one permit. In such case and in the absence of an approved agreement or an approved will, the Court of the Navajo Nation shall order a sale of the grazing permit or license to a Navajo Indian of the same district, to be approved by the General Superintendent or his/her authorized agent, with a preference right of purchase granted to the heirs.

E. The district Council Delegate(s) and the district supervisor who are familiar with the relationship of such deceased permittee may with the permission of the Court make recommendations to the Court pursuant to any grazing permit or license in dispute.

## **History**

ACN-83-57, November 8, 1957.

Res. 1922-195 1, p. 240, July 26, 1946.

**Note.** 1922-1951, p. 237, July 11, 1943, app. by Indian Office November 3, 1943.

## **Cross References**

1957 Navajo Reservation Grazing Handbook.

## **Annotations**

### **1. Oral wills**

This Section's provision that permittees and licensees may "execute" a will designating the person to receive the permit or license does not require the will to be in writing, and an oral will is sufficient. *In the Matter of Estate of Benally* (CA. 1978) 1 Nav. R. 219.

### **2. Trusts, generally**

Discussion of "customary trust". See *In the Matter of the Estate of Benally*, 5 Nav. R. 174, 180 (Nav. Sup. Ct. 1987).

### **§ 786. Subletting**

By request of a permittee to sublet all or a part of his or her regular grazing permit to a member of his/her family or to any person who would receive such permit by inheritance, such subletting of permits may be authorized by the District Grazing Committee and the Superintendent or his/her authorized representative.

## **History**

ACN-83-57, November 8, 1957.

CJ-3-56, January 27, 1956.

## **Cross References**

1957 Navajo Reservation Grazing Handbook.

## **Annotations**

### **1. Construction and application**

"All grazing permit transfers and subleases are subject to the approval of the District Grazing Committee and the Agency Superintendent." *Yazzie v. Catron*, 7 Nav. R. 19, 22 (Nav. Sup. Ct. 1992).

### **§ 787. [Reserved]**

## **History**

ACN-96-56, November 30, 1956.

**Note.** Form deleted; contact the Division of Natural Resources for an updated form.

## **Cross References**

1957 Navajo Reservation Grazing Handbook.

### **Subchapter 5. Grazing Committees**

#### **Article 1. Central Grazing Committee**

##### **§ 831. Designation**

The Central Grazing Committee shall be the Resources Committee of the Navajo Nation Council.

##### **History**

CD-70-61, December 8, 1961.

ACN-83-57, November 8, 1957.

ACF-14-53, February 20, 1953.

CJ-6-53, January 13, 1953.

## **Cross References**

Resources Committee designated as the Central Grazing Committee, see 2 N.N.C. § 695(B) (1).

Off-Reservation Land Boards as Grazing Committees, see § 241 of this title.

##### **§ 832. Duties**

The duties and responsibilities of the Central Grazing Committee shall be as follows:

A. Furnish all District Grazing Committees and Navajo Partitioned Land District Grazing Precincts with information, instructions, and materials necessary for them to carry out their duties. Advise and direct District Grazing Committees and Navajo Partitioned Land District Grazing Precincts in the proper performance of their assignments.

B. Review recommendations, suggestions, and problems submitted by District Grazing Committees and Navajo Partitioned Land District Grazing Precincts. Appeals of individuals or groups to District Grazing Committee and Navajo Partitioned Land District Grazing Precinct action will be submitted to the Office of Hearings and Appeals.

C. Take appropriate action within the authority of the Central Grazing Committee.

D. In matters beyond the authority of the Central Grazing Committee, prepare recommendations and resolutions for Navajo Nation Council consideration.

E. Provide leadership and coordination between the Navajo stockmen and the Bureau of Indian Affairs on all matters pertaining to livestock disease control, surplus livestock removal programs, livestock inventories, branding activities and the use and management of the Navajo Range resources.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CD-70-61, December 8, 1961.

ACN-83-57, November 8, 1957.

#### **Cross References**

Resources Committee designated as the Central Grazing Committee, See 2 N.N.C. § 695(B) (1).

#### **Annotations**

##### **1. Grazing disputes**

"The Court holds the OHA has jurisdiction to hear and decide a grazing dispute which predates Navajo Nation Council Resolution CO-59-03 where an official decision is inadequate to conduct an appellate review." *Charley and Looking Glass v. Benally, et al.*, No. SC-CV-19-07, slip op. at 8 (Nav. Sup. Ct. December 10, 2008).

#### **Article 2. Navajo Nation Resources Committee**

##### **§ 851. Generally**

The Resources Committee has functions in grazing matters as set forth in 3 N.N.C. § 852.

#### **History**

ACN-83-57, November 8, 1957.

**Note.** Slightly reworded for purposes of statutory form.

#### **Cross References**

Resources Committee of the Navajo Nation Council, see 2 N.N.C. § 691 et. seq.

##### **§ 852. Duties**

The duties and responsibilities of the Navajo Nation Resources Committee shall be as follows:

A. Meet periodically with the various District Grazing Committees and

Navajo Partitioned Land District Grazing Precincts at their regular meetings to inform them of current programs, provide them with instructions, materials, and supplies necessary for them to carry out their duties; and serve generally as Reservation-wide coordinators of District Grazing Committees and Navajo Partitioned Land District Grazing Precincts and their activities.

B. Assemble recommendations and suggestions submitted by District Grazing Committees, Navajo Partitioned Land District Grazing Precincts, groups, and individuals for action.

C. Serve as principal coordinators between the District Grazing Committees, and Navajo Partitioned Land District Grazing Precincts and the Bureau of Indian Affairs in all matters pertaining to livestock disease control, surplus livestock removal programs, livestock inventories, branding activities and programs for the use, improvement and management of the Navajo range resources.

### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CO-59-03, October 21, 2003.

ACN-83-57, November 8, 1957.

### **Cross References**

Resources Committee of the Navajo Nation Council, 2 N.N.C. § 691 *et seq.*

Article 3. District Grazing Committee

### **§ 870. Definitions**

"Navajo Partitioned Lands" means that portion of the Former Joint Use Area awarded to the Navajo Nation under the Judgment of Partition issued April 18, 1979, by the United States District Court for the District of Arizona, and now a separate administrative area within the Navajo Nation.

### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

### **§ 871. Establishment**

The District Grazing Committees and Navajo Partitioned Land District Grazing Precincts are established within the Executive Branch of the Navajo Nation. The Grazing Management Office, Division of Natural Resources within the Executive Branch of the Navajo Nation government shall provide technical assistance to the District Grazing Committees and the Navajo Partitioned Land District Grazing Precincts. Unless reauthorized by the Navajo Nation Council, the Navajo Partitioned Land District Grazing Precincts shall exist for a period of five years from the date of enactment of these amendments at which time the



Navajo Partitioned Lands shall be administered by the regular District Grazing Committees.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CAP-38-98, April 22, 1998.

CA-30-52, April 24, 1952.

#### **§ 872. Composition**

A. Each Land Management District except for those which are organized under the Eastern Agency Land Boards, shall have one District Grazing Committee composed of one Committee member from each certified Chapter within that District.

B. With respect to the Navajo Partitioned Lands there are established three Navajo Partitioned Land District Grazing Precincts as follows:

NPL Precinct 1: (Fort Defiance Agency NPL) Jeddito, Low Mountain, Teesto, Tolani Lake, and Whitecone Chapters.

NPL Precinct 2: (Chinle Agency) Black Mesa, Blue Gap-Tachee, Forest Lake, Hard Rock, Pinon, and Whippoorwill Chapters.

NPL Precinct 3: (Western/Tuba City) Chilchinbeto, Kayenta, Shonto, and Tonalea Chapters.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CAP-38-98, April 22, 1998.

CAU-66-85, August 2, 1985.

#### **Cross References**

Authority of Office of Hearings and Appeals, see CO-59-03 (amendments to Titles 2 and 3).

#### **§ 873. Neighboring vacancy**

In the event of a Grazing Official vacancy, the neighboring grazing official shall assist the community with grazing issues and receive compensation.

#### **History**

CAP-38-98, April 22, 1998.

CJN-31-86, June 23, 1986.

CAU-66-85, August 2, 1985.

ACA-31-55, August 3, 1955.

CA-30-52, April 24, 1952.

**Note.** On election dates and terms, see 11 N.N.C. §§ 3, 6 and 7.

#### **§ 874. Chairperson and Vice-Chairperson**

A member of the District Grazing Committee shall be chosen as the Chairperson and another member of such committee shall be chosen as the Vice Chairperson to act in the absence of the Chairperson.

#### **History**

CAP-38-98, March 17, 1998.

ACN-83-57, November 8, 1957.

#### **§ 875. Duties**

A. The general duties and responsibilities of District Grazing Committees and Navajo Partitioned Land District Grazing Precincts shall be as follows:

1. Organize and conduct sheep and goat dipping, spraying or dusting programs, branding activities, livestock disease prevention programs, surplus livestock removal programs, and conduct or assist the Superintendent and his/her authorized representatives in obtaining the annual livestock tally count.

2. Coordinate and explain the Navajo Grazing Regulations and other grazing related laws to stockmen, explain and complete transfers and subletting of grazing permits, cooperate with Navajo Nation and Bureau conservation programs and planning, including the determination of priorities on major range improvement and development projects.

3. Assist and advise Navajo stockmen at formal Grazing Committee meetings, and by individual contact, in proper grazing practices, proper classes of productive livestock to operate, ways of developing and improving range areas, and proper maintenance of range improvements and developments.

4. Advise and inform individual Navajos of proper procedures to follow in either obtaining or disposing of grazing permits.

5. Cooperate with local stockmen and Bureau personnel on all matters pertaining to range water development, range re-vegetation, erosion control, and range management. This will include the determination of individual or group range use areas for settling range use disputes and for developing range management and improvement plans.

6. Enforce Navajo Grazing Regulations as required in such regulations.

7. Serve as mediators in adjusting and settling range difficulties between parties and groups within their respective districts. In serving as mediators, the District Grazing Committee will hear both sides of a dispute and attempt to get the two parties or groups to agree to a mutual settlement of differences within the terms of the Navajo Grazing Regulations. The Grazing Committee in serving as mediator is not to assume the role of judge and jury. Difficult cases not settled in the above manner shall be referred to the Office of Hearings and Appeals in an attempt to settle differences out of court.

8. Committees of adjoining districts shall hold joint meetings to resolve their inter-district difficulties.

9. All Grazing Committee actions shall be conducted in formally called meetings with a quorum present. This applies to grazing permit transfers and subletting as well as other matters of business. The Chairperson or Vice-Chairperson shall sign all grazing permit transfers and subletting agreements approved by the District Grazing Committee after agreement is reached between the parties as to the method of payment.

10. Submit in writing to the Central Grazing Committee, any recommendations and suggestions of general interest and any problem which the District Grazing Committee is unable to solve or which is beyond its authority.

11. Perform such other duties and functions related to the purposes of the Grazing Committees they may be directed to do by the Central Grazing Committee or the Office of the President, Navajo Nation.

12. Preserve forage, land and water resources within the Navajo Nation and to build up those resources where they have deteriorated.

13. Protect grazing interests of Navajo permittees from the encroachment of non-Navajo individuals or businesses.

14. Adjust livestock numbers to carrying capacities of ranges in such a manner that the livestock economy of the Navajo Nation is preserved.

15. Educate Navajo Grazing Permittees on the improvement of livestock through proper breeding practices and maintenance of a sound culling policy and to recommend to appropriate Navajo Nation offices, departments and the Resources Committee the establishment of buck and bull pastures.

16. Maintain the Land Management Districts and to recommend changes in District boundaries when deemed necessary to the Resources Committee and the Navajo Nation pursuant to the Navajo Grazing Regulations.

17. Maintain livestock inventory data gathered while carrying out the various disease and parasite control program and branding activities and to maintain all Grazing Committee records.

18. Recommend to the Bureau grazing rights of bona fide livestock owners.

19. Recommend approval of transfer of grazing permits.

20. Approve subletting agreements of transfer of grazing permits provided that the sublessor or Grantor will not own and operate more livestock than he or she has remaining on the regular Grazing permit and provided that subletting agreements are made only at District Grazing Committee meetings with a quorum present pursuant to the Navajo Grazing Regulations.

21. Recommend construction of fences and Range Management Units or removal of unauthorized existing fences and to regulate the construction of all dwelling, corrals, and other structures within one-half mile of permanent livestock waters such as springs, wells, and deep reservoirs.

22. Shall have transportation with full insurance coverage and valid state driver's license.

23. Navajo Partitioned Land District Grazing Precincts shall re-issue grazing permits on the Navajo Partitioned Lands, establish range unit boundaries; mediate grazing disputes; inform and educate potential permittees in probating grazing permits cancelled by the U.S. District Court of Arizona in October 1972; develop guidelines for individual and community range management plans; coordinate with departments of the Navajo Nation, the Hopi Tribe and the Bureau of Indian Affairs for effective grazing enforcement; and other related matters.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act. Added Subsection 23.

CAP-38-98, April 22, 1998.

ACN-83-57, November 8, 1957.

CA-30-52, April 24, 1952.

**Note.** Grammatical errors corrected at Subsection (A) (9).

#### **Cross References**

Small irrigation projects, duties and responsibilities for, see § 151, *et seq.* of this title.

#### **Annotations**

##### **1. Authority of committee**

"The law is clear—a district grazing committee has no authority to decide a land dispute. Its only responsibility is to serve as a mediator in a land dispute in an attempt to have the parties agree to a mutual settlement. A district grazing committee is not to act as a judge or jury; a role that requires a decision." *In re: Mary Ellis Joe Customary Use Area*, 6 Nav. R. 177, 179 (Nav. Sup. Ct. 1990).

#### **§ 876. Meetings**

A. Each District Grazing Committee shall establish a meeting schedule for at least three meeting days per month to include the District and Agency meetings. Any additional meetings shall be special meetings. All meetings of the District Grazing Committees and the Navajo Partitioned Land District Grazing Precincts shall commence at 9 a.m.

B. Unless otherwise established by the Resources Committee, all meetings shall be conducted in accordance with the Rules of Order of the standing committees of the Navajo Nation Council.

C. Navajo Partitioned Land District Grazing Precincts meetings shall occur with the same frequency as Agency meetings (monthly). Such monthly meetings are to be held in each of the three Precincts, with District Grazing Committee members attending their respective Precinct meetings. Quarterly meetings involving all of the Precincts shall be held in lieu of a monthly meeting.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CAP-38-98, April 22, 1998.

ACN-83-57, November 8, 1957.

#### **§ 877. Quorum**

A quorum shall consist of over one-half of the Grazing Committee members.

#### **History**

CAP-38-98, April 22, 1998.

ACN-83-57, November 8, 1957.

#### **§ 878. Compensation**

A. The Grazing Committee members shall be paid from funds provided annually in the Navajo Nation budget for that purpose.

B. District Grazing Committee members shall be compensated at a rate of eight hundred dollars (\$800.00) per month. All District Grazing Committee members shall be paid on a regular basis and may be subject to appropriate

payroll deduction for insurance coverage as determined and approved by the Navajo Nation Insurance Commission pursuant to the provisions of 2 N.N.C. § 933(A). In addition, District Grazing Committee members shall receive travel allowance of two hundred dollars (\$200.00) per month.

C. District Grazing Committee members attending their respective Chapter, Precinct, District and/or Agency meetings may be compensated for each meeting wherein official business is conducted, subject to Navajo Nation Council appropriations and availability of funds. District Grazing Committee members shall be paid as follows:

1. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at Chapter/Planning meetings;

2. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at Agency Grazing Committee meetings;

3. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at District Grazing Committee meetings;

4. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at Agency Council meetings;

5. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at District Council meetings;

6. A stipend of one hundred twenty-five dollars (\$125.00) each for attendance at Navajo Partitioned Land District Grazing Precinct meetings. Such stipend precludes payment for any stipends for attendance at Agency meetings and is contingent on attendance for the entire Precinct meeting.

D. Compensation of District Grazing Committee members may be withheld by the Division of Natural Resources through the Grazing Management Office for failure to turn in all tribal property at the end of his/her term, or for non-performance of prescribed duties and responsibilities.

#### **History**

CO-31-09, October 20, 2009. Navajo Partitioned Land District Grazing Precincts Act.

CAP-38-98, April 22, 1998

CMA-16-90, March 29, 1990.

CAU-66-85, August 2, 1985.

**Note.** Slightly reworded for purposes of statutory form.

#### **§ 879. Accountability**

A. Individual Committee members shall be directly accountable to his/her local Chapter and "administratively" accountable to the Director, Division of Natural Resources, or his/her designee, to whom he or she shall be required to

submit written reports of his or her activities.

B. District Grazing Committee members shall be required to attend Chapter and planning meetings in addition to other Committee meetings and travel as required.

C. The Chairperson of each District Grazing Committee shall present quarterly reports to the Resources Committee. Quarterly reports shall include the activities of the District Grazing Committees related to its Plan of Operation.

#### **History**

CAP-38-98, April 22, 1998.

CAU-66-85, August 2, 1985.

**Note.** Advisors, voice and vote deleted.

#### **§ 880. Amendments**

The District Grazing Committee Plan of Operation may be amended from time to time by the Navajo Nation Council upon the recommendation of the Resources Committee and Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-38-98, April 22, 1998.

### **Subchapter 7. Off-Reservation Grazing**

#### **§ 931. Definitions**

A. "Commissioner" means the Commissioner of Indian Affairs.

B. "Area Director" means the Director of the Navajo Area of Bureau of Indian Affairs.

C. "Superintendent" means the Superintendent of the Eastern Navajo Agency of the Bureau of Indian Affairs.

D. "Individually Owned Land" means land or any interest therein held in trust by the United States for the benefit of individual Navajo Indians and land or any interest therein held by individual Indians subject to federal restrictions against alienation or encumbrance.

E. "Navajo Nation Trust Land" means land or any interest therein held by the United States in trust for the Navajo Nation, and land that is held by the Navajo Nation subject to federal restrictions against alienation or encumbrance. This term also includes assignments of Navajo Nation land. Unless the terms of the assignment provide for the leasing of the land by the holder of the assignment, the Navajo Nation must join with the assignee to issue a grazing permit.

F. "Navajo Nation Fee" means land owned in fee simple by the Navajo Nation.

G. "Government Land" means land, other than Navajo Nation land, acquired or reserved by the United States for Indian Bureau administrative purposes which are not immediately needed for the purposes for which they are acquired or reserved, and land transferred to or placed under the jurisdiction of the Bureau of Indian Affairs but does not include unreserved public domain land leased to the Navajo Nation under § 15 of the Taylor Grazing Act.<sup>1</sup>

H. "Navajo Nation Lease Lands" means land leased to the Navajo Nation under § 15 of the Taylor Grazing Act,<sup>1</sup> and the state lands leased to the Navajo Nation but shall not include land within Navajo Nation ranches.

I. "Permit" means a revocable privilege granted to an individual in writing to enter on and use a specified tract of land for a specified purpose.

J. "Animal Unit" means one mature cow (or calf six months or over) or other approved equivalent. Example: five sheep = one cow; five sheep = one horse (or as amended).

K. "Range Unit" - a range unit shall consist of such lands as the District Land Board, after consultation with land users and the Bureau of Indian Affairs range technicians, shall consider the nearest to fitting the conditions required by Range Management, land status, conservation, and Indian needs.

L. "Grazing Community" - a grazing community shall consist of range units combined into a larger administrative unit, as determined by the District Land Boards based on common interest.

M. "Immediate Family" means the Indian's descendants as controlled by the state laws of descent wherein the land is situated.

N. "Allocation" means the assignment of range use without competitive bidding, including the determination of who may graze livestock, the number and kind of livestock, and the place such livestock will be grazed.

O. "District Land Board" - a board comprised of representative Navajo Indian membership selected for the purpose of administering grazing and problems attendant thereto, and representing a Land Management District in the Off-Reservation area.

P. "Joint Agency Land Board" - a board comprised of the combined membership of all District Land Boards in the Off-Reservation area.

Q. "Navajo Nation Office" means Crownpoint Navajo Nation Range and Livestock Office.

R. "Indians" means enrolled Navajo Indians.

S. "Resources Committee" means the duly appointed Resources Committee of the Navajo Nation Council.



T. "Livestock" means all neat animals (horses and cattle) and sheep, goats and swine.

#### **History**

ACO-300-69, October 1, 1969.

CMY-33-69, May 19, 1969.

#### **United States Code**

Taylor Grazing Act, see 43 U.S.C. § 315 *et seq.*

#### **§ 932. General authority**

A. The General Grazing Regulations, 25 CFR 151, are effective for all Navajo Indian lands and Government lands under the jurisdiction of the Bureau of Indian Affairs except as superseded by special instructions from the Commissioner of Indian Affairs or by properly approved Navajo Nation action. This Subchapter constitutes Navajo Nation action designed to govern the administration of grazing in the Off-Reservation area not included in the Bureau of Land Management Districts, pursuant to the Cooperative Agreement for the Administration of the Checkerboard Area, approved June 28, 1966, by the Navajo Tribal Council Chairperson; July 19, 1966, by the State Director of the Bureau of Land Management; and by the Area Director of the Bureau of Indian Affairs, July 25, 1966. The administration of this Subchapter shall be the responsibility of the Off-Reservation District Land Boards, and the ministerial function shall be executed by the Crownpoint Navajo Nation Range and Livestock Office.

B. The provisions of the Off-Reservation Grazing Code shall become effective upon acceptance and approval by the Navajo Nation Council and the Bureau of Indian Affairs.

#### **History**

CMY-33-69, May 19, 1969.

#### **Annotations**

##### **1. Covered lands**

"Appellant Charlie's grazing permit covers range unit #33 within the checkerboard area of the Eastern Agency of the Navajo Nation. As such, she is subject to the Navajo Nation's Off-Reservation Grazing Code at 3 N.N.C. §§ 932-35." *Castillo, et al. v. Charlie, et al.*, 7 Nav. R. 181, 182 (Nav. Sup. Ct. 1995).

#### **§ 933. Objectives**

It is the purpose of the regulations of this Subchapter to:

A. Preserve, through proper grazing management, the land, water, forest,

forage, wildlife and recreational values in the Off-Reservation area and improve and build up these resources where they have deteriorated;

B. Promote use of the range resources by Indians to enable them to earn a living, in whole or in part, through the grazing of their own livestock; and

C. Balance the rights and equities of the individual landowners and Navajo Nation programs through the granting of grazing privileges in a manner which will yield a fair return to landowners consistent with undiminished future use.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 934. Establishment of range units**

The conservation, development, and effective utilization of the range resources requires consolidation of small individual and Navajo Nation ownerships and the organization of the total range area into management units. The District Land Board shall establish range units after consultation with the Indians and consideration of the land status, Indian needs, customary use area, and land use problems involved, and adjust such units as needed.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 935. Grazing capacity**

The Superintendent or his authorized representative shall determine the grazing capacity of each range unit and the season, or seasons, of use to achieve the objectives cited in 3 N.N.C. § 933 and this shall serve as a stocking rate guide in granting permits. The utilization and range conditions of the units shall be reviewed by qualified range experts on a continuing basis. The District Land Boards and Permittees shall be notified of the need to adjust stocking rates for the long range benefit of both livestock and land.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 936. Grazing on range units authorized by permit**

A. All grazing use on range units shall be authorized only by a grazing permit except use which is exempt pursuant to 3 N.N.C. § 937. Subject to recommendations and approval of the District Land Boards, the Crownpoint Navajo Nation Range and Livestock Office and the Bureau of Indian Affairs, shall prepare all permits, and they shall be approved by the Supervisor of the Crownpoint Navajo Nation Range and Livestock Office and the Superintendent. The following shall be made a part of each permit:

1. A map of the unit showing boundary and existing range improvements;

2. An inventory of range improvements showing ownership; and
3. Range use stipulations.

B. Copies of the permit shall be furnished the permittee, the Crownpoint Navajo Nation Range and Livestock Office, the Navajo Nation Land Investigation Department (for record keeping only), and the Superintendent.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 937. Grazing exempt from permit**

The following may, without the approval of the Superintendent or the Navajo Nation, graze livestock on his or her individually owned grazing land or other grazing land for which they are responsible, provided the lands are excluded from the Range Unit by fencing out said land: (1) an adult, except those non compos mentis; and (2) an adult, except those non compos mentis, on behalf of his or her minor child and on behalf of a minor child to whom he or she stands in loco parentis when such child does not have a legal representative. The term "graze livestock" means the grazing of livestock which are either owned by a person defined in (1) and (2) above, or if not owned, are under his or her direct management and supervision. Grazing of livestock under any other arrangement is considered a lease or permit subject to approval of the Superintendent.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 938. Authority to include land in grazing permits**

A. The Superintendent may include individually owned land on a grazing permit on behalf of:

1. A person who is adjudicated by a state, Navajo Nation, or federal court to be non compos mentis;
2. An orphaned minor;
3. An adult whose location or whereabouts is unknown, after reasonable attempts have been made to locate him/her;
4. Heirs or devisees who have not been able to agree on the permitting of their land not in use by any of the heirs or devisees during a three-month period immediately following the date of constructive notice from the Superintendent given by posting general notices in appropriate chapter houses in the area where the land is located, and with the District Land Boards; also published in a newspaper of local general circulation;
5. A Navajo Indian owner defined in 3 N.N.C. § 937, who gives the

Superintendent written authority to grant grazing privileges; and

6. A guardian, conservator, or other fiduciary, appointed by a state, federal, or Navajo Nation court who gives the Superintendent written authority to grant grazing privileges for any land held in trust for a minor, person who is non compos mentis, or is otherwise legally disabled.

B. The Superintendent may include Government land on a grazing permit; provided such land is not already under a revocable permit or lease to the Navajo Nation, in which case, the Navajo Nation must authorize the land to be included.

C. The District Land Board may include Navajo Nation trust, unreserved public domain land leased by the Navajo Nation, and other Navajo Nation controlled land on the grazing permits.

#### **History**

CMY-33-69, May 19, 1969.

**Note.** Words "to locate him/her" were added at end of Subsection (A) (3) for purpose of clarity.

#### **§ 939. Allocation of grazing privileges**

A. Grazing privileges shall be allocated in accordance with 3 N.N.C. § 938, by the District Land Board who will review all applications for permits, determine the eligibility, and designate the use area.

B. Eligibility requirements: An applicant must be a member of the Navajo Nation, 18 years of age or older, show a sincere interest in the livestock business, furnish proof of livestock ownership, and proof of a recognized use area. An applicant may be requested to appear at a hearing. Each applicant must submit a written application on an approved form.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 940. Establishment and payment of grazing fees**

A. The Area Director shall establish a minimum acceptable grazing fee for grazing privileges on individually owned land. Except as otherwise provided in Subsection (B) of this Section, the rate established shall provide a fair annual return to the landowner. The Superintendent shall provide the Navajo Nation Land Boards with all available information.

B. An adult Indian, in giving the Superintendent written authority to grant grazing privileges on his or her individually owned land, may stipulate a higher rate above the minimum rate set by the Area Director if justified because of above average value. He or she may also stipulate a lower rate than the minimum rate, subject to approval of the Superintendent when the permittee is a member of the landowner's immediate family.

C. Grazing fees for Navajo Nation controlled land shall be established by the District Land Board and it may establish the fee to be paid by the permittee. This condition is given with the provision that each individual landowner receives the minimum rate established by the Area Director or stipulated in the authority under 3 N.N.C. § 938(C) above.

D. Grazing fees shall be payable annually and in advance and date due shall be a provision of the permit. Delinquent fees shall be a first lien on the livestock grazed under permit. Payment shall be made to the Bureau of Indian Affairs for individually owned lands and the Navajo Nation for Tribally controlled lands.

E. Grazing fees shall be established by the District Land Board after consultation and review with representatives of the Bureau of Indian Affairs and the Navajo Nation before commencement of each permit period. The grazing year shall be from May 1 to April 30. Grazing fees shall be payable annually and in advance and will be due on or before May 1. Fees not paid by May 1 will be delinquent upon that date.

#### **History**

CMY-33-69, May 19, 1969.

ACO-300-69, October 1, 1969.

#### **§ 941. Assignment, modification, cancellation and duration of permits**

A. A grazing permit shall not be assigned, sublet, or transferred by the permittee. In event of death of the permittee, the permit shall be cancelled. A new permit on the range unit involved will be issued after review and recommendation of the District Land Board, who shall consider legal heirs and land users pursuant to Navajo custom.

B. The District Land Board may modify or cancel a grazing permit by mutual consent, by a 30 day advance written notice for violation of the terms of the permit, or because of change of status of the land involved.

C. Duration of the permit period shall be determined by the District Land Board subject to a maximum period of five years.

D. Time limit for non-use will be two years. Non-use permit must be renewed each year.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 942. Conservation and land use provisions**

A. Grazing operations shall be conducted in accordance with recognized principles of good range management. Stipulations or management plans necessary to accomplish this may be made a part of the grazing permit.

B. The Superintendent shall withdraw areas from grazing for reseeding or other conservation practices and to protect the said lands from further damages and shall also issue notices to this effect to all concerned.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 943. Range improvements**

All improvements placed on range units shall be approved by the District Land Board and shall become affixed to the property unless specifically excepted therefrom under the terms of the permit. Written permission to remove improvements must be secured from the District Land Board prior to removal. The permit will specify the maximum time allowed for removal of improvements so excepted.

#### **History**

CMY-33-69, May 19, 1969.

#### **Annotations**

##### **1. Construction and application**

"The Off-Reservation Grazing Code states, in relevant part, that '[a]ll improvements placed on range units shall be approved by the District Land Board and shall become affixed to the property.' 3 N.N.C. § 943 (1969). This, contrary to Appellants' assertion, a permittee is not barred from constructing improvements to prevent her livestock from straying onto the highway." *Castillo, et al. v. Charlie, et al.*, 7 Nav. R. 181, 182 (Nav. Sup. Ct. 1995).

##### **2. Allotment fencing**

"Given that fencing on all lands, including allotments in the Eastern Navajo Agency, are subject to some local Navajo board or committee's approval, the Court concludes that, read together, the purpose of the various provisions is to deal with fencing within the Nation comprehensively. To foster a uniform, predictable system of regulating fencing within the Reservation, this purpose is facilitated by requiring district grazing committee approval of allotment fencing within the Reservation. Under this analysis, elected officials within local communities may hear and decide disputes when land owners propose to fence their land off from other users. Such fencing affects not just the parcel proposed to be fenced, but affects all other surrounding land users." *Gishie v. Morris, et al.*, No. SC-CV-36-06, slip op. at 5 (Nav. Sup. Ct. June 4, 2008).

#### **§ 944. Special permit requirements and provisions**

All grazing permits shall contain the following provisions:

A. While the lands covered by the permit are in trust or restricted status, all of the permittees obligations under the permit and the obligation of his/her sureties are to the United States as well as to the owner of the land.

B. Nothing contained in the permit shall operate to delay or prevent the termination of federal trust responsibilities with respect to the land by the issuance of fee patent or otherwise during the term of the permit.

C. The permittee agrees he/she will not use or cause to be used any part of permitted area for any unlawful conduct or purpose.

D. This permit authorizes the grazing of livestock only and the permittee shall not utilize the permitted area for hay cutting, hunting, post cutting, or any other use without proper authorization from the Superintendent or the Navajo Nation authorities.

#### **History**

CMY-33-69, May 19, 1969.

**Note.** Paragraph (C) rephrased for purpose of clarity.

#### **§ 945. Bonding and insurance requirements**

A. A satisfactory performance bond may be required in an amount that will reasonably assure performance of the contractual obligation. A bond, when required, may be for the purpose of guaranteeing the estimated construction cost of any improvement to be placed on the land which will become the property of the permitter or to insure compliance with special or additional contractual obligations.

B. The permittee may be required to provide insurance in an amount adequate to protect any improvement on the permitted premises; and may also be required to furnish appropriate liability insurance and such other insurance as may be necessary to protect the permitter's interest.

#### **History**

CMY-33-69, May 19, 1969.

#### **§ 946. Trespass**

A. Definition of "Trespass". The following shall be considered trespass:

1. The grazing of livestock by an owner within a permitted area not covered by the permit issued to the owner of the livestock.

2. Not removing livestock from a grazing unit when the permit is cancelled after direction is given.

3. Permitting or allowing livestock to drift into another permitted unit except as covered in 3 N.N.C. § 937.

4. Grazing of livestock upon Navajo Indian controlled lands within an area closed to grazing of that class livestock.

5. Grazing or driving livestock across any individually owned,

Navajo Nation or Government lands without an approved grazing or crossing permit.

6. Grazing of livestock upon an area withdrawn from use for grazing purposes for reseeding or other conservation practices, or to prevent any further damage to the lands, or refusal to remove livestock from such a withdrawn area.

B. Notification of Trespass. When the trespass is reported or made known to the District Land Board and the Superintendent the Board shall review and investigate the trespass complaint and if the Board determines that the trespass is actually occurring or has actually occurred it shall take the following actions:

1. By letter request the person guilty of the trespass to correct such trespass, and inform the person of the grazing rules and regulations and the penalties that can be invoked if the trespass is not corrected.

2. After the initial notification, if the Board finds that the trespass is not corrected as directed, the Board shall direct the person guilty of the trespass to appear before the Board for a formal hearing to discuss the trespass and make every effort to resolve the trespass.

3. After the person guilty of the trespass has appeared before the Board and has not corrected the trespass as directed, the Board shall declare officially that a trespass exists and impose the penalty or penalties as prescribed in this Subchapter.

4. If a person has been guilty of a previous trespass, is known to be a "habitual trespasser", is known to disregard the authorities and the rules and regulations, and is uncooperative in the proper grazing administration, the Board shall use every means in its power to resolve the trespass or trespasses and if necessary shall immediately impose the penalties as prescribed in this Subchapter without notice or hearing.

C. Penalties: When the District Land Board finds that a person is guilty of a trespass, the Board and the Superintendent with the assistance of the Crownpoint Navajo Nation Range and Livestock Office shall take the following actions at their discretion:

1. Impose upon the owner of any livestock in trespass on Navajo Indian controlled land a penalty of forty cents (40 per head for each sheep unit in trespass, together with the reasonable value of the forage consumed and damages to the property injured or destroyed.

2. Take necessary action to collect for penalties and damages from the owner of livestock determined to be in trespass. All payments for damages shall be credited to landowners where the trespass occurs.

3. If deemed necessary, seize all livestock in trespass in accordance with the Livestock Laws referred to under 3 N.N.C. § 950, and to hold the livestock until the penalties are paid by the trespasser. While holding the livestock the trespasser will also be charged at the rate of fifty cents (50 per sheep unit per day or the actual cost for



"holding fees" for the care, feeding, and protection of the seized livestock, whichever is greater.

#### **History**

CMY-33-69, May 19, 1969.

#### **Cross References**

See Navajo Nation Criminal Code, 17 N.N.C. §§ 350, 460-466, and 524.

#### **Annotations**

##### **1. Construction and application**

"Permitters are not allowed to graze or drive livestock across any individually owned, tribal or government lands without an approved permit." *Castillo, et al. v. Charlie, et al.*, 7 Nav. R. 181, 182 (Nav. Sup. Ct. 1995).

##### **§ 947. Control of livestock diseases**

Whenever livestock on Indian controlled lands become infected with contagious or infectious diseases, or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable Navajo Nation, federal and state laws.

#### **History**

CMY-33-69, May 19, 1969.

##### **§ 948. Use of undesirable sires**

A. Bulls grazed on open range land shall be of a uniform breed, preferably registered breeds, and the breed shall be determined by the permittees within the unit.

B. Rams shall be of the fine wool breeds.

C. Horses allowed to run stud shall be approved by District Land Board members or their designated committee. Failure to abide by this provision will make the permittee guilty of an offense and the permittee shall pay a penalty of ten dollars (\$10.00) per head for each offense.

#### **History**

CMY-33-69, May 19, 1969.

##### **§ 949. Appeals**

An applicant for a grazing permit or a grazing permittee may appeal to the Joint Agency Land Board on any action taken by the District Land Board. In order for an appeal to be considered, the appeal must be presented in writing to the Joint Agency Land Board within 30 days after receipt of the written decision of the District Land Board. The decision of the Joint Land Board may

be appealed to the Office of Hearings and Appeals. The appeal must be presented in writing within 30 days after receipt of the written decision of the Joint Agency Land Board.

#### **History**

CO-59-03, October 21, 2003.

CMY-33-69, May 19, 1969.

#### **§ 950. Livestock laws**

The five articles embodied in the Livestock Laws of the Navajo Reservation and other lands within the jurisdiction of the Navajo Nation Courts, as adopted on June 22, 1966, or as may be amended, shall be adhered to by the permittees of the Off-Reservation Eastern Navajo Agency jurisdiction. Permittees shall abide by any grazing stipulation that might be attached to and made a part of the permit. Such stipulations may include such provisions as the observance of boundaries, tally of livestock, breeding seasons, areas closed to grazing, proper salting, etc.

#### **History**

CMY-33-69, May 19, 1969.

### **Chapter 7. Control and Inspection of Livestock**

#### **History**

**Note.** This Chapter was initially codified at §§ 551 et. seq. of this title.

#### **Subchapter 1. Generally**

##### **§ 1201. Definitions**

A. "Abandonment" means and includes the leaving of an animal by its owners or other person or persons responsible for its care or custody without making effective provisions for its proper care and control.

B. "Animals" means any animal mammal, other than human, and includes birds, reptiles, fish, wild and domesticated animals.

C. "Animal fights" means it is unlawful for any person to promote stage, hold, manage, conduct, or carry on any game, exhibition or contest in which one or more animal are engaged for the purpose of injuring, killing, maiming, or destroying themselves, or any other animals. This does not apply to rodeo events.

D. "Cruelty" means it is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise conduct cruelly set upon an animal, except that reasonable force maybe used. Cruelty also includes every act or omission, which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain and

suffering.

E. "Department" means the Department of Resource Enforcement, Navajo Veterinary Livestock Program or the Department of Agriculture.

F. "Deputy Livestock Inspector" as used in this Act shall mean a non-commissioned officer who provides livestock inspection services only and duties shall also include the seizure of livestock under this Title.

G. "Director" means the Director of the Department of Resource Enforcement and the Director of Navajo Nation Department of Agriculture.

H. "Disposal" means the deposit or dumping of any animal (carcass) into or on any land or water so that such animal (carcass) or any constituent (animal parts) thereof may enter the environment or be emitted into the air or discharged into any water, including ground water.

I. "Division" means the Navajo Nation Division of Natural Resources.

J. "Division Director" means Executive Director of Division of Natural Resources.

K. "Equine" as used in this Chapter means horses, mules, burros and asses.

L. "Feral" means any un-owned or free ranging animal, livestock or equine not under control of an owner.

M. "Livestock" as used in this Chapter means cattle, dairy cattle, buffalo, sheep, goats, swine, and llamas, except feral pigs.

N. "Law Enforcement Officer" means any person who has successfully completed training at a recognized police training academy, has been commissioned by a designated Navajo Nation authority as a police officer, ranger, forestry officer, or resource enforcement officer, and is vested by law with a duty to maintain public order or make arrests, whether that duty extends to all offenses or is limited to specific areas of offenses or offenders. This term includes police officers, rangers, forestry officers and resource enforcement officers.

O. "Livestock Officer" means a commissioned Law Enforcement Officer who has the duties and responsibilities to enforce Title 3 and Title 17 related to livestock and who is also an authorized person to conduct livestock inspection service.

P. "Livestock Trader Permit" means a certification of a person, corporation or business who conducts business involving the sale, barter and trade of livestock, equine, hay and feed and other agricultural products.

Q. "Neglect" means failure to provide food, water and normal veterinary care for the animal(s) health and well being. During time of drought and severe weather conditions, the owner is responsible to ensure animal, livestock or equine are properly maintained and not in a state of neglect.

R. "Nuisance" means, but is not limited to defecation, urination, disturbing the peace by the presence of, sound or cry, emitting noxious or offensive odor, or otherwise endangering the well being of the inhabitants and other livestock, or equine of the community.

S. "NNERFAD" means the Navajo Nation Emergency Response to Foreign Animal Disease.

T. "NNVLP" means the Navajo Nation Veterinary Livestock Program who is responsible for the investigation, diagnosis and treatment of disease incidents and/or outbreak.

U. "Poultry" means any domesticated bird, whether live or dead, and includes chickens, turkeys, ducks, geese, guineas, ratites and squabs.

V. "Range" means every character of lands, enclosed or unenclosed, and not withdrawn from grazing, outside/inside of cities and towns, upon which livestock are permitted to graze with a valid Navajo Nation grazing permit and Eastern Navajo grazing permit.

W. "Range equine" means equine customarily permitted to roam upon the ranges of the Navajo Nation, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.

X. "Range livestock" means livestock customarily permitted to roam upon the ranges of the Navajo Nation, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.

Y. "Ratite" means ostriches, emus, rheas and cassowaries.

Z. "Stray animal" as used in this Chapter, means livestock, equine or ratites whose owner is unknown or cannot be located, or any animal whose owner is known but permits the animal to roam at large on the streets, alleys, fenced paved roads, fenced right of ways, range or premises of another without permission.

AA. "Veterinarian" means accredited Navajo Nation, state or federal veterinarian.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

### **Cross References**

Definitions under Chapter 9, Health Requirement Offenses; Control of Contagious Diseases; Penalties, see § 1501 of this Title.

Grazing Regulations, see § 701 et seq. of this title.

Resources Committee authority, see 2 N.N.C. § 691 *et seq.*

### **Subchapter 3. Inspection of Livestock**

#### **§ 1251. Livestock Officer and Deputy Livestock inspectors; appointment; powers and duties**

A. The Director of the Division of Natural Resources shall have the authority to appoint livestock officers and deputy livestock inspectors to enforce the provisions of the livestock laws of the Navajo Nation and such other laws that may pertain to the transfer, importation, sale and/or health of livestock. Such livestock officer and deputy livestock inspectors shall be responsible to the Director of Department of Resource Enforcement.

B. Livestock officers and deputy livestock inspectors may authenticate bills of sale of livestock and equine, brands, marks and/or animal identification, deliver certificates of acknowledgment thereof under their hands and seals and take acknowledgments to applications for brands and marks. A service fee and administrative fee per form and inspection fee per head (on bill of sales) will be taken as payment to be determined by the Department administration as deemed necessary.

C. Livestock officers and deputy livestock inspectors shall not grant a certificate of inspection of unbranded hides or livestock, or of hides or livestock upon which the marks and brands cannot be ascertained or which disclose ownership by some person other than the one seeking the certificate of inspection. No certificate of inspection will be given without original documents. No Xerox copies will be accepted as proof of ownership without certified stamp from notary public, courts or Bureau of Indian Affairs (BIA).

D. A livestock officer may stop any person who is in possession of and is conveying, shipping or transporting livestock, equine or hides of livestock to examine brands, marks and other animal identification, certificates of brand inspection and bills of lading or bills of sale relating to the livestock in transit if the officer or inspector has probable cause or reasonable suspicion to believe that the person has violated this Title or Title 17 relating to livestock.

E. Livestock officers and deputy livestock inspectors may enter any premises where livestock are kept or maintained to examine brands or marks or other evidence of ownership or to determine the health or welfare of livestock. If admittance is refused or physically denied and probable cause exists, the livestock officer may immediately request a warrant from the nearest court of the Navajo Nation to allow such entry.

F. Livestock officers are law enforcement officers and shall have the powers of law enforcement officers and carry a Department-issued weapon, with respect to Title 3 and Title 17 relating to livestock, and shall cite, apprehend or arrest any person who violates the livestock laws, and shall, upon reliable information that any person has violated such law, make the necessary affidavits for arrest and examination of the person and shall, upon warrants issued therefor, immediately arrest the person.

G. Deputy livestock inspectors' powers and duties will not include Subsections D and F of this Section.

H. Livestock officers and deputy livestock inspectors' will investigate cases of livestock and equine abandonment, neglect, nuisance and cruelty.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**Note.** At Subsection A, "Supervisor of the Range and Livestock Department" corrected to "Director of Department of Resource Enforcement."

#### **Cross References**

On arrests, see 17 N.N.C. §§ 1803 and 1804.

#### **§ 1252. Method, place and time of inspection of livestock**

A. Livestock officers and deputy livestock inspectors shall inspect, other than equine previously inspected pursuant to Section 1354 and livestock subject to authorized self-inspection, livestock for health, marks and brands at loading stations, at places of exit from the Navajo Nation and at places where livestock are gathered to be sold, slaughtered, transported, conveyed, shipped or driven from their range for any purpose whatsoever, except when livestock are being moved from pasture to a destination within the Navajo Nation without leaving the exterior boundaries of the Navajo Nation and no change of ownership, slaughter or other disposition is involved and the owner is utilizing self-inspection approved by the department/division. Livestock officers and inspectors need not inspect outgoing livestock from feedlots, dairies and producers utilizing self-inspection but may conduct periodic inspections to ascertain compliance with this Chapter.

B. Brand inspection shall be made by daylight only and in a manner which enables the livestock officer or deputy livestock inspector personally to see, inspect and record each and every mark, brand and/or other animal identification. Inspections of livestock for health at a slaughterhouse may be made by other than daylight if adequate artificial light is provided.

C. Upon being advised that livestock is subject to inspection, livestock officers and inspectors shall arrange for the inspection of the livestock and inspect such livestock within 96 hours.

D. Feed lots, dairies and producers utilizing self-inspection approved by the Division shall comply with this Section and procedures established.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**§ 1253. Record of inspection; disposition of record and copies**

A. Livestock officers and deputy livestock inspectors shall make a record of all inspections disclosing the place and date of the inspection, its purpose, the kind, sex and description necessary to identify the livestock, the number of head running in every brand and mark and/or other animal identification, the name of the seller if the livestock is to be sold, the name of the shipper if the livestock is to be shipped, change of premise and other necessary information.

B. Feedlots, dairies and producers utilizing self-inspection approved by the Division shall comply with this Section and procedures established by the Division.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**§ 1254. Inspection as to ownership of livestock**

A. Livestock officers and deputy livestock inspectors, in making inspections, shall require from livestock auctions or the owner or person in charge of the livestock a list of the brands and marks or necessary evidence of ownership and shall determine by inspection of the livestock that the person in charge is the owner or an approved livestock auction or is authorized in writing to handle the livestock. If a person claims to own offspring of an equine that the person leased, the livestock officer or inspector shall require that the owner of the equine obtain an ownership and hauling certificate for the offspring and transfer ownership of the offspring to the lessee.

B. Feedlots, dairies and producers utilizing self-inspection approved by the Department/Division shall comply with this Section and procedures.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**§ 1255. Seizure of livestock to be shipped by unauthorized person**

If livestock to be shipped by rail or other conveyance or transport is

upon inspection found not to belong to the shipper, or if the handler is not authorized in writing to sell, ship, transport or drive the livestock, it shall be taken by the livestock officer and deputy livestock inspector.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1256. Certificate of inspection; delivery**

A. Upon completion of an inspection, the livestock officer and deputy livestock inspector shall deliver to the person in charge of the livestock a certificate on a form provided by the Department disclosing the date of inspection, the purpose for which inspected, the number, sex and kind of animals inspected, all their brands, animal identification and the fee collected. The certificate of inspection shall have clearly imprinted on its face the legend: "This certificate of inspection is not and shall not be used as a bill of sale."

B. Feedlots, dairies and producers utilizing self-inspection approved by the Department/Division shall comply with this Section and procedures.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1257. Service charge and inspection fee; self-inspection; civil penalties**

A. Livestock officers and deputy livestock inspectors shall collect from the person in charge of cattle inspected a service charge plus an inspection fee per head for making inspections for the transfer of ownership, change of premise, sale, slaughter or transportation of cattle.

B. Livestock officers and deputy livestock inspectors shall collect from the person in charge of sheep inspected a service charge plus an inspection fee per head for making inspections for the transfer of ownership, change of premise, sale, slaughter or transportation of sheep.

C. Livestock officers and deputy livestock inspectors shall collect from the person in charge of dairy cattle inspected a service charge plus an inspection fee per head for making inspections for the transfer of ownership, change of premise, sale, slaughter or transportation of dairy cattle.

D. The Department may approve self-inspection by feedlots and dairies. Movement shall be documented on forms provided by the Department. Feedlots and dairies, which utilize self-inspection, shall pay an outgoing inspection fee of 50 cents (\$.50) per head.



E. Service charges and inspection fees collected by the livestock officers and inspectors, feedlots and dairies utilizing self-inspection shall be remitted to the Division. Service charges and inspection fees incurred by feedlots and dairies shall be remitted to the Department within 10 days after the end of the month in which the livestock were inspected.

F. Qualified deputy livestock inspectors shall be compensated for their time as livestock inspector to half of the service charge for each livestock inspection done by said person.

G. Service charge will be determined by the administrator of the Department with consultation with surrounding state and Navajo Nation control that is in charge of livestock inspection service.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJA-1-84, January 19, 1984.

CJN-83-66, June 22, 1966.

#### **§ 1258. Transportation of livestock, equine, animal, poultry and/or ratite by person without certificate of inspection or health certification or validated auction invoice; classification**

A. Except as otherwise provided in this Chapter, it is unlawful for any person, firm or corporation to carry, transport or convey livestock, equine and ratite by any conveyance without first having such livestock, equine and ratite inspected, and having in immediate possession the duplicate record of the inspection, an auction invoice issued pursuant to Section 1261 or a registration or identification card issued pursuant to Section 1264 or Section 1265, and any person who commits any such unlawful act is guilty of an offense.

B. It is unlawful for any person to transport livestock, equine and ratite without his/her issued certificate of inspection and any person who commits any such unlawful act is guilty of an offense.

C. It is unlawful for any person to transport livestock, equine and ratite without the required health documents/certificates as required by law and any person who commits any such unlawful act is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Penalty, see § 1267 of this Title.

**§ 1259. Alteration of certificate or record of inspection**

Any person who intentionally alters a certificate, auction invoice, bill of sale, or record of inspection or copy thereof issued by a livestock officer or deputy livestock inspector or other agent of the Department, is guilty of an offense.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**Cross References**

Penalty, see § 1267 of this Title.

**§ 1260. Substitution of livestock, equine, ratite and animals after issuance of certificate of inspection**

Any person who removes livestock, equine, ratite and animals and substitutes another therefor or adds other animals to a lot of livestock for which an inspection certificate has been issued for shipment, sale or slaughter, is guilty of an offense.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**Cross References**

Penalty, see § 1267 of this Title.

**§ 1261. Inspection of livestock to be slaughtered, sold or transported; fees; violation; classification**

A. Except as otherwise provided in this Section, livestock, other than equine previously inspected pursuant to Section 1264 and livestock inspected at feedlots or dairies shall not be slaughtered, sold, purchased, driven, transported, shipped or conveyed unless the animals have been inspected by a livestock officer or deputy livestock inspector for health, brands, animal identification and marks before they are slaughtered, sold, purchased, driven, transported, change of premise, shipped, or conveyed and the inspection fee paid.

B. The owner or agent of the owner of the livestock to be slaughtered,

sold, driven, transported, changed of premise, shipped, or conveyed as provided in Subsection A of this Section shall notify the nearest livestock officer or inspector of that intention.

C. Equine consigned to either licensed livestock auctions or other special auctions approved by the Department from out of state or from Indian reservations in this state or from other state or federal agencies without prior inspection shall be inspected on delivery at an auction. Auction buyers of these equine shall obtain a new ownership and hauling certificate within 30 days pursuant to Section 1264. All equine sold at auctions shall be inspected out on an inspection certificate or auction invoice and the seller shall pay a service fee per head.

D. Equine bearing the registered brand of the owners and/or other animal identification from points of origin in this state, which do not have an ownership and hauling certificate, shall be inspected before being transported to an auction or to immediate slaughter on an inspection form provided by the Department. The seller shall pay a service fee per head and an administrative service charge.

E. All livestock sold at auctions shall be inspected on an inspection certificate or auction invoice validated by the Department. Equine may be transported within this state on either document for 30 days after purchase at auctions described in this Section.

F. The owner or producer of livestock excluding equine may slaughter or transport to another person to slaughter such livestock without having the animal inspected and without paying the inspection fee or service charge if the meat of such slaughtered livestock is solely for home consumption, ceremonial use by such owner providing that such owner contacts a livestock officer or inspector within a 48 hour period prior to slaughter and is able to establish proof of ownership either by a prior inspection certificate, by a recorded brand on the animal or other animal identification or that the animal was raised by said owner. If proof of ownership cannot be established to the satisfaction of the livestock officer or inspector then the livestock officer or inspector may require an inspection prior to slaughter.

G. The Director may waive an inspection for brands and marks before the slaughter of an animal if a Navajo Nation, federal or state certified meat inspector on the premises certifies on a form provided by the Department that, as determined by an ante mortem inspection, the animal is in a distressed condition and for humane reasons should be slaughtered immediately if it is otherwise fit for slaughter and if the hide, carcass and certification are segregated and held pending inspection for brands and marks. The Department Director may waive inspections under this Subsection only for individual animals, and a separate certification shall be made for each animal.

H. Livestock officers or inspectors shall not inspect livestock for health before they are slaughtered at an establishment, which is subject to federal meat inspections as provided under Chapter 7 of this Title.

I. A person violating this Section is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1267 of this Title.

#### **§ 1262. Mobile slaughtering units; custom slaughtering; brand inspections**

A. A mobile slaughtering unit or a locker plant slaughtering livestock on a custom basis shall notify the local livestock officer or inspector before any slaughtering operation. If brand inspection of an animal is not conducted before slaughter, the mobile slaughterer or the locker plant slaughtering the animal shall retain the hide for a 48 hour period for inspection by a livestock officer or inspector.

B. Mobile slaughtering units and locker plants which slaughter livestock shall maintain accurate records of the number of animals slaughtered, their source and ownership and the brands on the animals. These records shall be available for inspection by a livestock officer or inspector during regular business hours.

C. All locker plants and mobile slaughtering units licensed by the Navajo Nation or federal agencies shall collect the brand inspection fees and all other fees provided for by law and rules of the Director for each animal slaughtered and remit the fees to the Department.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1267 of this Title.

#### **§ 1263. Unbranded livestock kept in close confinement; shipment, sale and inspection**

A. Owners of livestock, other than equine, who do not have a recorded brand and who maintain their animals in close confinement not exceeding 10 acres may transport their animals to livestock auctions with the requirements of this Chapter.

B. Animals shipped, conveyed or transported under this Section shall be accompanied by proof of ownership, such as auction invoices or inspection certificates which the owner received at the time of purchase.

C. Any livestock, other than equine, that are transported, shipped or conveyed pursuant to this Section and that have not been inspected by a

livestock officer or inspector within the previous 48 hours shall be inspected at a livestock inspection station by a livestock officer or deputy livestock inspector before the sale, slaughter or change of ownership and all applicable inspection fees shall be paid.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1264. Ownership and hauling certificates for equine; inspection; exemption; cancellation; civil penalty; fees**

A. Except as otherwise provided in this Act, owners or persons in charge of equine shall obtain ownership and hauling certificates before weaning for equine that are born on the Navajo Nation or within 30 days of the entrance date of all equine into the Navajo Nation. A person who fails to obtain a certificate within the prescribed time is subject to a civil penalty of two dollars and fifty cents (\$2.50) per day in excess of 30 days that the equine is in the Navajo Nation without a certificate, but not exceeding a total of one hundred and fifty dollars (\$150.00).

B. Livestock officers or deputy livestock inspectors shall collect from the owner or person in charge of equine an inspection fee of twenty-five dollars (\$25.00) per head for a permanent Navajo Nation Hauling Card.

C. Notwithstanding other Sections of this Title, ownership and hauling certificates issued pursuant to Subsection A of this Section shall be valid for the life of the animal or until transferred pursuant to Section 1265.

D. Ownership and hauling certificates issued with respect to any equine shall be surrendered to the Department if any of the following occurs:

1. The equine dies;
2. The equine is sold and shipped out of state; or
3. The equine is sent to slaughter or is disposed of for humane reasons.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1267 of this Title.

#### **§ 1265. Transfer of ownership and hauling certificates; issuance of new**

**ownership and hauling certificates; fees; civil penalty**

A. The seller of any equine who has a valid ownership and hauling certificate for such animal and the buyer of such animal, except a person who has been issued an equine trader's permit pursuant to Section 1268, shall both complete and date a transfer request form. One copy of the transfer request form shall be given to the seller.

B. Within 30 days of the transfer of ownership of any equine, provided for in Subsection A of this Section, the buyer shall forward to the Department the ownership and hauling certificate, the original copy of the completed transfer request form and twenty-five dollars (\$25.00) per head fee. Upon receipt, the Department shall issue a new ownership and hauling certificate to the transferee and a blank transfer request form. Such certificate shall be valid for the life of the animal or until sold. A person who fails to transmit the required transfer documents to the Department within the prescribed time is subject to a civil penalty of two dollars and fifty cents (\$2.50) per day in excess of 30 days that the documents are not furnished to the Department, but not exceeding a total of one hundred and fifty dollars (\$150.00).

C. A Livestock trader permittee who purchases an equine on the Navajo Nation must receive from the seller the ownership and hauling certificate and the original and buyer's copy of a transfer request form with the seller's portion completed. When the equine is sold, the buyer shall complete the buyer's portion of the form and comply with the requirements of Subsection B of this Section.

D. A livestock trader permittee shall sign and enter his permit number on the transfer document when he transfers ownership of an equine.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Cross References**

Penalty, see § 1267 of this Title.

**§ 1266. Seasonal inspection for exhibition and summer/winter pastures livestock; fees**

A. Seasonal inspection certificates may be issued for exhibition livestock for any purpose other than slaughter, sale or trade. The fee for a seasonal brand inspection certificate is five dollars and fifty cents (\$5.50) per head of livestock in excess of 10.

B. A livestock officer or inspector shall issue a seasonal inspection certificate on the request of the livestock's owner or his agent. The certificate shall state the date of issuance, the sex, color and breed, the brand or brands and their location and any other identifying marks/devices and the name of the owner of the livestock. The words "Seasonal Brand Inspection" shall be written across the face of the certificate.

C. The certificate is valid for the calendar year of the date of issuance and shall accompany the livestock while in transit.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1267 of this Title.

#### **§ 1267. Penalties**

Unless otherwise provided any person who violates any Sections of this Chapter and is convicted of such violation shall be subject to the following punishments: For violation of Sections 1258 to 1266, he/she shall be sentenced to labor for a period not to exceed 90 days or shall be fined a minimum fine of one hundred dollars (\$100.00) sum and not to exceed one thousand dollars (\$1,000.00), or both.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Note.** Slightly reformatted for statutory consistency.

#### **§ 1268. Livestock Trader Permit**

A. The Department of Agriculture shall issue a Livestock Trader Permit to an applicant who pays a fee of two hundred and fifty dollars (\$250.00) and who complies with the requirements of this Section. The permit is valid for one year from the date of issuance and may be renewed on payment of an annual renewal fee of two hundred and fifty dollars (\$250.00) and on compliance with the requirements of this Section.

B. Applications for initial and renewal permits shall contain the following information:

1. The full name of the applicant;
2. The applicant's business and residence addresses with the appropriate premise identification coordinates;
3. The date and place of the applicant's birth;
4. Statement of Intent;
5. Information concerning livestock trading permits held in other states and their status;

6. Information concerning any felony convictions within seven years before the date of application, including any convictions subsequently set aside or resulting in restoration of civil rights;

7. Any other information, which the Department may require;

8. Bond information. All livestock traders will be bonded before issuance of a Livestock Trader Permit; and

9. Livestock trader must be knowledgeable and comply with individual animal identification and registration of change of premise for each livestock and equine purchase by such livestock trader.

C. The Director may adopt rules specifying additional information, which may be reasonably required to be submitted on an application for a Livestock Trader Permit or renewal of a permit to allow the Department to determine the fitness of the applicant to receive a permit or renewal of a permit.

D. The Director may deny, refuse to renew, suspend or revoke a Livestock Trader Permit pursuant to this Section and Section 1269, for any of the following reasons:

1. A violation of any Section of this Act or of any rule adopted pursuant to this Act;

2. The revocation or suspension for cause of and Livestock Trader Permit issued by the Department or by any other state within five years before the date of application;

3. A conviction of a felony involving a crime related to the livestock trade occupation within seven years before the date of application for a Livestock Trader Permit; or

4. To maintain requirements of the BIA livestock buyer specifications under the Code of Federal Regulations applicable to both, Non-Indians and Indians.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1274 of this Title.

#### **§ 1269. Inventory and monthly report of livestock traders; mandatory requirements**

Livestock trader permittee shall maintain inventory records of all livestock sold. The records shall include the date sold, the ownership, premise number and hauling certificate number and the name and address of the



buyer. At the end of each month, each livestock trader permittee shall report to the Department the number of livestock bought and sold during the month. Each livestock trader permittee shall also surrender to the Department each month all bill of sales, ownership documents, and hauling certificates in his possession belonging to all livestock that have been moved out of the Navajo Nation. Authorized representatives of the Department may review the inventory records of any livestock trader permittee during normal business hours.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1274 of this Title.

#### **§ 1270. Failure to possess a Livestock Trader Permit**

Any person who trades livestock and fails to possess a Livestock Trader Permit in his/her possession, is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1274 of this Title.

#### **§ 1271. Failure to comply with Livestock Trader Permit requirements**

Any livestock trader who fails to comply with Livestock Trader Permit requirements shall be guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1274 of this Title.

#### **§ 1272. Failure to stop at a livestock checkpoint**

Any person who is transporting livestock, equine, buffalos or ratites and fails to stop at a livestock checkpoint is guilty of an offense and shall be fined a minimum of fifty dollars (\$50.00) and not to exceed one hundred dollars (\$100.00) or 30 days in jail or both.

## **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1273. Cruelty of animal-extreme cruelty of animal, penalties, exception**

#### A. Cruelty to animals prohibited:

1. Cruelty: It is unlawful for any person to willfully or maliciously kill, beat, sexually abuse, maim, poison, disfigure or scald any animal, except that reasonable force may be employed only to drive off and repel vicious or trespassing animals.

2. Molesting Animals: It is unlawful for any person to tease, annoy, disturb or molest any animal, which is on the property of its owner, or under the control of its owner.

#### 3. Neglect:

a. It is unlawful for any owner of an animal to fail, refuse, or neglect to provide said animal with proper and adequate food and water. Any animal habitually kept outside shall be provided, by its owner, with a structurally sound, enclosure large enough to accommodate the animal in a manner suitable for that species, or other shelter suitable to the species.

b. An owner must keep the premise where an animal is kept free of garbage, hazardous materials, insect infestation, and other debris that may endanger the animal's health & safety.

c. An owner must provide an injured animal or sick animal with adequate veterinary care so as to reduce suffering.

4. Abandonment: It is unlawful for any person to abandon any livestock, equine, or animal within the Navajo Nation.

5. Animal Fights: It is unlawful for any person to promote stage, hold, manage, conduct, or carry on any game, exhibition or contest in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves, or any other animal.

#### B. This Section does not apply to:

1. The practice of veterinary medicine as provided in any applicable Navajo Nation veterinary laws;

2. The treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices; and

3. Use of commonly accepted rodeo practices, unless otherwise prohibited by law.

C. Penalties:

1. Any person in violation of Subsection 1273(A)(1) Cruelty will be fined a minimum of five hundred dollars (\$500.00) not to exceed five thousand dollars (\$5,000.00) or sentenced to one year in jail or both.

2. Any person in violation of Subsection 1273(A)(2) Molesting Animal(s) will be fined a minimum of five hundred dollars (\$500.00) not to exceed two thousand and five hundred dollars (\$2,500.00) or sentenced to six months in jail or both.

3. Any person in violation of Subsection 1273(A)(3) Neglect will be fined a minimum of two hundred and fifty dollars (\$250.00) not to exceed five thousand (\$5,000.00) or sentenced to six months in jail or both.

4. Any person in violation of Subsection 1273(A)(4) Abandonment will be fined a minimum of five hundred dollars (\$500.00) not to exceed two thousand and five hundred dollars (\$2,500.00) or sentenced to six months in jail or both.

5. Any person in violation of Subsection 1273(A)(5) Animal Fighting will be fined a minimum of five hundred dollars (\$500.00) not to exceed two thousand and five hundred (\$2,500.00) or sentenced to six months in jail or both.

D. Courts may also forfeit animals under this Section to the Navajo Nation. Section 1306 shall be applied for restitution purposes. Restitution shall be included but not limited to the following: transportation costs, salary, veterinary medical fees and general feed and care requirements of the forfeited animals.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1274. Penalties**

Any person who fails to comply with Sections 1268 to 1271 and is convicted of this violation shall be fined a minimum of two hundred and fifty dollars (\$250.00) and not to exceed one thousand and five hundred dollars (\$1,500.00), or have his/her livestock buying privilege within the jurisdiction of the Navajo Nation suspended for one year or both.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## Subchapter 5. Seizure of Livestock

### **§ 1301. When a livestock officer and deputy livestock inspector may seize livestock**

Livestock officers and deputy livestock inspectors shall seize livestock, except unweaned animals running with their mother, wherever found, when the livestock officer questions the livestock's ownership. The question of ownership may be raised in the following circumstances:

- A. The livestock is not branded as required by this Chapter;
- B. The ownership of the livestock is questioned by the inspector or other person;
- C. The livestock has brands so mutilated, indistinct, burned or otherwise disfigured as to be difficult of ascertainment;
- D. The livestock bears a brand which is not recorded;
- E. The livestock is freshly branded and not found with its mother;
- F. The livestock has a brand or mark not the recorded brand or mark of the owner;
- G. The livestock is that which is known as "leppys", "orejanas", "sleepers", "dogies", or "mavericks";
- H. Circumstances raising questions as to the livestock's ownership;
- I. Circumstances involving livestock abandonment, neglect and cruelty;
- J. Circumstances where the livestock endangers public safety and right-of-way areas; or
- K. When an owner or user allows his or her livestock or livestock under his or her control to occupy or graze upon the lands of another, where notice of trespass is given by actual communication, posting, fencing, or other means calculated to give notice by a livestock officer.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

### **§ 1302. Keeping livestock following seizure; expenses; use of livestock in criminal prosecution; sale of unclaimed livestock; non-liability of the Navajo Nation**

A. When a livestock inspector has seized livestock, as provided by this Subchapter, he/she shall safely keep and care for it for a period of seven

days, during which any person may inspect the livestock.

B. The expenses of seizure, feeding and caring for livestock for the seven day period shall be a charge against the Department and paid from any fund available for that purpose, including the Livestock Custody Fund.

C. At any time prior to the expiration of seven days after the seizure of livestock, the appropriate law enforcement officials may take charge of and keep the livestock at the expense of the Navajo Nation when deemed to be of evidentiary value in any criminal prosecution arising from the seizure.

D. The Director may contract with any person to handle, feed and care for livestock taken into custody under this Section. The Navajo Nation is not liable for the injury or death of any person or livestock or damage to property due to performance of the contract.

E. If the appropriate law enforcement officials have not possessed the seized livestock upon the expiration of the seven days after its seizure, it shall be sold by the inspectors for cash at a livestock auction or to a livestock buyer after five days notice given by posting written notice in three public places in the District where the livestock is held. Proceeds from the sale shall be transmitted to the Department to be deposited in the Livestock Custody Fund and upon final determination of all actions arising from the seizure of the livestock the Department shall pay the proceeds to the persons entitled thereto under the judgment of the court. The Department shall cause to be posted in three public places in the district where the livestock are held stating that the livestock will be sold at public auction for cash to the highest bidder. The notice shall be posted for seven days after the livestock have been seized and at least five days before the sale. The notice shall state the location where the livestock will be sold. Proceeds from the sale shall be transmitted to the Department to be deposited in the Livestock Custody Fund established by Section 1302, and upon final determination of all actions arising from the seizure of the livestock the Department shall pay the proceeds, less the veterinary cost, hauling charges and expense of feeding and caring for such livestock, to the persons entitled thereto under the judgment of the court.

F. The amount received by the Department of Resource Enforcement shall be remitted to the Controller of the Navajo Nation, and deposited in a special fund designated the Livestock Custody Fund. The Livestock Custody Fund may be used by the Department of Resource Enforcement for the enforcement of any of Sections of this Chapter.

G. Any livestock or equine seized by a livestock officer or deputy livestock inspector, if not vaccinated or proof of vaccination is not provided shall have said livestock or equine vaccinated before transporting said livestock or equine to the seizure pens.

H. Whenever a livestock officer or deputy livestock inspector finds any animal is or will be without proper care because of injury, illness, and/or incarceration of as a result of the absence of the owner or person responsible for the care of such animal, the livestock officer or deputy livestock inspector may enter the property or premises where said animal is located and may take up such animal for protective care; and in the event of sickness or

injury of the animal, under the instruction of an accredited veterinarian, the livestock officer or deputy livestock inspector may take such as called for to prevent undue pain and suffering, including immediate destruction of the animal.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

ACD-166-82, December 21, 1982.

#### **§ 1303. Report of seizure; filing and docketing**

A. Livestock officers or deputy livestock inspectors shall forthwith report any seizure of livestock pursuant to this Subchapter to the appropriate law enforcement officials and to the Department.

B. The report of the livestock officer or deputy livestock inspector relating to the seizure of livestock shall give a general description of the livestock seized, brands and other animal identifications, if any, together with the place of and reason for the seizure and the probable value of the livestock and request that the owner and claimant be cited to appear and prove ownership.

C. The Department shall file the report and shall file an action in the Navajo Nation Court in the name of the Navajo Nation, and against the reputed owners of the livestock, if known, and if not known, against the unknown owners.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**Note.** See §§ 1301 and 1302 herein.

#### **§ 1304. Setting time for hearing on ownership of seized stock; issuance of citation**

A. The clerk of the court shall enter a brief statement thereof on the docket and set a time for hearing evidence of the ownership of the livestock, which shall be not less than seven and not more than 15 days after the date the report is filed.

B. The clerk shall issue a citation directing all persons claiming the livestock, or any portion thereof, to appear at the time set, and offer proof

of ownership.

C. The citation shall be addressed to those whom it may concern. It shall set forth substantially the facts given in the report. The citation shall be delivered to and served by the livestock officer and deputy livestock inspector who made the seizure. The citation is returnable and shall be heard as a civil action.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1305. Service of citation on owner of stock seized; proceedings on default**

A. If the livestock seized is branded and marked with an adopted and recorded brand, mark, or other animal identification, the citation shall be served upon the person who owns the brand or mark as shown by the record in the brand book if such person can be found on the Navajo Nation. The service shall be at least one day before the day set for the hearing and a copy of the citation shall be posted in at least three public and conspicuous places in the District at least five days before the day set for the hearing.

B. At the time set for hearing, the livestock inspector, or other officer, shall make return of the citation to the court. If it appears that due service of the citation has been made, as required by this Section, and no one appears to claim the livestock so seized, or any portion thereof, within the time provided, the court shall thereupon adjudge the livestock forfeited to the Navajo Nation and shall order it sold as provided in this Subchapter.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1306. Hearing on claim; release or sale of seized stock; appeals**

A. If any person appears at the time fixed for the hearing and claims the livestock, or any portion thereof, the claim shall be stated and the judge of the court shall enter upon the minutes of the court the fact that the claim is made and the hearing shall proceed as in civil actions.

B. Livestock determined by the court to be owned by any person shall be released from seizure, upon payment of the pick up and hauling charges and expenses of feeding and caring for such livestock, and livestock not so adjudged, or the ownership of which is doubtful, shall be forfeited to the Navajo Nation and ordered sold by the livestock officer or deputy livestock inspector at public auction at a convenient public place in the district where

seized, upon a fixed date after notice, as provided in 7 N.N.C. § 709.

C. An appeal from the judgment may be taken as in civil actions and shall be governed by the same rules.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1307. Sale of seized stock; disposition of proceeds**

A. Livestock officers or deputy livestock inspectors shall execute the order of sale made pursuant to 3 N.N.C. § 1306 and deliver a bill of sale to the purchaser, describing the livestock sold and the amount sold for, and forward to the Department a duplicate of the bill of sale. Upon delivery of the bill of sale, title to the livestock shall pass to the purchaser.

B. Livestock officers or deputy livestock inspectors shall immediately after the sale is made, or after release to the owner who pays the hauling charges and expenses of feed and care of such livestock, remit the proceeds thereof to the Department, together with an itemized statement of the expense of the seizure and sale, which shall be paid as other claims.

C. The amount received by the Department shall be remitted to the Controller of the Navajo Nation, and deposited in a special fund designated the Livestock Custody Fund.

D. The Livestock Custody Fund may be used by the Department for the enforcement of this Chapter.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **§ 1308. Holding and sale of stray animals; repossession before and after sale; non-liability of Navajo Nation**

A. When a livestock officer or deputy livestock inspector finds a stray animal he/she shall attempt to locate the owner, and if located notify him/her where the animal may be found. If the owner does not take immediate possession of the animal, or if the owner or claimant thereof is unknown or cannot be located, the inspector shall seize the stray animal and sell it at public auction to the highest bidder for cash, after giving at least five days notice of the sale.

B. The Department shall cause notice to be posted and shall describe the animal to be sold and shall state the time and place of sale, said notice shall be posted in at least three public and conspicuous places in the district



wherein the animal was found at least five days before the date set for the sale. If the owner of the animal is known and can be located, a copy of the notice shall also be delivered to the brand owner's residence at least five days before the sale. The notice shall state the location where the stray animal will be held and the location where the animal will be sold.

C. The owner of a stray animal may take possession of the animal at any time prior to sale by proving ownership, paying the inspection fee, and all expenses incurred in keeping and caring for the animal. This will include trailer transportation plus pick up costs, mileage and Department personnel man hours used in seizing this stray animal and any other cost incurred in maintaining said livestock.

D. If the owner of the stray does not claim the animal before the day of sale, or if the owner is unknown or cannot be located, the livestock officer or deputy livestock inspector shall sell the animal pursuant to the notice, and shall deliver a bill of sale and a livestock inspection certificate to the purchaser. The owner of an animal sold may take possession of it at anytime before the purchaser thereof sells it by paying to the purchaser the purchase price paid at the sale, together with the expense of keeping and caring for the animal from the date of sale to the time the owner takes possession of the animal.

E. Livestock officer or deputy livestock inspector shall immediately after the sale is made remit the proceeds thereof to the Department, together with an itemized statement of the expenses of the seizure and sale, which shall be made as other claims. The amount received by the Department shall be remitted to the Controller of the Navajo Nation and deposited in a special fund entitled Livestock Custody Fund.

F. Livestock that are received at auction markets without proper documentation but with no evidence of criminal intent by the shipper may be sold, but the livestock officer or deputy livestock inspector shall impound the proceeds of the sale in the Livestock Custody Fund established by Section 1302. On presentation of proper documentation of ownership, the Department shall pay the proceeds, less any charges incurred, to the person who is entitled to the proceeds.

G. This Section shall also apply to cruelty, molested, neglect, abandonment and animal fight livestock or equine.

H. The Director may contract with any person to handle, feed and care for stray animals taken into custody under this Section. The Navajo Nation is not liable for the injury or death of any person or stray animal or damage to property due to performance of the contract.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Livestock brands generally, see §§ 2001, 2002 of this title.

Other offenses relating to livestock brands, see 17 N.N.C. § 461.

Penalty, see § 1356 of this title.

C.J.S. Animals §§ 264 to 270, 272 to 290, 309 to 314, 428, 434, 505.

#### **§ 1309. Representation of livestock officer by Navajo Nation prosecutor**

The Navajo Nation prosecutor of the district wherein the livestock is seized shall represent the livestock officer or deputy livestock inspector and the interests of the Navajo Nation in proceedings under this Act.

##### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1310. Notification required on seizure by government agencies**

All Navajo, federal, state and local governmental agencies shall notify the Department within two hours of any seizure of any livestock or property in or on which livestock is present or when a person responsible for the care of any livestock is taken into custody and the person from the tribal, federal, state or local governmental agency knows that the person taken into custody is responsible for the care of any livestock.

##### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1311. Livestock or equine roundup procedures and requirements**

##### **A. Procedures:**

1. District Grazing Committee members and Eastern Land Board members (hereinafter "members") must assess the livestock body condition, availability of forage, water and situation in their respective chapters and present their evaluation at the next chapter meeting.

2. By resolution, the chapter will identify a team to coordinate roundup activities to conduct the roundup and recommend said livestock to be sold. The chapter will designate a lead person for this team.

3. Upon receipt of chapter authorization, the chapter members shall identify all available resources including, but not limited to, funds, feed, water troughs, manpower, vehicles, and trailers. The chapter

official shall provide assistance on an as needed basis. The members shall also coordinate the roundup with the Resource Enforcement Department, livestock officer or local deputy livestock inspector, and the Department of Agriculture.

4. Chapter members and livestock owners shall be given 10 days notice of the dates, times, and location of the roundup. Such notice shall include posting of three written notices at public places within the communities. Public services announcements may be used for radio at the discretion of the chapter.

5. It is mandatory for a livestock officer or deputy livestock inspector to be present at all roundups and livestock sales to perform inspections and ensure compliance with the livestock laws of the Navajo Nation as codified at Sections 1201 through 1523.

6. Process for the disposition of livestock gathered during the roundup:

a. All unclaimed and unbranded livestock shall be hauled to designated holding pens.

b. Owners shall have five days to claim their stray animals which were impounded. Proof of ownership shall be required with original documents only.

c. After the five-day claim period, the Department of Resource Enforcement shall sell the remaining livestock.

d. The designated livestock officer or deputy livestock inspector shall be responsible for maintaining accurate records of the description, animal identification (when applicable) and type of livestock gathered during the roundup, the purchase price, date, and location of the sale. All records will be submitted to the Department at the end of the roundup.

e. All proceeds from the sale of the livestock or equine shall be placed in the Livestock Custody Fund account for 20 days. These funds shall be disbursed to persons having a rightful claim to any livestock sold. Expenses for the transportation, care, feeding and sale of the livestock shall be deducted from any payments due.

f. After the 20-day period, the remaining funds, less expenses for the transportation, care, feeding and sale of the livestock as submitted by the Department of Resource Enforcement, Navajo Nation Veterinary and Livestock Program, Department of Agriculture, and chapter, shall be deposited and maintained in the Livestock Custody Fund account to be used by Department of Resource Enforcement, Navajo Nation Veterinary and Livestock Program, Department of Agriculture and Grazing Management Program.

g. Claims are to be submitted within 20 days of the seizure.

B. Voluntary Sales.

1. Chapter member(s) who choose to sell excess livestock during a roundup shall be responsible for the transportation of their livestock to the sale site. Participants in the scheduled livestock sales shall abide by the sale procedures established by Navajo Nation Code and the Resource Enforcement Department.

2. It is recommended that all livestock owners evaluate their livestock and use the following factors in deciding to market any or all of their livestock:

a. Excess or unwanted animals.

b. Cull animals.

(1) Old or sick animals.

(2) Infertile or sterile animals.

(3) Undesirable breeding stock.

3. Any person refusing to cull animals as specified in this Section shall be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine not to exceed five hundred dollars (\$500.00), or both.

4. Forfeiture. Any animal found to be cull will be forfeited to the Navajo Nation and destroyed upon order of a court of the Navajo Nation.

#### C. Emergency Conditions.

1. If the Navajo Nation President declares an emergency and the Navajo Nation is in the midst of a severe drought and immediate action must be taken to alleviate the emergency conditions.

2. All unbranded livestock rounded up will be sold immediately and branded livestock shall be sold within two days of the roundup.

3. It is also imperative that Navajo livestock owners voluntarily participate in these livestock sales by marketing excess or unwanted animals.

#### D. Interference with authorized roundups.

1. A person commits an offense pursuant to this Section if he or she interferes with or obstructs an authorized roundup which has for its purpose the removal of unowned horses or other livestock, or is for the purpose of determining ownership or is designed to protect Navajo Nation land from destruction or injury.

2. Any person found guilty of violating this Section shall be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine a minimum of five hundred dollars (\$500.00) but not to exceed five thousand dollars (\$5,000.00) or both.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1312. Report by livestock officer or inspector; preliminary disposition of proceeds of sale**

A. Upon making the sale as provided by Sections 1306 and 1307, the livestock officer or inspector shall notify the Division of the name of the purchaser, the time and place of sale, the amount for which the animal was sold and a description of the animal showing the marks and brands, if any, or other identifying marks and brands, shall pay to the Department the net proceeds realized at the sale.

B. The Department shall place the amount realized from the sale of stray animals in the Livestock Custody Fund established by Section 1302.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1313. Payment of proceeds of sale to owner of stray**

Upon making satisfactory proof of ownership of any animal sold as a stray within 20 days after the sale, the Department shall pay to the owner of the animal the net proceeds realized at the sale less any expenses incurred by the Navajo Nation and its entities.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **Subchapter 7. Offenses; Penalties**

### **Cross References**

Animals; livestock, see 17 N.N.C. §§ 350, 460-466, and 524.

### **United States Code**

Driving stock to feed on lands without consent of tribe, 25 U.S.C. § 179.

Injuries to stock by Indians, reparation, 25 U.S.C. § 229.

## Code of Federal Regulations

Grazing permits, see 25 CFR § 166.1 *et seq.*

### **§ 1351. Gathering livestock or equine for tournament or contest without consent of owner**

Any person who knowingly gathers range livestock or equine for the purpose of a tournament or contest for amusement or reward, or competition for prizes, or who engages in a steer tying contest or exhibition of steer-tying, or who casts, ropes or throws a horse, cow or other kind of animal without the written consent of the owner, except in the necessary work done on the range or elsewhere in handling such animals, is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Penalty, see § 1365 of this Title.

### **§ 1352. Driving livestock or equine from range without consent of owner; classification**

When livestock of a resident of the Navajo Nation is driven off its range, without consent of the owner, by any person as a drover of any herd or drove knowingly, such drover of livestock or equine and every person engaged in the care or management of such herd or drove, is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Penalty, see § 1365 of this Title.

C.J.S. Animals §§ 237 to 243, 518.

### **§ 1353. Taking livestock or equine without consent of owner; classification**

A person who knowingly takes from a range, ranch, farm, corral, yard or stable any livestock or equine and uses it without the consent of the owner or the person having the animal lawfully in charge is guilty of an offense.

## History

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## Cross References

Penalty, see § 1365 of this Title.

### **§ 1354. Branding or altering brand of livestock or equine of another; classification**

A. The Navajo Nation requires every individual owning livestock and equine to adopt and record a brand and earmark with which to brand and mark such livestock; said brand can be obtained with a grazing permit or applied for from the state.

B. All Navajo-owned livestock and equine over six months of age grazing on the Navajo Nation must be branded and maintain individual animal identification.

C. State brands can be acquired only under the provisions herein.

D. The Navajo Nation adopts the individual district brands plus the -N, location left shoulder, as the official brand as assigned by Bureau of Indian Affairs and/or District Grazing Committee and will accept a state brand and the specified state brand location if obtained within the requirements of this Chapter.

E. Each Navajo livestock and equine owner who has or obtains a registered individual state brand shall report to his/her respective District Grazing Committee showing proof of such active state brand registration in order that said brand may be recorded on his/her grazing permit.

F. Any person(s) or agent(s) who brands or marks any livestock or equine with a brand other than the recorded brand of the owner, or who alters any brand or mark upon any livestock or equine, with intent to convert the ownership of the animal(s) to his/her own use, is guilty of an offense and is liable to the owner of the animal for three times (3x) the value there of.

G. A person who refuses to brand or mark his/her livestock or equine is guilty of an offense. Branding and/or marking are required to show proof of ownership.

H. A person who commits a false report of ownership and willfully makes a false report as to the total number of livestock and/or equine owned, or refused to make a true report of livestock and/or equine ownership is guilty of an offense and shall be fined a minimum of two hundred and fifty dollars (\$250.00) but not to exceed five thousand dollars (\$5,000.00).

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

**Note.** Slightly reworded for statutory clarity.

### **Cross References**

Livestock brands generally, see §§ 2001, 2002 of this title.

Other offenses relating to livestock brands, see 17 N.N.C. § 353.

Penalty, see § 1365 of this Title.

C.J.S. Animals §§ 6, 23 to 60, 382, 519 to 522.

### **§ 1355. Obliterating or changing brand, mark or ear mark**

A person who intentionally obliterates, disfigures, extends or changes a recorded brand, or by other and additional marks, figures or characters converts a recorded brand into some other brand, is guilty of an offense.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

### **Cross References**

Livestock brands generally, see §§ 2001, 2002 of this Title.

Other offenses in this Chapter, see §§ 1258, 1259, and 1260 of this title.

Other offenses relating to livestock brands, see 17 N.N.C. § 353.

Penalty, see § 1365 of this Title.

### **§ 1356. Prima facie guilt of owner of brand to which another brand is altered**

When it is proved that a recorded brand has been converted or changed into another brand claimed or owned by any person, it shall be prima facie evidence in the courts and before the Department of the Navajo Nation that the claimant or owner of the latter brand obliterated, disfigured and changed the prior recorded brand.

### **History**



CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Offenses relating to animals and livestock, see 17 N.N.C. §§ 350, 460-466, and 524.

Penalty, see § 1365 of this Title.

#### **§ 1357. Unlawfully killing, selling or purchasing livestock or equine of another; classification; civil penalty; exception**

A. Any person who knowingly kills or sells livestock or equine of another person, the ownership of which is known or unknown, or who willfully, knowingly purchases livestock or equine of another person, the ownership of which is known or unknown, from a person not having the lawful right to sell or dispose of such animals, is guilty of an offense.

B. A person who knowingly attempts to take or does take all or any part of a carcass of any such livestock or equine, pursuant to Subsection A, for such person's own use, the use of others or for sale is guilty of an offense.

C. In addition to any other penalty imposed by this Section, a person depriving the owner of the use of his/her livestock or equine under Subsection A or B of this Section shall be liable to the owner for damages equal to three times (3x) the value of such livestock or equine.

D. This Section shall not apply to animals under the stray laws or livestock roundups procedures.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Other offenses in this Chapter, see §§ 1258, 1259, and 1260 of this title.

Penalty, see § 1365 of this Title.

#### **§ 1358. Possession of livestock or equine without bill of sale**

The possession of livestock or equine without a written and bill of sale can be used as prima facie evidence for a charge of unlawful possession, handling, driving or killing of livestock or equine.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1359. Proof of branding with brand of accused as tending to show conversion by the accused**

For violations of the livestock laws of the Navajo Nation, the prosecutor may prove, as tending to show a conversion by the accused, that the animals in question were branded into a brand or were marked into a mark claimed by the accused to be his brand or mark, although neither the brand nor the mark is recorded.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1360. Abandonment of livestock or equine and animals at boarding facility or veterinary facility**

When livestock or equine or animal left at a boarding facility or any livestock, equine or animal left at a veterinary facility has not been reclaimed within the period of time previously agreed upon at the time of delivery of the livestock or animal to the boarding facility or veterinarian, the boarding facility or veterinarian may give written notice by certified mail to the last known address of the owner, possessor or custodian of the livestock, equine or animal, and if the livestock, equine or animal is not reclaimed within 14 days from the date of the mailing of the notice, the livestock, equine or animal shall become the property of the boarding facility or veterinary facility to dispose of as the boarding facility or veterinary facility sees fit.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1361. Dogs killing, injuring or chasing livestock or equine; liability of owner; classification**

A. If any person discovers a dog killing, wounding or chasing livestock or equine, or discovers a dog under circumstances which show conclusively that it has recently killed or chased livestock or equine, he/she may pursue and kill the dog.

B. The owner of a dog is liable for all damages caused by the dog chasing, killing or wounding livestock or equine; provided that the livestock or equine is within an area of authorized use. In the case of a dog killing or wounding livestock or equine, the owner of the dog is liable for damages to the

owner of the livestock or equine to three times (3x) the value of the livestock or equine killed or wounded including but not limited to veterinary expense and other fees associated with damages.

C. No person shall keep any dog after it is known that dog is liable to kill or injure livestock, and it shall be the duty of the owner to kill, or have killed, the dog upon order of the Navajo Nation Animal Control Program after a finding that the dog has killed or injured livestock; provided, however, that it shall be the right of any owner of livestock so killed or injured by the actions of any dog or any person witnessing, such actions to kill such animal while it is upon property controlled by the owner of the livestock. If a dog is observed attacking livestock and wildlife (game animals), individuals authorized by the Director can take appropriate action to prevent these actions.

D. An owner of a dog who recklessly allows or causes the dog to:

1. Wound or kill livestock or equine owned by another person is guilty of an offense.

2. Chase livestock or equine owned by another person, causing injury to the livestock or equine, is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1365 of this Title.

#### **§ 1362. Person allowing livestock or equine to run at large within fence roadway or residential area or withdrawn area**

The owner or person in charge of livestock or equine, who recklessly allows or permits livestock or equine to run at large within a fence roadway, or residential area, or withdrawn areas, is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1365 of this Title.

#### **§ 1363. Failure to remove livestock or equine from fence roadway or residential area or withdrawn area**

A. The owner or person in charge of livestock or equine, who fails to

remove his/her livestock equine from fenced roadway, or residential area, or withdrawn areas, is guilty of an offense.

B. The owner or person in charge of livestock or equine who places, allows or enters a withdrawn forest land for the purpose of grazing is guilty of an offense.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1365 of this Title.

### **§ 1364. Failure to remove injured or dead livestock or equine**

A. The owner or person in charge of livestock or equine, who fail to removed his/her injured or dead livestock or equine after being notified by an officer, is guilty of an offense.

B. If the livestock or equine owner fails to removed a dead or injured livestock or equine, they will be responsible for all removal cost, care and disposal fees.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **Cross References**

Penalty, see § 1365 of this Title.

### **§ 1365. Penalties**

Unless otherwise provided, any person who violates this Chapter and is convicted of such violation shall be subject to the following punishments:

A. For violation of Sections 1351 to 1364, he/she shall be sentenced for a period not to exceed 180 days jail or shall be fined a minimum of two hundred dollars (\$200.00) not to exceed five thousand dollars (\$5,000.00), or both.

B. In addition, damages resulting from grazing in withdrawn areas, the offender will be required to pay the Navajo Nation the fair market value of the damaged property and/or restoration costs.

C. Restitution of three times (3x) the value of the livestock, equine and ratite can be included to the owner of the livestock, equine and ratite.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

CJN-83-66, June 22, 1966.

#### **Cross References**

Offenses relating to animals and livestock, see 17 N.N.C. §§ 350, 460-466, and 524.

#### **§ 1366. Lawful fence defined**

A. A fence shall be deemed a lawful fence when it is constructed and maintained with good and substantial posts firmly placed in the ground at intervals of not more than 20 feet, upon which posts are strung and fastened at least four strands of barbed wire the usual type tightly stretched and secured to the posts and spaced so that the top wire is 50 inches above the ground and the other wires at intervals below the top wire of 12, 22, and 32 inches. If the posts are set more than 20 feet apart, the wires shall be supported by stays placed not more than seven to 10 feet from each other or from the posts, extending from the top wire of the fence to the ground, and each wire of the fence securely fastened thereto.

B. All fences constructed other than as provided in Subsection A, or of other materials equally as strong and otherwise effective to turn livestock as the fences described in Subsection A, shall also be deemed lawful fences within the meaning of this Section.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1367. Failure to close or maintain gates**

A person violates this Section when he/she fails to close or maintain gates intended for the exclusive use of persons for convenience and the gates are left in such a condition which allows livestock to access roadways. The gates are to be maintained in such a manner as to preclude the possibility of livestock entering right-of-way areas and must be kept in a closed condition at all times. If he/she fails to comply with this Section, he/she is guilty of an offense and shall be fine of one hundred dollars (\$100.00) not to exceed five hundred dollars (\$500.00).

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1368. Resisting or obstructing a livestock officer or deputy livestock**

## **inspector**

If any person interferes with the duty and responsibility of a Navajo Nation bona fide commissioned livestock officer or deputy livestock inspector in the performance of his/her duties and responsibilities is guilty of an offense and shall be sentenced to 365 days in jail or a minimum fine of five hundred dollars (\$500.00) not to exceed five thousand dollars (\$5,000.00) or both.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **§ 1369. Failure to obtain premise identification**

Any person within the Navajo Nation who fails to obtain premise identification from their respective Navajo Nation office is guilty of an offense and shall be fined a minimum of one hundred dollars (\$100.00) not to exceed five hundred dollars (\$500.00).

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **§ 1370. Failure to properly tag livestock with individual identification**

A. Any person within the Navajo Nation who fails to tag their livestock with their individual RFID tag for cattle identification number is guilty of an offense and shall be fined a minimum of twenty-five dollars (\$25.00) per head not to exceed one thousand, seven hundred and fifty dollars (\$1,750.00).

B. Any person within the Navajo Nation who fails to properly tag their sheep and goats with the approved Navajo Nation Animal Identification System is guilty of an offense and shall be fined ten dollars (\$10.00) per head and shall not exceed three thousand and five hundred dollars (\$3,500.00).

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **§ 1371. Failure to comply with grazing requirements**

Any person who fails to comply with grazing requirements of the Navajo Nation is guilty of an offense and shall be fined a minimum of two hundred and fifty dollars (\$250.00) and not to exceed five thousand dollars (\$5,000.00).

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1372. Unlawful introduction of livestock or equine on Navajo Nation land without a valid Navajo Nation or Eastern Land grazing permit**

A. No person shall introduce or allow his or her livestock or equine to graze on Navajo Nation land without a valid Navajo Nation or Eastern Navajo grazing permit.

B. No person shall willfully graze livestock and equine in excess of the permitted number on Navajo Nation range, or refuse to graze his or her livestock and equine in accordance with range-management plans which have implemented deferred grazing, or have reserved specific areas for seasonal use.

C. Sentence. Any person found guilty of violating this Section shall be fined a minimum of two hundred dollars (\$200.00) but not to exceed five thousand dollars (\$5,000.00).

D. Restitution. The courts, in addition, may require the offender to pay the Navajo Nation the fair market value of the damaged property and/or restoration cost or any other cost associated with removal of said livestock or equine. In lieu of cash, a fine, if levied, may be collect in livestock.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1373. Use of undesirable sires; penalties**

A. Bulls grazed on open range shall be of a uniform breed, preferably registered breeds, and limited to a 90-day breeding season, and the breed shall be determined by the permittee.

B. Ram shall be of the fine wool or meat type breed.

C. All stallions and studs must be maintained in an enclosed fence, and shall not be permitted to roam at large on open range.

D. Stallions that are not used for breeding shall be castrated.

E. Any person who fails to comply with requirements of this Section shall be guilty of an offense and fined a minimum of one hundred dollars (\$100.00) and not to exceed five hundred dollars (\$500.00) per offense.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **Chapter 8. Navajo Stallion Service**

### **§ 1401. Establishment**

There is established the Navajo Nation Stallion Service under the auspices of the Navajo Nation, Division of Natural Resources, Agricultural Resources Department.

#### **History**

ACJA-6-83, January 5, 1983.

**Note.** Slightly reworded for purposes of statutory form.

### **§ 1402. Goals; objectives**

A. The goals of the Navajo Stallion Service are to:

1. Improve the quality, usability and income potential of the horses produced on the Navajo Nation.

2. Offer training and education as to horse selection, breeding, herd health, and management programs to Navajo stockmen.

B. The objectives of the Navajo Stallion Service are to:

1. Offer a choice of quality stallions for breeding purposes to Navajo stockmen at the lowest possible cost.

2. Prepare and distribute information concerning stallions available, horse production management, horse education and selection, horse health programs and related subjects to any interested party.

3. Provide technical, veterinary, and management assistance to stockmen in an effort to further their livestock production both as to quality improvements and increased profitability.

4. Maintain the program as an on-going financially self-sufficient project of the Navajo Nation.

#### **History**

ACJA-6-83, January 5, 1983.

**Note.** Slightly reworded for purposes of statutory form.

### **§ 1403. Financial considerations**

In an effort to make the program financially self-sufficient and to keep the total cost to the mare owner as low as possible so that the service is available to all Navajo stockpersons, the following will be done:

A. A revolving account will be set up. This account will be used to



acquire feed, supplies, equipment, and cover other costs of operation. These expenditures will be used to expedite the operation of the project and all financial records and receipts are to be kept to provide accountability. The source of funds is to be all payments made by mare owners for mare care and operational expenses.

B. Mare owners will be charged a minimal amount to cover mare feed, routine breeding costs, cost of maintaining the stallions and other costs of operating the program. Initially this is projected to be fifty dollars (\$50.00) for the first ten days the mare is at the facility and then two dollars (\$2.00) per day thereafter. Since charges cover the care and feeding of the mares and operational expenses for the program, it will be non-refundable. The fee shall be adjusted annually by action of the Resources Committee on recommendation from the staff veterinarian through the Director of the Division of Natural Resources.

#### **History**

ACJA-6-88, January 5, 1983.

**Note.** Slightly reworded for purposes of statutory form.

#### **§ 1404. Management**

The Agricultural Resources Department, staff veterinarian, and Livestock Program Manager, shall share management responsibilities and duties as best suited to their talents and abilities.

#### **History**

ACJA-6-83, January 5, 1983.

#### **§ 1405. Facilities**

The program will utilize the facilities of the Navajo Nation Fairgrounds to operate the service and house the mares. These facilities have been examined and deemed appropriate by the Division of Natural Resources staff veterinarian.

#### **History**

ACJA-6-83, January 5, 1983.

**Note.** Slightly reworded for purposes of statutory form.

#### **§ 1406. Operational procedures**

A. Mares will be accepted for breeding from February 1 through June 1. All mares must be removed from the facility by June 30.

B. Mares will be booked to stallions on a first come, first serve basis. At the time of booking the mare owner will fill out and sign a breeding agreement and pay the non-refundable expense fee. The number of mares booked to each stallion will be limited to what is deemed acceptable to the staff

veterinarian. Mares will be accepted as long as stallions are not overworked and facilities are not overcrowded. Bookings will be limited to three mares per breeding season, per individual. (The person doing the booking must have a valid Navajo census number and be at least 18 years of age.)

C. At the time of entry each mare will be given worming, vaccination, and dental care if needed. Each mare will also receive a uterine culture before breeding. These items will be covered by the expense fee paid at time of booking. Any additional veterinary services requiring use of drugs or supplies will be paid by the mare owner on an "at cost" basis.

D. Accurate records as to entry and release dates, breeding, and treatment will be kept on all mares.

E. Since the purpose of the program is to improve livestock quality, all mares must be of acceptable size, conformation, and disposition. All incoming mares will be screened by the staff veterinarian and the Livestock Program staff to determine eligibility. This will be done via an objective Mare Evaluation Form based on suitable criteria. Any mare with an infectious or communicable disease will be barred from the program to safeguard the well being of the other horses in the facility.

F. All mares will be provided with satisfactory means of identification such as numbered halters or neckbands which they will wear at an times while at the facility.

G. Any of the above conditions may be waived or modified by the Resources Committee to compensate for special situations or needs. The owner of a mare that has been rejected for breeding based on the Mare Evaluation Form may appeal the decision of the staff veterinarian to the Resources Committee through the Director, Division of Natural Resources.

H. It will be the mare owner's responsibility to maintain contact with the program and to remove the mare from the facility when the staff veterinarian so advises; any mare left for 30 days after the staff veterinarian has determined that she is ready to be dismissed becomes the property of the Stallion Service Program to be disposed of as the program director sees fit. No mare is to be released until all mare care, veterinary charges, and any other outstanding charges are paid in full.

#### **History**

ACJA-6-83, January 5, 1983.

**Note.** Slightly reworded for purposes of statutory form.

### **Chapter 9. Health Requirement Offenses; Control of Contagious Diseases; Penalties**

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## § 1501. Definitions

A. "Abandonment" means and includes the leaving of an animal by its owners or other person or persons responsible for its care or custody without making effective provisions for its proper care and control.

B. "Animals" means any animal mammal, other than human, and includes birds, reptiles, fish, wild and domesticated animals.

C. "Animal fights" means it is unlawful for any person to promote stage, hold, manage, conduct, or carry on any game, exhibition or contest in which one or more animal are engaged for the purpose of injuring, killing, maiming, or destroying themselves, or any other animals. This does not apply to rodeo events.

D. "Cruelty" means it is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise conduct cruelly set upon an animal, except that reasonable force maybe used. Cruelty also includes every act or omission, which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain and suffering.

E. "Department" means the Department of Resource Enforcement, Navajo Veterinary Livestock Program or the Department of Agriculture.

F. "Deputy Livestock Inspector" as used in this Act shall mean a non-commissioned officer who provides livestock inspection services only and duties shall also include the seizure of livestock under this Title.

G. "Director" means the Director of the Department of Resource Enforcement and the Director of Navajo Nation Department of Agriculture.

H. "Disposal" means the deposit or dumping of any animal (carcass) into or on any land or water so that such animal (carcass) or any constituent (animal parts) thereof may enter the environment or be emitted into the air or discharged into any water, including ground water.

I. "Division" means the Navajo Nation Division of Natural Resources.

J. "Division Director" means Executive Director of Division of Natural Resources.

K. "Equine" as used in this Chapter means horses, mules, burros and asses.

L. "Feral" means any un-owned or free ranging animal, livestock or equine not under control of an owner.

M. "Livestock" as used in this Chapter means cattle, dairy cattle, buffalo, sheep, goats, swine, and llamas, except feral pigs.

N. "Law Enforcement Officer" means any person who has successfully completed training at a recognized police training academy, has been

commissioned by a designated Navajo Nation authority as a police officer, ranger, forestry officer, or resource enforcement officer, and is vested by law with a duty to maintain public order or make arrests, whether that duty extends to all offenses or is limited to specific areas of offenses or offenders. This term includes police officers, rangers, forestry officers and resource enforcement officers.

O. "Livestock Officer" means a commissioned Law Enforcement Officer who has the duties and responsibilities to enforce Title 3 and Title 17 related to livestock and who is also an authorized person to conduct livestock inspection service.

P. "Livestock Trader Permit" means a certification of a person, corporation or business who conducts business involving the sale, barter and trade of livestock, equine, hay and feed and other agricultural products.

Q. "Neglect" means failure to provide food, water and normal veterinary care for the animal(s) health and well being. During time of drought and severe weather conditions, the owner is responsible to ensure animal, livestock or equine are properly maintained and not in a state of neglect.

R. "Nuisance" means, but is not limited to defecation, urination, disturbing the peace by the presence of, sound or cry, emitting noxious or offensive odor, or otherwise endangering the well being of the inhabitants and other livestock, or equine of the community.

S. "NNERFAD" means the Navajo Nation Emergency Response to Foreign Animal Disease.

T. "NNVLP" means the Navajo Nation Veterinary Livestock Program who is responsible for the investigation, diagnosis and treatment of disease incidents and/or outbreak.

U. "Poultry" means any domesticated bird, whether live or dead, and includes chickens, turkeys, ducks, geese, guineas, ratites and squabs.

V. "Range" means every character of lands, enclosed or unenclosed, and not withdrawn from grazing, outside/inside of cities and towns, upon which livestock are permitted to graze with a valid Navajo Nation grazing permit and Eastern Navajo grazing permit.

W. "Range equine" means equine customarily permitted to roam upon the ranges of the Navajo Nation, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.

X. "Range livestock" means livestock customarily permitted to roam upon the ranges of the Navajo Nation, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.

Y. "Ratite" means ostriches, emus, rheas and cassowaries.

Z. "Stray animal" as used in this Chapter, means livestock, equine or

ratites whose owner is unknown or cannot be located, or any animal whose owner is known but permits the animal to roam at large on the streets, alleys, fenced paved roads, fenced right of ways, range or premises of another without permission.

AA. "Veterinarian" means accredited Navajo Nation, state or federal veterinarian.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **Cross References**

Definitions under Chapter 7, Control and Inspection of Livestock, see § 1201 of this Title.

### **§ 1502. General powers and duties; civil penalties**

A. The Director shall exercise general supervision over the livestock and equine interests of the Navajo Nation, protect the livestock and equine industry from contagious and infectious diseases and protect the public from diseased and unwholesome meat products.

B. The Director may, in with consultation with a Navajo Nation or federal veterinarian, approve rules to control and govern:

1. Importation of livestock, animals and poultry into the Navajo Nation, establishment of quarantine and its boundaries, notice of quarantine and accomplishment of all things necessary to affect the object of the quarantine and to protect the livestock and poultry industries from and prevent the spread of contagious or infectious diseases.

2. Dispatch of livestock, equine, animals and poultry affected with contagious or infectious diseases and disposition of carcasses of livestock, animals and poultry so destroyed, when the action appears necessary to prevent the spread of contagion or infection among livestock, equine, animal, and poultry.

C. The Director may:

1. Enter into agreements with neighboring states including agreements regarding the use of livestock officers or livestock inspectors or other agency resources for the purpose of enforcement of livestock laws within the Navajo Nation or within border areas of neighboring states.

2. Waive inspections, service charges or inspection fees under this Chapter in cases the Director deems advisable.

3. Direct employees or law enforcement officers (Livestock Officers) to execute the Director's orders under this Chapter.

D. The Director may establish a central investigation group to investigate reports of crimes related to violation(s) of the contagious and infectious diseases involving livestock, equine, ratite and poultry. Livestock officers and other employees of the Department shall report all cases of apparent crimes related to violation(s) of the contagious and infectious diseases involving livestock, equine, ratite and poultry to the Director. The investigation officer/group shall cooperate and coordinate its activities with appropriate federal, state and local law enforcement agencies in apprehending and prosecuting violators of livestock laws.

E. The Director may govern the importation of livestock, equine, ratite, animals and poultry into the Navajo Nation by carrier or rail to insure that the animals are free from infectious disease.

F. The Director may implement speedy and effective suppression and eradication of disease among livestock, equine, ratite and poultry.

G. To prevent spreading or contracting of infectious or contagious diseases among livestock, equine, ratite, and poultry including requirements for inspection of livestock, equine, ratite and poultry shipped or transported, or to be shipped or transported by common carrier, contract carrier, private carrier or in any other manner whatever, whether the shipping or transporting is in interstate or intrastate commerce, or both, and to require an owner, before moving livestock, equine, ratite and poultry in such manner, to furnish an inspection certificate in the form required by the Director.

H. The Director may establish and declare any district to be an infected district wherein diseased or infected livestock, equine, ratite and poultry are found or have recently been grazed or driven. The Director may order livestock, equine, ratite and poultry in the infected district or which are exposed to be moved, treated, disinfected or cured under quarantine regulations provided for by this Title.

I. Subsections A to H shall be conducted in conjunction with the recommendations of Navajo Nation Veterinary and Livestock Program.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Note.** Reworded for statutory consistency.

#### **§ 1503. Control of animal diseases; violation; classification; penalties**

A. Livestock and equine owners are responsible for the annual vaccinations and deworming of livestock and equine for the prevention of disease and the reduction of parasites.

B. The Navajo Nation or federal veterinarian may enter any place where a suspected livestock, equine, ratite or poultry may be and take custody of the animal or poultry for the purpose of determining the presence of a contagious, infectious or communicable disease.

C. When advised of the occurrence of a disease of livestock, equine, ratite or poultry, which constitutes a threat to the livestock, equine, ratite or poultry industries, the Director may issue lawful orders and adopt rules he deems necessary.

D. Should the disease mechanism involve a foreign animal disease, the NNERFAD plan will be activated.

E. The Director may request NNVLP veterinarian or federal veterinarian or Department of Resource Enforcement Rangers, or Navajo Nation Fish and Wildlife, Environmental Protection Agency Enforcement Officers or Navajo Department of Public Safety to:

1. Establish quarantines and define their boundaries.
2. Destroy livestock, equine, ratite, animals or poultry when necessary to prevent the spread of any infectious, contagious or communicable disease.
3. Appoint authorized appraisers for the purpose of indemnifying owners of livestock, equine, ratite or poultry destroyed.
4. Control the movement of livestock, equine, ratite, animals or poultry products and agricultural products, which may be directly related to dissemination of diseases affecting the livestock, equine, ratite, animals or poultry industries.

F. Any person who violates any lawful order or rule issued pursuant to the Act, or breaks any quarantine established by the NNVLP, or federal veterinarian for the prevention and control of disease among livestock, equine, animals, ratite, or poultry, is guilty of an offense and is subject to a minimum two hundred and fifty dollars (\$250.00) fine not exceed five thousand dollars (\$5,000.00) or 365 days jail or both.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1504. Cooperation with United States**

In addition to other powers and duties conferred upon him by law, the Director may cooperate with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture, or other agency of the United States vested with similar powers and duties, in the control of contagious or infectious diseases affecting livestock, equine, ratite and poultry.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1505. Diseases; inspection; quarantine.**

A. The Navajo Nation shall activate the NNERFAD plan when a foreign animal disease is suspected.

B. The Navajo Nation may use all proper means to prevent the spread of dangerous and fatal diseases among livestock, equine, ratite and poultry and for the prevention of such diseases. If a disease breaks out in the Navajo Nation, it is the duty of all persons owning or having in their charge livestock, equine, ratite or poultry infected to immediately notify the Navajo Nation of the existence of such disease. The Navajo Nation shall cause proper examination to be made by a NNVLP or federal veterinarian and, if the disease is found to be a dangerously contagious or infectious malady, the Navajo Nation shall order the diseased livestock, equine, ratite or poultry that have been exposed to be strictly quarantined and shall order any premises or farms where such disease exists or has recently existed to be put in quarantine so that no livestock, equine, ratite or poultry subject to the disease is removed from or brought to the premises or places so quarantined. The Navajo Nation shall prescribe such rules as it deems necessary to prevent the disease from being communicated in any way from the premises so quarantined.

C. The Navajo Nation may expend funds to prevent, suppress, control or eradicate any disease or parasite of livestock that the Navajo Nation has been ruled and declared to be a disease or pest of significant economic impact to any segment of the livestock, equine, ratite and poultry industry. This power shall include the right to purchase and destroy or sell infected or exposed livestock.

D. Whenever the Navajo Nation finds any livestock, equine, ratite or poultry infested with a disease or pest declared by the Navajo Nation to be of significant economic impact, the Navajo Nation may request the President of the Navajo Nation to declare a state of emergency.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1506. Failure to report livestock, equine, ratite or poultry disease; offenses; penalty**

A. Any person who has in his/her possession or under his/her care any livestock, equine, ratite or poultry that he/she knows or has reason to believe is affected with a disease shall without unnecessary delay notify the NNVLP or



District Grazing Committee member or Eastern Land Board member or the Department of Resource Enforcement in which the livestock, equine, ratite or poultry is situated.

B. All accredited veterinarians practicing within the Navajo Nation boundaries shall immediately notify the Navajo Nation Veterinary Livestock Program or the Department of Resource Enforcement of any reportable disease incidents.

C. A person who violates this Section is guilty of an offense and upon conviction shall be fined a minimum of one hundred dollars (\$100.00) not to exceed five thousand dollars (\$5,000.00) or 365 days in jail or both.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1507. Failure to comply with quarantine requirements; offense; penalty**

A. A person shall not bring into Navajo Nation to sell or dispose of any livestock, equine, ratite or poultry known to be affected or exposed to disease or move diseased or exposed livestock, equine, ratite or poultry from quarantine area within the Navajo Nation declared to be infected with a disease.

B. A person shall not bring into Navajo Nation any diseased livestock, equine, ratite or poultry from an area outside the Navajo Nation that may at any time be legally declared to be infected with a disease without the consent of the Navajo Nation.

C. A person who violates this Section is guilty of an offense and upon conviction shall be fined a minimum of one hundred and fifty dollars (\$150.00) not exceed to five thousand dollars (\$5,000.00) or 365 days in jail or both.

D. Restitution: Any necessary expenses incurred in the quarantining of the livestock, equine, ratite or poultry shall be paid by the owner, and if the same is refused, after demand made by order of the Navajo Nation, an action may be brought to recover the same with costs of suit, which action may be brought in the name of the Navajo Nation.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1508. Dead animals; infectious animals; disposal**

A. As provided by regulations of the Navajo Nation, all carcasses of dead animals shall be properly disposed of by the owners according to the approved or recommended method by the federal agencies.

1. Approved landfill or approved disposal site by Navajo Nation Environmental Protection Agency.

2. Disposal shall not create or endanger the public health, safety or welfare, or create a public nuisance.

B. A person commits an offense pursuant to this Section if he or she willfully refuses to dispose of animals found to be infectious by authorized agents of the Navajo Nation Veterinary and Livestock Program or federal veterinarian.

C. Any person found guilty of violating this Section shall be sentenced to imprisonment for a term not to exceed 30 days, or be ordered to pay a fine of five hundred dollars (\$500.00) but not to exceed one thousand dollars (\$1,000.00), or both.

D. It will be the responsibility of the owner for the euthanasia and disposal of any animal found to be infectious as determined by a Navajo Nation veterinarian or federal veterinarian.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1509. Infected pastures and buildings; notices**

If a pasture, building, corral, yard or enclosure where livestock, equine, ratite, or poultry have been or may be pastured or confined is infected with or has become dangerous on account of a disease or poisonous weed or plant, the Navajo Nation may post danger or quarantine notices in not less than two conspicuous places in or upon such pasture, building, corral, yard or enclosure sufficient to warn all owners and others in charge of livestock, equine, ratite or poultry of the danger or quarantine. When the danger has passed or the quarantine is lifted, the NNERFAD task force shall require the posted notices to be removed.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1510. Unlawful removals of quarantine notice or sign**

Any person who removes a posted notice of danger or quarantine is guilty of an offense and shall be fined a minimum of two hundred and fifty dollars (\$250.00) not to exceed five thousand dollars (\$5,000.00) or 365 days in jail or both.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1511. Destruction of diseased livestock, equine, ratite or poultry**

In cases where the Navajo Nation deems it necessary to destroy any diseased, infected or exposed livestock, equine, ratite or poultry in order to prevent the spread of dangerous and fatal diseases, foreign, domestic or other, which according to the rules, regulations and standards recommended by the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) cannot be prevented by means other than the destroying of the diseased, infected, or exposed livestock, equine, ratite, animal or poultry, the Navajo Nation may have the livestock, equine, ratite, animal, or poultry humanly euthanized and disposed of under such laws, orders and rules as mandated by the Navajo Nation.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1512. Acceptance of federal rules and regulations; cooperation**

The President of the Navajo Nation may accept on behalf of the Navajo Nation, the rules and regulations prepared by the Secretary of the United States Department of Agriculture relating to the control of diseases of livestock, equine, ratite or poultry and to cooperate with the authorities of the United States in the enforcement of all applicable laws and regulations relating to diseased livestock, equine, ratite or poultry.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1513. Dangerous epidemics; emergency rules; imports prohibited; penalty**

A. When the Navajo Nation finds that a disease, the nature of which is known to be fatal or highly injurious to livestock, equine, ratite, or poultry, has become epidemic or exists in a locality in a country, state or territory beyond the limits of the Navajo Nation, the Navajo Nation shall immediately adopt and promulgate emergency rules to prohibit the importation into the Navajo Nation of any animals, including livestock, equine, ratite, or poultry, subject to the disease that may be so reported.

B. The Navajo Nation shall specify such restrictions and safeguards as it deems proper and shall specify for the protection of livestock in the Navajo Nation and may also prohibit the importation into the Navajo Nation of any hoofs, hides, skins or meat of any animals or any hay, straw, fodder, cottonseed or other products or material determined to carry the infection of such disease.

C. Emergency rules may be adopted and promulgated without the notice and hearing required of other rules and shall take effect immediately. If the Navajo Nation contemplates that an emergency rule will be in effect for longer than 90 days, it shall give notice and hold a hearing to adopt the emergency rule as a rule.

D. Any person who violates this Section or an emergency rule or order issued in accordance with this Section is guilty of a offense and upon conviction shall be fined a minimum two hundred and fifty dollars (\$250.00) fine not to exceed one thousand and five hundred dollars (\$1,500.00) or sentenced to 180 days jail or both and is also liable in a civil action for any damages and loss sustained by reason of such importation of the livestock or of any of the products provided for in this Section.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1514. Health certificate requirements; inspection; permit; penalty**

A. During the time covered by the emergency rule, it shall be unlawful for a person to drive or transport or cause to be driven or transported into or within the Navajo Nation any livestock that by any direct or circuitous route might have come from any place or district covered by the emergency rule without first having obtained a certificate of health from a veterinarian or a permit in writing from the Navajo Nation under such rules as the Navajo Nation prescribes.

B. A person failing to comply with this Section is guilty of an offense and upon conviction shall be fine a minimum of seventy-five dollars (\$75.00) not to exceed two hundred dollars (\$200.00) or sentenced to 90 days jail or both, and is also personally liable for all loss and damages sustained by any persons by reason of the introduction of a disease from the livestock unlawfully imported into the Navajo Nation.

C. During the time covered by the emergency rule, all livestock desiring to enter the Navajo Nation shall submit to an inspection and shall not be permitted to enter the Navajo Nation until a written permit is issued by the Navajo Nation. A Navajo Nation livestock officer or deputy livestock inspector or other agent of the Navajo Nation may require the person in charge of the livestock to produce the permit for his inspection, and any person refusing to produce the permit at any time within a year from the time the livestock were driven in is guilty of an offense and shall be fined a minimum of one hundred dollars (\$100.00) not to exceed five hundred dollars (\$500.00) or sentenced to 60 days jail or both.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1515. AGID test required (Agar Gel Immuno Diffusion Test)**

The Navajo Nation prohibits the driving or transporting into the Navajo Nation of any equine or other equine that have not tested negative to the AGID, or Coggins test or a United States Department of Agriculture-approved equivalent test for equine infectious anemia within 12 months prior to the date of entry, the evidence of which test result shall be shown on a health certificate; excepting from regulation only those foals accompanied in shipment by a negative-tested dam, those horses or other equine consigned directly to slaughter.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1516. Equine infectious anemia**

A. Any equine found to be positive to the immuno diffusion test or any other recognized test for equine infectious anemia shall be placed under quarantine by the Navajo Nation or federal veterinarian. Any such positive equine shall be identified with either a hot iron brand or a freeze iron brand on the neck. Such brand shall contain "84A", followed by the case number assigned by the Navajo Nation or federal veterinarian. Any equine placed under quarantine shall be pastured or stabled in a suitable place a minimum of 100 yards from any equine belonging to any other owner or shall be stabled in a screened enclosure which prevents insects from entering or leaving such enclosure.

B. Any equine placed under quarantine for equine infectious anemia may be moved only with a permit from the Navajo Nation or federal veterinarian.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1517. Investigation of suspected illegal imports; oaths; health certificate or permit**

A. Whenever the Navajo Nation, during the continuance in force of any prohibition against the importation into the Navajo Nation of livestock, equine, ratite or poultry has good reason to believe or suspect that any such livestock, equine, ratite or poultry against the importation of which prohibition then exists have been or are about to be driven, conveyed or transported into the Navajo Nation in violation of any such prohibition then existing and then in force, it is the duty of the Navajo Nation, either by its own members or through a veterinarian or through one or more of such persons then in their employ as circumstances shall seem to require, to thoroughly investigate the same.

B. They may examine, under oath or affirmation, any person in charge of the livestock, equine, ratite or poultry or any person cognizant of any facts or circumstances material to the investigations and all facts connected with the driving or transportation of the livestock, equine, ratite or poultry, including the place or places from which the livestock, equine, ratite or poultry have been driven or transported; the places or districts through which they have been driven or transported; the length of time and where they have remained, fed or grazed at any designated place or district; what contagious or infectious disease of livestock, equine, ratite or poultry, if any, they have been exposed to and when and where; and any other facts or circumstances material to the investigation and reduce such testimony to writing in all cases where the certificate of health or the permit in writing provided for in this Section shall be refused.

C. The Navajo Nation, a NNVLV veterinarian and all other persons as aforementioned so in the employment of the Navajo Nation through whom any such investigation shall be made hereby are authorized to administer all oaths and affirmations required in any such investigation. If any such investigation is made by such veterinarian and he/she is satisfied that the livestock, equine, ratite or poultry are free from all contagious and infectious disease and will not communicate any disease to any livestock, equine, ratite or poultry in the Navajo Nation, he/she shall deliver to the person in charge of the livestock, equine, ratite or poultry a certificate of health to the effect that the livestock, equine, ratite or poultry are healthy and entitled to pass into the Navajo Nation, otherwise he/she shall refuse the same.

D. If such investigation is made by any other persons authorized as specified in this Section to make the investigation and they are satisfied that the livestock will not transmit to the livestock, equine, ratite or poultry in the Navajo Nation any livestock, equine, ratite or poultry disease and that the facts and circumstances attending their transportation warrant the presumption that such livestock, equine, ratite or poultry are not from any prohibited areas, a recommendation that the importation of the livestock, equine, ratite or poultry shall then be permitted, shall be communicated to the Navajo Nation and the Navajo Nation shall upon concurrence give the person in charge of the livestock, equine, ratite or poultry a written permit to pass the same into the Navajo Nation, otherwise such permit shall be refused.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Note.** Slightly reworded for statutory clarity.

### **§ 1518. Quarantine; seizure of livestock, equine, ratite or poultry**

A. Whenever any livestock, equine, ratite or poultry are driven or transported into the Navajo Nation without obtaining a certificate of health or permit by the person in charge thereof, in any case where a certificate or permit is required and if such livestock, equine, ratite or poultry have been inspected and an investigation had in relation thereto and the certificate or permit refused, then the livestock, equine, ratite or poultry may be seized and

securely held in quarantine under such reasonable rules and regulations as shall be prescribed therein by the Navajo Nation and as they may deem necessary to guard against other livestock, equine, ratite or poultry becoming affected with any such livestock, equine, ratite or poultry diseases.

B. They shall be held in quarantine for such length of time as the Navajo Nation shall in their opinion deem necessary for the sanitary protection of livestock, equine, ratite or poultry in the Navajo Nation.

C. If such livestock, equine, ratite or poultry shall not have been so inspected and an investigation had, then the same shall take place wherever the livestock, equine, ratite or poultry may be found, and they may be seized and held for that purpose and a certificate of health or permit granted or refused, as the case may require. If refused, the livestock, equine, ratite or poultry may in like manner be held in quarantine.

D. The owners of the livestock shall pay all the necessary expenses of quarantine and inspection and disposal under this Section.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

#### **§ 1519. Importation of livestock, equine, ratite or poultry**

A. It is unlawful for any person, firm, or corporation to ship, transport or drive into the Navajo Nation any livestock, equine, ratite or poultry unless such livestock, equine, ratite or poultry are accompanied by an official health certificate, except livestock, equine, ratite or poultry going to immediate slaughter. Such health certificate shall show the names and addresses of the consignor and the consignee and the kinds of livestock, equine, ratite or poultry, with a description of each, including sex, breed, and age. Individual identification is required on any breeding cattle and on any swine and equine, except those going to immediate slaughter. Such health certificate shall show the permit number when a permit is required.

B. The information on such health certificate shall be legible, and a licensed accredited veterinarian of the state of origin shall sign such certificate.

C. One copy of such certificate shall accompany the livestock, equine, ratite or poultry.

D. Livestock, equine, ratite or poultry known to be infected with or known to be exposed to any infectious or contagious disease shall not be imported into Navajo Nation.

E. Livestock, equine, ratite or poultry shall also meet all federal interstate requirements.

#### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Note.** Slightly reworded at Subsection D.

**§ 1520. Failure to comply with importation requirements; penalty**

Any person, firm, or corporation who violates or disregards Section 1519 is guilty of an offense and/or, upon conviction thereof, shall be fined by a minimum of one hundred dollars (\$100.00), not to exceed one thousand dollars (\$1,000.00), for each offense or sentenced to six months in jail or both.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**§ 1521. Inspector in charge of premises**

A. Whenever the Navajo Nation finds it necessary to quarantine any livestock, ranch, farm, premises, or any portion of the Navajo Nation because of contagious or infectious disease, said NNERFAD plan has the authority to hold in quarantine such ranch, farm, premises, or part of the Navajo Nation, the Navajo Nation may deem necessary after all animals have been removed there from, until such time as in the judgment of the Navajo Nation there is no further risk of exposing domestic animals to disease by permitting them to inhabit such quarantined area.

B. The Navajo Nation has the authority to employ special livestock officers whenever it deems it necessary to be in charge of such quarantined animals or quarantined premises, under the direction of the Navajo Nation Veterinary and Livestock Program.

**History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

**Note.** Slightly reworded for statutory clarity.

**§ 1522. Slaughter for post-mortem examination**

A. The Navajo Nation may order the humane euthanasia and post-mortem examination of any one or more diseased domestic animals if the exact nature of their disease is not readily ascertained through other means.

B. All livestock, equine, ratites, or poultry infected with a suspect foreign animal disease shall be forfeited to the Navajo Nation without compensation to the owner of said livestock, equine, ratites, or poultry.



### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

### **§ 1523. Quarantine responsibility; enforcement; authority**

A. The Navajo Nation shall quarantine any infected domestic animal or area within the Navajo Nation to prevent the spread of infectious or contagious disease.

B. Livestock Officers are law enforcement officers and shall have the powers of law enforcement officers with respect to Title 3 and Title 17, relating to livestock, and shall cite, apprehend or arrest any person who violates the health and quarantine laws, and shall, upon reliable information that any person has violated such law, make the necessary affidavits for arrest and examination of the person and shall, upon warrants issued therefore, immediately arrest the person.

### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

## **Chapter 11. Farm Enterprises**

### **Subchapter 1. [Reserved]**

### **Subchapter 3. Bull Herd**

#### **Cross References**

Tribal Enterprises generally, see 5 N.N.C. § 1501 *et seq.*

### **§ 1851. Establishment; authority**

The President of the Navajo Nation, with the assistance of the members of the Resources Committee, is authorized, empowered, and directed to establish a bull herd for the Bar-N Ranch.

### **History**

CF-23-58, February 20, 1958.

### **§ 1852. Plan of operation; adoption**

The Plan of Operation adopted July 17, 1958 by the Advisory committee shall govern the operations of the Tribal Bull Herd.

### **History**

ACS-104-58, September 8, 1958.

**Note.** Slightly reworded for purposes of statutory form.

### **Chapter 13. Livestock Brands**

#### **§ 2001. [Reserved]**

##### **History**

CMY-27-06, May 12, 2006. The Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006. Deleted previous § 2001, Requirements.

ACS-327-71, September 29, 1971.

ACAU-1 17-59, August 18, 1959.

#### **§ 2002. Inspection system; authority to institute**

A. The Resources Committee of the Navajo Nation Council is authorized to institute a brand inspection system for the Navajo Nation and to cooperate and coordinate such system for the Arizona portion of the Navajo Nation with the Livestock Sanitary Board of Arizona.

B. The Resources Committee is further authorized to negotiate with the proper authorities of New Mexico and Utah in order to institute such a cooperative system for the portions of the Navajo Nation lying in those States.

##### **History**

ACAU-118-59, August 18, 1959.

**Note.** Slightly reworded for purposes of statutory form.

##### **Cross References**

Intergovernmental agreements with state, see 2 N.N.C. § 824(B)(6).

### **Chapter 15. Livestock Supplies and Services**

#### **§ 2201. Schedule of charges**

[**Note.** The fee schedule for vaccinating, spraying, dusting, dipping, branding, dehorning and castrating has been deleted as the Resources Committee of the Navajo Nation Council, by regulation, may adopt such schedules from time to time. See 2 N.N.C. § 695(B).]

##### **History**

ACMY-54-61, May 1, 1961.

**Note.** Words "effective May 15, 1961" were omitted as executed.

### **Cross References**

Rules and Regulations, see 2 N.N.C. § 695(A).

## **Chapter 17. Fences**

### **§ 2401. Specifications; application of state statutes**

The specifications for fences as provided in the Arizona and New Mexico state statutes, respectively, shall apply to the Navajo Nation insofar as they concern Navajo Nation lands located in the States of Arizona and New Mexico; provided however, that such specification shall apply to cultivated lands only, and provided further, that this Section shall not be construed to authorize the fencing of range lands.

### **History**

Res. 1922-1951, p. 221, March 16, 1950.

### **Cross References**

Fences on range lands, see § 713 of this title.

### **§ 2402. Damages for trespass**

A. The occupant of enclosed land shall not be entitled to damages for trespass from cattle, horses, mules, or burros unless his land is enclosed with a fence in good repair equal to or better than the specifications adopted in accordance with 3 N.N.C. § 2401.

B. Since sheep and goats are presumed to be under the control of a herder at all times, the owner of such sheep and goats shall be liable for all damages caused by their trespass, regardless of the condition of the fence or the absence of same.

### **History**

Res. 1922-1951, p. 221, March 16, 1950.

### **Cross References**

Trespass generally, see § 710 of this title.

Criminal trespass, see 17 N.N.C. § 350.

## **Chapter 19. Navajo Wool Growers Marketing Program**

### **§ 2601. Objectives**

A. The objectives of the Navajo Wool Growers Marketing Program are:

1. To insure the receipt of fair market prices for wool and mohair produced by sheep and goat raisers of the Navajo Nation;

2. To produce sufficient revenue to the Navajo Nation to continue this program on a self-sustaining basis;

3. To establish a marketing apparatus for the future development of Navajo wool and mohair resources; and

4. To diversify into other profit-making industries that are feasible.

### **History**

ACN-142-82, November, 1982.

ACMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

### **§ 2602. Organization**

A. The operating authority and responsibility for the Navajo Wool Growers Marketing Program is placed with the Director, Navajo Wool Growers Marketing Program. The director shall have full authority for supervision of daily operations of the program and authority to hire additional staff according to the program budget. Overall administrative authority for Navajo Wool Growers Marketing Program shall lie with the director.

B. A Management Board shall be established consisting of the following members:

1. Executive Director, Division of Economic Development, or his/her designee;

2. Director, Commercial, Industrial Development and Management Department (or its successor), or his/her designee; and,

3. A third member to be selected by the above two.

C. The Management Board shall advise, direct and establish policies regarding the actions of the Director, Navajo Wool Growers Marketing Program.

D. The Management Board shall meet once a month.

E. The Executive Director, Division of Economic Development or his/her designee shall be the chairperson of the Management Board. The Director, Commercial, Industrial Development and Management Department (or its successor) or his/her designee shall be the vice-chairman of the Management Board.

F. The chairman or vice-chairman shall preside at all meetings. The Director shall be responsible for maintaining accurate minutes of all meetings of the Management Board and shall assign a staff member to take the minutes at each meeting.

G. The Management Board shall be responsible for and have authority to

administer the Navajo Wool Growers Marketing Program in accordance with the operating procedures of this Chapter. In addition, to fully carry out the objectives of this Chapter and to diversify the program, the Management Board shall have all authority necessary or incidental thereto, not inconsistent with law, including, but not limited to, the following:

1. To purchase, lease, contract or otherwise acquire and to hold, own, use, and equip buildings, stores, shops, offices or other facilities useful in the conduct of the business;

2. To enter into and carry out any arrangements with and to act in any and all parts of the world in the conduct of the business;

3. To enter into any agreements including, but not limited to, joint ventures, operating agreements or management agreements and to establish corporations under Navajo Nation, federal or state incorporation laws to carry out the goals of this Chapter;

4. To acquire by purchase, exchange, lease, devise or otherwise, and to hold, own, maintain, manage, equip, improve, repair, remodel, and operate, and to sell, transfer, mortgage, lease, assign, convey, exchange, or otherwise turn to account or dispose of, and generally to deal in and with real and personal property wheresoever situated;

5. To borrow money, guarantee loans, and/or use its assets as collateral for any of the purposes of the business from time to time but not in excess of the ability of the business to repay its debts;

6. To recommend to the Navajo Nation Council revisions or amendments to this Chapter whenever deemed appropriate to improve the operation and management of the business;

7. To establish separate operating procedures when necessary for the diversification of the program into other businesses in furtherance of the goals of this Chapter; and

8. In general, to do all and everything either within or without the Navajo Nation necessary or convenient to the accomplishment of any of the purposes stated herein.

#### **History**

CD-68-89, December 15, 1989.

ACN-142-82, November 9, 1982.

CMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

**Note.** "Advisory Committee" changed to "Navajo Nation Council". See 2 N.N.C. § 724(E).

#### **§ 2603. Duties and responsibilities of the director**

A. The director shall report to and be administratively responsible to the Management Board in policy matters established by the Board pertaining to the Navajo Wool Growers Marketing Program.

B. The Management Board shall be authorized to purchase wool other than that produced by Navajo livestock raisers to augment employment for the Navajo People.

C. The director is authorized to utilize the commodities for all potential uses, including the making of yarns for Navajo weavers.

D. The director shall be responsible for buying wool ties, strings, burlaps, bailing wires, etc. The director shall also have available for the Navajo wool producers and weavers, ties, strings, burlaps, hand shears, wool cards, wool dyes, and other related supplies and items.

E. The director is authorized to use satellite stations for the purpose of storing, selling yarns, and other related supplies and items.

F. The director shall have the authority to utilize consultants for the purpose of selling wool off the Navajo Nation and to market the wool for the best prices.

#### **History**

ACN-142-82, November 9, 1982.

ACMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

#### **§ 2604. Operating procedures**

A. Sale of wool and mohair.

1. The selling price shall be established by executed sales contracts. Prices may vary from contract to contract. Advance payments from customers shall be negotiated where possible.

2. Deliveries of wool and mohair shall be in truckload quantities against previously signed sales contracts.

3. An invoice shall be prepared on each truckload shipment. This invoice will contain the following information:

a. Sales contract number;

b. Purchaser (complete identity);

c. Net weight of wool and/or mohair by lot number sold and shipped;

d. Extension of weight of each lot by contracted unit price;

- e. Total prices;
- f. Terms of payment (could be credit against advance payment);
- g. Proper weight sheets and Bills of Lading attached to all copies of the invoice.

4. Invoices shall be delivered to the Controller of the Navajo Nation weekly. All designated information shall be attached.

5. The Board is authorized to purchase wool and mohair from other than Navajo producers.

6. The director shall be responsible for collecting all accounts receivable and accounting for receipts.

B. Purchase of commodities shall be accomplished through a separate bank account for the Navajo Wool Growers Marketing Program. The Board will designate persons whose signatures are approved for checks written on this account. Copies of the authorization for approval signatures will be transmitted to the Controller, Navajo Nation.

C. Copies of check transactions of the Navajo Wool Growers Marketing Program will be transmitted to the Office of the Controller weekly. The Controller's office will establish and transmit to the director appropriate account numbers for transactions. All invoices, bills of sale, and checks will be numbered and accountability of all numbers will be made to the Controller's office with weekly transmittal of transaction documents.

D. The Office of the Controller will be responsible for supervision of proper accounting procedures and practices exercised in the operation of the Navajo Wool Growers Marketing Program. This responsibility shall not relieve the director or other Navajo Wool Growers Marketing Program employees of their financial, procedural, and accounting responsibilities as herein established.

E. Purchase prices of commodities shall be established by the director. The prices shall be reviewed for approval by the Management Board. Determination of purchase price shall be based upon existing market conditions and previously executed sales contracts, taking into consideration operating expenses and anticipated revenue needs of the program.

F. Purchases of wool and mohair shall be recorded incrementally by bills of sale and checks drawn on the Navajo Wool Growers Marketing Program Revolving Fund. Bills of sale shall contain the following information:

- 1. All information required by the producer for application for ASCS incentive payments, if applicable. Producer shall mean the individual producer and not a trader.
- 2. Weight by commodity description of wool and mohair purchased.
- 3. Seller (complete identity).

4. Extension of weight of each commodity description by unit price.

5. Total price.

G. The director shall be responsible for all disbursements and accountability of transaction documents.

H. The director will have the authority and responsibility for any encumbrance of funds for operating expenses (including salaries, supplies, equipment, etc.) in accordance with the program budget.

I. The Director of the Navajo Wool Growers Marketing Program shall submit a progress report monthly to the Management Board, on the financial status of the program. Copies of the report shall be delivered to the Controller of the Navajo Nation. The Director, in cooperation with the Board, shall submit quarterly reports to the Economic Development Committee of the Navajo Nation Council.

J. Upon completion of yearly operations, the Controller of the Navajo Nation shall reconcile the Navajo Wool Growers Marketing Program Revolving Fund and report the status of the funds to the Budget and Finance Committee of the Navajo Nation Council.

K. The Auditor General may, at any time, perform an operational audit to insure procedural compliance and integrity of assets.

L. Expenditures (commodity purchases and operating expenses) shall be limited to the balance of the Navajo Wool Growers Marketing Program Revolving Fund.

#### **History**

ACN-142-82, November 9, 1982.

ACMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

**Note.** "Advisory Committee" changed to "Economic Development Committee". See 2 N.N.C. § 721 et. seq.

#### **§ 2605. Contracts with traders**

Any contract or agreement made with traders or organizations to act as purchasing agents for the Navajo Wool Growers Marketing Program shall contain the provision that Navajo wool/mohair producers shall receive the same price for commodities as offered to the Navajo wool/mohair producers by the Navajo Wool Growers Marketing Program.

#### **History**

ACMA-37-78, March 29, 1978.



CO-56-73, October 17, 1973.

**§ 2606. Contracts for technical assistance**

The Director, subject to the approval of the Management Board, is authorized to negotiate with members of the wool industry for the services and technical assistance needed to grade and bale the annual wool clip, and for the sale of wool accumulated or to be accumulated.

**History**

ACN-142-82, November 9, 1982.

ACMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

**§ 2607. Amendment of Chapter**

This Chapter shall continue in force until cancelled or amended by the Navajo Nation Council.

**History**

CD-68-89, December 15, 1989.

ACMA-37-78, March 29, 1978.

CO-56-73, October 17, 1973.

**Note.** "Advisory Committee" changed to "Government Services Committee".

**Cross References**

Economic Development Committee authority, see 2 N.N.C. § 724(E) (1).

**Chapter 21. Soil and Water Conservation Districts**

**Subchapter 1. General Provisions**

**§ 2801. Policy**

It is the declared policy of the Navajo Nation to provide for the conservation and restoration of forest, range and watershed resources; for the control of erosion and sedimentation; for the control of floods and the beneficial use of flood waters; and to thereby preserve and enhance wildlife and vegetation and scenic and recreational resources and conserve natural resources, and in such a manner to promote the public health, safety and general well being of the Navajo People.

**History**

CF-11-80, February 7, 1980.

### **Cross References**

Resources Committee, see § 852 of this title, and 2 N.N.C. § 691 *et seq.*

Water, see Title 22.

### **Subchapter 3. Responsibilities of the Resources Committee of the Navajo Nation Council**

#### **§ 2812. General authority**

The Resources Committee of the Navajo Nation Council is authorized by 3 N.N.C. §§ 832 and 852 to coordinate federal and Navajo Nation Programs for natural resource utilization, conservation, restoration, and related educational programs.

#### **History**

CF-11-80, February 7, 1980.

### **Cross References**

Resources Committee, see § 852 of this title, and 2 N.N.C. § 691 *et seq.*

#### **§ 2813. Coordination of operation of districts**

The Resources Committee shall coordinate the organization and operation of Soil and Water Conservation Districts in the Navajo Nation, so as to enable the fullest possible participation by Navajo farmers, ranchers, and land users in federal programs of assistance in Soil and Water Conservation, watershed protection, flood control and prevention, farm forestry, and rural area development.

#### **History**

CF-11-80, February 7, 1980.

#### **§ 2814. Determination on formation of districts**

The Resources Committee shall hear petitions, hold public hearings, and establish Soil and Water Conservation Districts.

#### **History**

CF-11-80, February 7, 1980.

#### **§ 2815. Assistance in plan implementation**

The Resources Committee shall assist the Soil and Water District Boards of Directors in the implementation of Soil and Water Conservation programs, shall facilitate communication and coordination among Districts, shall prescribe uniform accounting and record keeping procedures for Districts, and

shall require annual reports from each District, including a complete accounting of District funds.

#### **History**

CF-11-80, February 7, 1980.

### **Subchapter 5. Formation of Soil and Water Conservation Districts**

#### **§ 2826. Petition for the creation of a district**

A. Twenty-five or more farmers, ranchers, and customary land users using lands within the boundaries of the proposed district, may petition the Resources Committee requesting that a Soil and Water Conservation District be formed. The petition shall contain:

1. The name of the proposed District;
2. A declaration of the need for the District;
3. A description of the boundaries of the District; and

4. A request that the Resources Committee determine that the District be created, set boundaries, and direct that a referendum be held.

B. Any proposed Soil and Water Conservation District shall conform to the existing boundaries of Navajo Nation grazing districts.

C. A Soil and Water Conservation District may include one or more Navajo Nation grazing districts in their entirety.

#### **History**

CF-11-80, February 7, 1980.

#### **Cross References**

Grazing, see §§ 701-950 of this title.

Farm Boards, see §§ 61-69 of this title.

Referendum, see 11 N.N.C. § 401 *et seq.*

#### **§ 2827. Hearing on a petition for the creation of a Soil and Water Conservation District**

Within 30 days after the Resources Committee receives a petition for the creation of a Soil and Water Conservation District, notice shall be given by publication in the Navajo Times for three weeks, by an announcement at a chapter meeting of each affected chapter at least one week in advance, and by the posting of notices for three weeks at all affected chapter houses, of a public hearing on:

A. The desirability and necessity of forming the proposed Soil and Water Conservation District;

B. The boundaries of the proposed District;

C. The propriety of the petition; and

D. All other related questions.

#### **History**

CF-11-80, February 7, 1980.

#### **§ 2828. Determination by the Resources Committee**

A. If the Resources Committee determines after a hearing that it is in the public interest and is administratively feasible to organize the proposed District, the Committee shall grant the petition, and shall set forth in a resolution the boundaries of the District, considering:

1. Topography;

2. Soils;

3. Erosion;

4. Flooding hazard;

6. Prevailing land use;

7. Desirability, necessity, and benefits of the District;

8. The relationship of the District to agricultural areas, watersheds, Navajo Nation grazing districts, and other Soil and Water Conservation Districts; and

9. Boundaries of existing grazing districts.

B. If the Resources Committee concludes that the proposed District is not in the public interest, it shall deny the petition and set forth in a resolution the reasons for its action.

C. If a petition for creation of a Soil and Water Conservation District is denied by the Resources Committee, the petitioners may resubmit the petition after six months have passed.

#### **History**

CF-11-80, February 7, 1980.

#### **Cross References**

Grazing, see §§ 701-950 of this title.

## **§ 2829. Referendum**

A. Within 30 days after the Resources Committee has granted a petition for the creation of a Soil and Water Conservation District and following notice as described in § 2827(A) of this Chapter, the Resources Committee shall cause a referendum to be held in all chapters within the District boundaries to determine whether a majority of the voters approve the formation of the District.

B. The referendum shall be conducted and the results declared in accordance with applicable provisions of the Navajo Nation Election Code, under the authority of the Navajo Board of Election Supervisors.

### **History**

CF-11-80, February 7, 1980.

### **Cross References**

Navajo Nation Election Code, see 11 N.N.C. § 1 *et seq.*

## **Subchapter 7. Administration of the District**

### **§ 2840. District Board of Directors**

A. The governing body of each Soil and Water Conservation District shall be a Board of Directors. At an election which may be held on a separate ballot at the time of the referendum each chapter will elect one representative to serve on the Board of Directors. In the event that there are more than 11 chapters in the District, those elected shall select from among themselves those who are to serve on the Board. Procedures for such selection may be formulated by the Resources Committee. Those representatives not selected shall constitute an advisory panel from which vacancies in the Board may be filled pending the next Board member election.

B. The term of each member of the Board of Directors shall be four years, except that two members of the initial Board will be elected to serve two year terms. Board member elections will be held every two years, and terms will be staggered such that no more than two members shall be elected in any election year.

C. The Board of Directors of each District shall enact bylaws including procedures for the transaction of business, which bylaws must be approved by the Resources Committee.

D. The Board of Directors shall record all proceedings, resolutions, rules and regulations of the District, report at least annually to the Resources Committee of the Navajo Nation Council, and upon request, furnish to the Committee copies of all documents adopted or employed by the District in pursuance of its programs.

### **History**

CF-11-80, February 7, 1980.

**§ 2841. Powers of the Soil and Water Conservation District**

A. Each Soil and Water Conservation District organized under the Navajo Nation Code shall be a political subdivision of the Navajo Nation and shall exercise the following functions, powers, and duties:

1. Employ, subject to available funds, administrative, clerical, and technical staff personnel;

2. Conduct surveys, investigation, and research relating to soil erosion, flood water, flood control, non-point water pollution, sediment control, watershed development, methods of cultivation, seeding and undesirable species eradication, and other measures as will aid farm and range operation, disseminate information, and carry on research programs in cooperation with Navajo Nation and federal agencies;

3. Conduct demonstration and training projects pertaining to all aspects of soil and water conservation, restoration, and utilization;

4. Cooperate and enter into agreements with customary land users, farmers, and ranchers, and agencies of the federal government, to carry on programs of soil erosion prevention, flood water control and utilization, methods of cultivation, cropping practices, landleveling, improvement of agricultural lands, methods of reseeding and vegetation enhancement on range lands;

5. Construct, improve, operate, and maintain any structure deemed necessary or convenient for the performance of any operation authorized by this Chapter;

6. To acquire and administer all supplies, tools, equipment, and other property necessary for the implementation of soil and water conservation programs;

7. Make available, on such terms as the Board of Directors may prescribe, agricultural and engineering machinery and equipment, fertilizer, seed and other plant materials and other equipment and supplies necessary to the implementation of soil and water conservation programs; and

8. Develop comprehensive long range district-wide plans for soil and water conservation programs, and annual work plans for the implementation of long range programs.

B. All participation in the District programs is voluntary.

**History**

CF-11-80, February 7, 1980.

**§ 2842. Limitation of powers**

A. All planning and implementation of water resource conservation, utilization, or development programs shall be conducted with the full understanding, consent, and participation of any Navajo Nation entities owning or operating water control structures within the District and of the Navajo Water Commission.

B. Soil and Water Conservation Districts shall have no control or authority whatsoever over the determination or assignment of water rights.

C. Soil and Water Conservation Districts shall be subject to all applicable Navajo Nation and federal laws and regulations.

D. In developing and implementing long range conservation programs and annual work plans, Soil and Water Conservation Districts shall consult and cooperate with other Navajo Nation departments and commissions.

#### **History**

CF-11-80, February 7, 1980.

#### **§ 2843. Authority to promulgate regulations**

The Resources Committee of the Navajo Nation Council shall have the authority to promulgate regulations necessary for the administration of this Chapter.

#### **History**

CF-11-80, February 7, 1980.

### **Title 4**

#### **Environment**

#### **History**

Previous Title 4, "Ceremonies and Fairs," (ACA-51-58, April 21, 1958 and ACAU-1 53-68, August 16, 1968) has been removed and replaced by a new Title 4, "Environment"; prior §§ 1, 2, 101 and 102 were deleted pursuant Navajo Nation Attorney General's advice on plans of operation for Navajo Nation Divisions dated January 4, 1991.

#### **Chapter 1. Navajo Nation Solid Waste Act**

#### **History**

CJY-51-97, July 24, 1997, rescinded and repealed the previously codified "Navajo Nation Solid Waste Code" (CJY-51-93, July 22, 1993 and CO-58-90, October 18, 1990) in its entirety and replaced it with the newly codified "Navajo Nation Solid Waste Act".

#### **United States Code**