



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

# NOTICE

## EMERGENCY AMENDMENT TO THE NEZ PERCE TRIBAL CODE

**Emergency Amendment effective November 22, 2016, authorized by NPTEC**

This notice is being posted November 23, 2016, according to the Nez Perce Tribal Code § 1-4-2 requesting written comments for the following emergency amendments (see below):

**STATEMENT OF PURPOSE:** there was a need for emergency Nez Perce Tribal Code (NPTC) amendments ahead of the 2016-2017 Buffalo Hunt Season. The changes enable Tribal members to bow hunt, will help reduce wounding incidents and clarify the NPTC as follows:

Emergency additions to the Tribal Code are **bolded** and emergency deletions are indicated with a ~~strike-through~~.

### § 1-1-37      Attorneys – Suspension

(a) The chief judge may suspend or disbar any attorney from practice before the courts of the Nez Perce Tribe after due notice and a hearing if such attorney shall be found guilty of the following:

- (1) a violation of his oath to the Court;
- (2) suspension or disbarment from practice before any state, federal or tribal court;
- (3) a violation of the rules of professional conduct of any state bar to which he is a member; and
- (4) the conviction of a ~~felonious act~~ **felony**.

### § 3-1-1      Definitions

(a) "Artificial light" means any light produced by other than natural sources, including but not limited to, spotlights, flashlights or vehicular headlights.

- (b) "Barter" means the act of trading goods or services for other goods or services rather than money.
- (c) "Bag limit" means the daily limit in the amount of each species of game or fish which may be taken by any one person.
- (d) "Centerfire rifle" means a shoulder weapon with a rifled bore that only shoots cartridges that have a primer located in the center of the cartridge case head.**
- (e) ~~(d)~~ "Ceremonial fishing" means fishing by tribal members pursuant to treaty rights when such fishing is pursuant to a permit issued in advance by the Fish and Wildlife Commission for the purpose of taking fish for use in recognized traditional tribal ceremonies or religious occasions. Ceremonial Fishing is exclusive of fishing for subsistence or commercial purposes.
- (f) ~~(e)~~ "Closed season" means the period of time during which the taking and sale of specific fish or wildlife is prohibited.
- ~~(f) "Crossbow" means a weapon consisting of a bow fixed crosswise on a stock.~~
- (g) "Commercial fishing" means fishing by tribal members with specified fishing gear and pursuant to treaty rights for the purpose of selling, trading, or bartering such fish to any person in return for money, property, or other consideration. Commercial fishing shall not include the sale or exchange of fish with other members of the Yakama, Warm Springs, Umatilla and Nez Perce Tribes for the personal use of such other members.
- (h) "CRITFE" means the Columbia River Intertribal Fisheries Enforcement.
- (i) "Designated shooter" means a person who is listed on the same buffalo permit as a person who is permitted to hunt using a hunting bow, as defined by § 3-1-1(r), and who is prohibited by the Nez Perce Tribal Code, state, or federal law from possessing, or having under her or his custody or control, firearm, as defined by the Nez Perce Tribal Code, state, or federal law. A designated shooter accompanies the person authorized to hunt using only a hunting bow. A designated shooter must carry a .30 caliber or higher centerfire rifle and may also carry a .35 caliber or higher pistol. A designated shooter is only authorized to kill a buffalo when the person authorized to hunt using a hunting bow has shot, but failed to kill, a buffalo.**
- (j) ~~(i)~~ "Endangered species" means any species so designated by this chapter and which the Fish and Wildlife Commission has determined is in danger of extinction throughout all or a significant portion of its range.
- (k) "Felon" means a person who has been convicted of a felony in any court of law of competent jurisdiction.**

**(l) "Felony" means a conviction in any court of law of competent jurisdiction of a crime punishable by imprisonment in excess of 1 (one) year or death.**

~~(m)-(j)~~ "Firearm" means a weapon such as a pistol, shotgun or rifle capable of firing a bullet or other projectile.

~~(n)-(k)~~ "Fish and wildlife commission" or "Commission" shall mean the Nez Perce Tribe Fish and Wildlife Commission as established by this chapter.

~~(o)-(h)~~ "Fishing" means any effort to take fish in waters on the Nez Perce Reservation or in off-Reservation waters in which the Nez Perce Tribe has treaty fishing rights, at usual and accustomed places.

~~(p)-(m)~~ "Gill net" means a net of single web construction attached at the top by a float line and at the bottom by a weight line designed to entrap fish in the mesh.

~~(q)-(n)~~ "Hunting" means shooting at, harassing, chasing, driving, flushing, attracting, brushing, pursuing, trapping, stalking or lying in wait for any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for or lying in wait for any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures or making sound recordings thereof. This definition shall apply to any such activities within the boundaries of the Nez Perce Reservation or on off-Reservation lands in which the Nez Perce Tribe has treaty hunting rights on open and unclaimed land.

**(r) "Hunting bow" means a crossbow, longbow, recurve bow, or compound bow.**

~~(s)-(o)~~ "Loaded firearm" means any such weapon having a round of ammunition in the chamber.

~~(s)-(p)~~ "Member" means a person who is duly enrolled in the Nez Perce Tribe.

~~(t)-(q)~~ "Non-member" means any person other than a Nez Perce tribal Member.

~~(u)-(r)~~ "Nocturnal species" means those wildlife species which are most active during the night hours.

~~(v)-(s)~~ "Open season" means the period of time during which the taking of certain fish and wildlife is permitted by this chapter or rules and regulations promulgated pursuant to this chapter.

**(w) "Pistol" means a handgun designed to enable a user to aim and fire it with one hand.**

**(x)** ~~(t)~~ "Possession limit" means the amount of each species of game or fish which a person may possess.

**(y)** ~~(u)~~ "Public highways" means all roadways open to the public for vehicular travel.

**(z)** ~~(v)~~ "Rifle" means a shoulder weapon with a rifled bore.

**(aa)** ~~(w)~~ "Shotgun" means a smooth bore shoulder weapon for firing shots or slugs.

**(bb)** ~~(x)~~ "Subcommittee" means the Nez Perce Tribal Fish and Wildlife Subcommittee or any successor Subcommittee hereafter designated by the Nez Perce Tribal Executive Committee to perform the functions of the Fish and Wildlife Subcommittee.

**(cc)** ~~(y)~~ "Subsistence fishing" means fishing by tribal members pursuant to treaty rights for their personal use, including the sale or exchange with other members of the Yakama, Warm Springs, Umatilla and Nez Perce Tribes for the personal use of such other members. Subsistence fishing shall not include the sale or trade of harvested fish with non-Indians or non-members of the Yakama, Warm Springs, Umatilla and Nez Perce Tribes or fishing for commercial or ceremonial purposes.

**(dd)** ~~(z)~~ "Take" shall mean any effort to kill, capture, catch, harm, shoot, wound, collect, hunt, pursue or trap fish or wildlife in the waters or on the lands of the Nez Perce Reservation, or in off-Reservation lands in which the Nez Perce Tribe has treaty hunting or fishing rights in usual and accustomed places or on open and unclaimed land.

**(ee)** ~~(aa)~~ "Threatened species" means any species designated as such by this chapter or which as determined by the Fish and Wildlife Commission is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**(ff)** ~~(bb)~~ "Trap" or "Trapping" shall mean any effort to take wildlife with a trap, net, snare or other device used for the purpose of capture in the waters or on the lands of the Nez Perce Reservation, or in off-Reservation water or on off-Reservation lands in which the Nez Perce tribe has treaty hunting or fishing rights.

**(gg)** ~~(cc)~~ "Treaty" shall mean the Treaty of June 11, 1855, between the Nez Perce Tribe and the United States as set forth in 12 Stat. 957, and any subsequent treaties and agreements between the tribe and the United States.

**(hh)** ~~(dd)~~ "Treaty hunting or fishing rights" shall mean any hunting or fishing right or privilege which is derived from the Treaty of June 11, 1855, 12 Stat. 957, or any subsequent treaties or agreements.

**(ii)** ~~(ee)~~ "Waste" means the abandonment of or deterioration of those portions of fish or game normally ~~utilized~~ **used** for human consumption.

§ 3-1-81      Applicable Regulations

(a) thru (d) remain the same

~~(e) Appropriate gauge (.30 caliber and higher) firearms will be used. Buffalo must be~~ **hunted with a hunting bow, as defined in § 3-1-1(r), or a .30 caliber or higher centerfire rifle, as defined in § 3-1-1(d).**

**(1) Tribal members hunting using a hunting bow must be accompanied by a permitted designated shooter, as defined in § 3-1-1(i), if they are prohibited under the Nez Perce Tribal Code, state, or federal law from possessing, or having under their custody or control, a firearm, as defined by the Nez Perce Tribal Code, state, or federal law. Only the designated shooter may carry and fire a .30 caliber or higher centerfire rifle or a .35 caliber or higher pistol.**

**(2) All tribal members using a .30 caliber or higher centerfire rifle must use 150 grain or heavier bullets and are prohibited from using the following cartridges: .30 Carbine, and 7.62x39mm.**

§ 4-1-126(a)(1)      Weapons Offense

(a) It shall be unlawful for any person:

**(1) Who has been** ~~being convicted of a felony or an equivalent crime under this code in~~ **or has having been declared mentally incompetent in any court of law of competent jurisdiction, to own or have in her or his possession or under her or his custody or control a dangerous weapon;**

**a. A person who has been convicted of a felony offense does not commit a weapons offense as defined by this section if she or he possesses, or has under her or his custody or control, a hunting bow, as defined in § 3-1-1, solely for the purpose of exercising her or his treaty hunting right. This exception does not apply to any other weapons offense listed in § 4-1-126.**

**WRITTEN COMMENT PERIOD:**

The Law and Order & Intergovernmental Affairs Subcommittee will be accepting written comments on the proposed amendment being applied to the Code. Please submit written comments to: Shannon Wheeler, Chair, Law and Order Subcommittee, P.O. Box 305, Lapwai, ID, 83540; email to shannonw@nezperce.org, fax to (208) 843-7354 or hand deliver to the NPTEC offices in Lapwai. The deadline for receipt and consideration of such comments is January 31, 2017, at 4:30 p.m.