

REGULATIONS RELATED TO PREDATOR CONTROL IN GAME MANAGEMENT

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Abstract: While over-regulation is often debated among those feeling unduly burdened in a particular endeavor, probably few would dispute the need for some regulation in the interest of protecting our wildlife. But, because the focus of wildlife law is typically to prevent certain conduct or to restrict certain activities in the effort to achieve a desired protection, the way it is written can often leave the end user scratching his head. He may be able to read a lot about what he can't do, yet remain unclear on what he can do and under what circumstances. The confusion is compounded when multiple statutes overlap in their regulation of multiple species, as is the case with birds and animals perceived to be predatory to quail. It is hoped the information and table contained herein will be of value in avoiding that confusion.

Regulations related to predator control can sometimes be confusing, even daunting to landowners and professionals who must deal with them in the course of managing wildlife. They exist at the federal and state level where overlapping authority may exist between agencies, and may be complicated further by restrictions at the county, city, and even community homeowner association level. The subject is sufficiently vast to require, for the purposes of this presentation, a review of only those regulations from Texas Parks and Wildlife that deal with predator control related to wildlife management.

In keeping with the focus of this symposium, the approach will be to look at what birds and animals, perceived as predatory, can be legally controlled and under what circumstances, rather than a detailed discussion of individual regulations. For clarity and ease of reference, they will be grouped according to their respective controlling regulation, with each regulatory grouping then assigned a

category for reference in Table 1. Please note that some animals will be found in more than one category.

The Parks and Wildlife regulation regarding the management of wildlife and exotic animals from aircraft defines depredating animals, which are represented in Category A. That regulation provides that those depredating animals - - feral hogs, bobcats, red fox, coyotes, and crossbreeds between coyotes and dogs may be lawfully killed from an aircraft. Other than certain exotic animals (non-native wildlife), the listed animals are the only wildlife that may be lawfully killed from an aircraft. Specifically, game animals, mountain lions, eagles and other birds of prey cannot be taken in this manner. Further, the activity can be conducted only under a Department issued Aerial Management Permit (AMP) and with a landowner signed and Department approved Landowner's Authorization (LOA) specifying "take" activity, on file for each property over which the activity will occur. Because the

only exemption in federal regulations prohibiting any harassment of wildlife with an aircraft is a state issued permit, a landowner cannot legally conduct this activity from his own aircraft over his own property without first acquiring an Aerial Management Permit. Also illegal is the shooting of a coyote from a helicopter pushing cattle, unless the described permits have already been acquired.

As an aside, questions arise as to whether the taking of depredating animals and count and photograph activity may be lawfully conducted on the same flight. It can, as long as both activities are authorized on the LOA on file for that specific property. Another frequent question deals with the landowner acting as gunner on a flight on his own property. While the Aerial Management Permit holder usually has a gunner employed as part of his crew, it is lawful for the landowner or his employee to act as a gunner on a flight, provided the person has been issued and has in his immediate possession a current Texas hunting license. Additionally, the gunner's name and hunting license number must be recorded on the permitted aircraft's daily flight log, which then becomes part of a quarterly report filed with Texas Parks & Wildlife by the Aerial Management permit holder.

In Category B are those animals listed in the Parks and Wildlife regulations as fur-bearing animals. Included are wild fox, skunk, civet cat, raccoon, opossum, badger, ring-tailed cat, beaver, otter, mink, nutria, and muskrat. While a recreational and commercial harvest season and bag limit is prescribed in that regulation, there also exists a clause stating that nuisance fur-bearing animals may be taken in any

number by any means at any time. A nuisance fur-bearing animal is defined as one that is depredating or is a threat to human health or safety. A Texas hunting license is again required, except by the landowner or his agent for the property where the nuisance furbearer is located.

As mentioned above, there is no restriction on means and methods for the taking of a nuisance fur-bearer. However, ethics and "good neighbor" practices dictate responsible action in the use of any methods, especially in the placement of snares and traps.

Most people recognize that wild game birds in Texas are protected and can only be taken according to statute prescribed means and methods in specified seasons. However, many don't know that all other native birds fall into a class referred to as nongame birds, almost all of which are protected. Only three are specifically excepted from any protection, and five others are excepted from protection under certain circumstances. European starlings, English sparrows, and feral rock doves (pigeons), which may be killed at any time and their nests or eggs destroyed, are represented in Category C. Category D represents crows, grackles, magpies, cowbirds, and yellow-headed, red-winged, rusty, or Brewer's blackbirds, which may be killed when "committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in numbers and in a manner that constitutes a health hazard or other nuisance."

Category E reflects nongame animals that are not protected and feral non-domestic animals that are often perceived as predatory to managed wildlife. Included are

the feral hog, mountain lion, bobcat, coyote, and coyote dog crosses. A person possessing a valid Texas hunting license may lawfully take each of these species at any time on property that he or she is on legally.

In the last grouping, represented in the table as Category F, are those birds and animals often perceived to be predatory to certain managed wildlife and for which no provision to legally kill exists. Included are birds of prey, the roadrunner, ocelot, and jaguar, each afforded protection under various state and federal statutes.

The consequences of killing a bird or animal, other than as allowed by law, varies according to the regulating statute and the totality of the surrounding circumstances. Generally speaking, killing a protected nongame bird such as the roadrunner, carries a \$500 penalty. That penalty may be compounded, however, if the bird is killed from a vehicle, or on a public road, or without landowner consent. A mountain lion is not protected and can be legally killed on private property by someone legally on the property and in possession of a valid hunting license. But, because it is not defined as a depredating animal in the statute regulating aerial wildlife management, if it is killed from an aircraft, the penalty would include a maximum \$1000 fine, six months in jail, and loss of the ability to operate an aircraft under, or to hold, an Aerial Management Permit. Tack on the \$525.50 civil restitution penalty due Texas Parks & Wildlife, and the mountain lion killed for convenience from a helicopter becomes an expensive form of predator control.

There is no need to feel intimidated

by regulations that impact your livelihood. Just remember, if you have questions the safe bet is, when in doubt, don't. More detailed information concerning legal activity is readily available by calling the toll free TPW information line, 1-800-792-1112, any TPW field office, or through your local game warden. If you have internet access and would like to review the actual statutes, point your browser to <http://www.capitol.state.tx.us/statutes/pwtoc.html> for the Parks and Wildlife Code, and http://info.sos.state.tx.us/pub/plsql/readtacSext.ViewTAC?tac_view=3&ti=31&pt=2 for the Texas Administrative Code (TPW Commission Proclamations).

LITERATURE CITED

Texas Parks and Wildlife Code

Chapter 43, Subchapter G

Chapter 63

Chapter 64, Subchapter B

Chapter 65

Chapter 67

Chapter 71

Texas Administrative Code

Section 55.142 – 55.153

Section 65.371 – 65.379

Table 1. Summary of regulations concerning predator control for various species

	May be Killed (hunting license required)				
	Unlawful to Kill at any Time	From Permitted Aircraft in Conjunction With AM Activity	When Depredating	When Found Committing or About to Commit Depredation	At Any Time
Category					
A		X			
B			X		
C					X
D				X	
E					X
F	X				

Category A - Feral hogs, bobcats, red fox, coyote, and coyote-dog hybrids

Category B - Wild fox, skunk, civet cat, racoon, opossum, badger, ring tailed cat, beaver, otter mink, nutria, and muskrat

Category C - European starlings, English sparrows, and feral rock pigeons

Category D - Crows, grackles, magpies, cowbirds, and yellow-headed, red-winged, rusty, or Brewer's blackbirds

Category E - feral hogs, mountain lions, bobcats, coyotes, and coyote-dog hybrids

Category F - Birds of prey, roadrunner, ocelot, jaguar