

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 48. WILDLIFE SERVICES**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Aerial Management of Depredating Animals

35:48-3-12 [AMENDED]

35:48-3-14 [AMENDED]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; State Board of Agriculture; 2 O.S. § 2-4; and 29 O.S. § 4-107.2

ADOPTION:

February 28, 2017

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2018, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The purpose of the proposed emergency rule amendments is to revise the notice requirements and practical limitations imposed by the Department's current rules on the subject. Feral swine harm the public health, safety, economy, and environment in Oklahoma by damaging human and livestock health, public and private property, agriculture, forestry, and other natural resources. Certain rules make the hunting of feral swine and other depredating animals by aircraft impractical for many persons and entities wishing to engage in this activity. As a result, feral swine populations continue to increase. The proposed emergency rule amendments are necessary to increase the number of persons and entities engaged in the management of depredating animals by aircraft and to reduce feral swine populations in Oklahoma.

As a result of the foregoing, the State Board of Agriculture determined that an emergency exists requiring amendments to the notice requirements, recordkeeping requirements, and practical limitations imposed by the Department's current rules on the subject.

ANALYSIS:

The proposed emergency rule amendments (1) remove language that requires the permit holder to identify other persons participating in flights on the 24-hour notice to the Department, (2) clarify the information that may be provided to the Department for the purpose of describing the area on which management will occur, (3) revise the permitted firearms and ammunition, and (4) allow the Board of Agriculture to grant exceptions to the requirements of the subchapter on a case by case basis.

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PURSUANT THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR A SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 3. AERIAL MANAGEMENT OF DEPREDATING ANIMALS

35:48-3-12. Twenty-four hour notice

- (a) A permit holder shall notify the Department of the date, time, and area on which the management by use of aircraft will occur not less than twenty-four (24) hours prior to the activity. Area can be reported in a format to include legal description, global positioning system (GPS) coordinates, or GPS boundary files (shape files).
- (b) Twenty-four (24) hour notification shall be made by ~~telephone~~, fax, or electronic means.
- (c) Twenty-four (24) hour notification shall include a confirmation by the permit holder that all the information contained in the aerial management permit application is current and correct or shall provide new information and documentation if necessary.
- (d) Twenty-four hour notification shall include the name and address of the pilot authorized to operate the aircraft under the permit ~~and the name and address of the person authorized to use firearms on the aircraft or otherwise engage in the management by use of aircraft.~~
- (e) A single twenty-four (24) hour notification may describe up to seven (7) days upon which aerial management may occur.

35:48-3-14. Prohibited activities

- (a) A permit holder or pilot shall not:
 - (1) Hunt, shoot, shoot at, kill, or attempt to kill any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;
 - (2) Intentionally disturb, haze, or buzz any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;
 - (3) Take or attempt to take any depredating animal for any purpose other than is necessary for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops;
 - (4) Manage depredating animals from an unsuitable aircraft;
 - (5) Manage depredating animals from an unmanned aerial vehicle;
 - (6) Manage depredating animals with a firearm other than a shotgun using pellet ammunition or a centerfire rifle using only soft point or hollow ammunition;
 - (7) Manage depredating animals using incendiary ammunition or any similar hunting method that poses a substantial wildfire risk;
 - ~~(7)~~ (8) Manage depredating animals during hazardous weather, low visibility or nighttime hours;
 - ~~(8)~~ (9) Manage depredating animals during designated deer hunting seasons from the dates of October 1 through January 15 without first obtaining a special permit from the local game warden or other authorized employee of the Department of Wildlife Conservation; or
 - ~~(9)~~ (10) Herd animals from one property to another without the permission of all landowners or lessees affected.

(b) A permit holder may engage in trial flights allowing pilots and passengers to practice the aerial management activity, however, trial flights shall be subject to all the restrictions and notification requirements as an actual aerial management flight.

(c) The Board of Agriculture may grant exceptions to the requirements of this subchapter on a case by case basis.