

Cherokee Nation Code Annotated

Title 29: Game and Fish

Chapter 1: Hunting and Fishing

§ 108. Rules

Cite as: 29 CNCA § 108

A. The Department shall have the authority to promulgate any and all rules and regulations necessary to give full effect to this chapter and any agreements the Principal Chief may enter hereunder on the Cherokee Nation's behalf with another Tribal government or any agency thereof the United States or an agency thereof, the State of Oklahoma or any agency thereof, or a private organization or land owner.

B. Except as specified herein, and until such time as the Department promulgates rules or regulations, the hunting and fishing rules of the Oklahoma Department of Wildlife Conservation shall apply to all Reservation Lands, including privately held fee lands of another, Public Lands, and Tribal lands located therein, and Persons subject to the jurisdiction of the Cherokee Nation.

C. The Department shall have the authority to promulgate, update, revise, modify or revoke any provisions or requirements contained in the rules of the Oklahoma Department of Wildlife Conservation, provided that:

1. The rules are not inconsistent with the provisions of this Code, Cherokee Nation law, and applicable federal law; and
2. In the Department's reasonable view, the rules will support wildlife resource conservation, public safety, habitat preservation, and cultural practices.

D. The Secretary of Natural Resources shall work with the Environmental Protection Commission and other departments of the Nation to identify and protect plant and animal species of special concern to the Nation and important habitats. For purposes of this code, **"species of special concern"** should include, but is not limited to, any species listed as endangered, threatened or rare by the federal government, states, and other tribal nations, and any **"culturally-protected species"** identified by Cherokee Nation, pursuant to the following rules:

1. Definitions

a. **"Culturally-protected species"** includes:

- i. bald eagle,

- ii. mountain lion (aka puma, cougar, etc.) and
- iii. any other plant, animal or aquatic species designated as a culturally-protected species as determined by regulations established by the Secretary of Natural Resources and approved by the Environmental Protection Commission.

b. **"Indian"** means an individual who is a member of a federally-recognized Indian tribe or eligible for membership in a federally-recognized Indian tribe.

c. **"Indian country"** has the meaning given to such term by 18 U.S.C. § 1151.

d. **"Take"** means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. **"Harm"** in the definition of "take" in the act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

2. It shall be a crime for an Indian to take or possess a culturally-protected species from Indian country.

a. Exceptions.

i. those possessing live animals or any part of a dead animal are not subject to sanction if in possession by any legal tribal, federal or state method; specifically including:

(I) eagle feathers obtained through a repository,

(II) rehabilitation efforts of a live animal, or

(III) pursuant to the American Indian Religious Freedom Act, 42 U.S.C. § 1996.

ii. The Secretary of Natural Resources and Environmental Protection Commission shall promulgate rules that would allow an exception to take or possess a culturally-protected species, if that taking or possessing positively impacts the people of Cherokee Nation.

b. Punishment. This crime shall be punishable by a term of imprisonment not exceeding one (1) year or a fine in a sum not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine or imprisonment.

3. Cause of action.

a. Criminal sanctions may only be initiated by the Office of the Attorney General in Cherokee Nation District Court, Criminal Division;

b. Civil sanctions may be initiated by the Office of the Attorney General or the Environmental Protection Commission in Cherokee Nation District Court, Civil Division.

4. Preemption. This act specifically preempts state law applicable to Indian country.
5. Use of fines. Any criminal or civil fines collected pursuant to this act shall be earmarked for conservation efforts.
6. Guidelines for listing a species as a culturally-protected species:
 - a. Proposals to add/delist all species to/from the list of culturally-protected species shall be coordinated through and by the Secretary of Natural Resources;
 - b. The final determination of a listed species will be made by the Environmental Protection Commission;
 - c. To be considered for listing as a culturally-protected species, an individual must present information as required by the Secretary of Natural Resources and Environmental Protection Commission, including, but not limited to, cultural significance, habitat information, and likely harm to the species;
7. List. A list of culturally-protected species shall periodically, but no less than once per year, be published pursuant to rules established by the Environmental Protection Commission regarding time and place of publication.

Historical Data

LA 36–06, eff. January 7, 2007. Amended LA 10–10, eff. April 22, 2010. Amended LA 04-22, eff. January 27, 2022. Amended LA 37-24, eff. October 28, 2024.