**Association of Fish and Wildlife Agencies – Bird Conservation Committee**

**Feral and Free-Ranging Cat Working Group (FFRCWG)**

Legal & Regulatory Subgroup

**MODEL POLICY AND GUIDANCE**

**TO IMPLEMENT THE TOOLKIT TO ADDRESS FREE-RANGING DOMESTIC CATS (*Felis catus*) ON AGENCY LANDS MANAGED FOR NATIVE WILDLIFE AND ECOSYSTEM HEALTH**

1. **Charge:**

Following the Feral and Free-Ranging Cat Working Group’s (Working Group) adoption of the [Toolkit to Address Free-ranging Domestic Cats (*Felis catus*) on Agency Lands Managed for Native Wildlife and Ecosystem Health](https://www.fishwildlife.org/application/files/1616/1919/5138/Cat-Toolkit-v7-Web.pdf) (hereinafter “Toolkit”), the Working Group’s Legal & Regulatory Subgroup (Subgroup) was tasked with producing further model policy language and guidance for states to choose from when implementing the recommendations of the Toolkit.

1. **Prior Work by the Subgroup:**

As discussed in a 2017 [report](https://www.fishwildlife.org/application/files/2915/1492/1505/FFRC_Legal-Regulatory_Subgroup_report_2017Sept12.pdf) by the Subgroup:

 Several state fish and wildlife agencies have adopted regulations, and several

legislatures have passed statutes, that address domesticated animals on agency

lands. However, a high degree of ambiguity clouds management programs for

feral and free-ranging cats.[[1]](#footnote-1)

Since that report was issued, analysis of existing sources of law continues. Some states have explicit policies related to mitigation of free-ranging (including feral) domestic cats on state lands, and some delegate authority to counties or municipalities. Whether the focus of a law is on prevention, regulation, control, or management of free-ranging domestic cats, on duties related to ownership of pets, or on enforcement and penalties, states should continually evaluate the adequacy of existing legal tools to address free-ranging domestic cats on public lands.

The Subgroup’s 2017 report found that fifteen states had delegated authority to municipalities to regulate free-ranging domestic cats in some capacity, and therefore most states had not done so. The report also found that half of the states had no explicit policy regarding free-ranging domestic cats. Therefore, it will be necessary in many cases for legislative or regulatory efforts to coordinate the authorities of counties and municipalities, as well as capacity, and to work with them to minimize difficulties posed by differing ordinances and regulations and concurrent regulatory authority.

1. **Elements of Model Policy:**

As further detailed below, a model policy to address the impacts of free-ranging domestic cats on native wildlife and their ecosystems will include certain common elements. These range from requirements for domestic cat owners to microchip their cats and keep them leashed in public areas to definitions of concepts such as “stray,” “at large,” or “abandonment,” whose narrowness or breadth directly affects any regulator’s ability to mitigate effects from the maintenance, release, or feeding of free-ranging domestic cats.

**EXAMPLE:** Hawaiʻi has often been identified as a state with useful state and county laws and regulations regarding domestic cats. The Subgroup evaluated language appearing in Hawaiʻi County’s Animal Code, as well as the state’s administrative rules pertaining to small boat facilities and navigable waters.

Sections 4-14 to 4-19 of Hawaiʻi County’s [Animal Code](https://www.hawaiicounty.gov/home/showdocument?id=12), though not applicable exclusively to free-ranging domestic cats, is among the provisions most readily adaptable for 1) prohibiting and establishing fines for the roaming of a cat on public or private lands, 2) enforcing upon failure to remove within 24 hours of receiving notice, 3) prohibiting the abandonment of cats, 4) prohibiting bringing a cat to a designated property or business where food is sold, and 4) prohibiting an owner from allowing a cat to defecate, or commit any nuisance on, any street, play area, park, public property, or private property without the property owner’s consent.

Sections 13-232-57, 57.1, and 57.2 of the State of Hawaiʻi’s [small boat and navigable waters rules](https://dlnr.hawaii.gov/dobor/files/2019/04/13-232.pdf) 1) classify a cat as “at large” when not on the property of its owner or when in a public place and not under the direct control (e.g., leash) of its owner, 2) prohibit owners from allowing their cat to become “stray,” which means roaming off its owner’s property without an owner identifier (e.g., microchip), 3) prohibit a pet owner from allowing their cat to defecate on public property or the property of another without immediate clean-up, 4) prohibit the feeding or attracting of cats to any boat harbor, and 5) prohibit cat abandonment or contribution to a “colony” of cats on boat harbor property.

Other elements that model policy language may include: statements of agency authority and jurisdiction; findings and purpose; duties of an owner to maintain identification, sterilize, and vaccinate their cat; penalties for violations; and duties for anyone who finds a free-ranging domestic cat to alert relevant authorities.

1. **Model Policy Language:**

In the model policy language below, “agency” refers to the state agency responsible for management and conservation of native wildlife unless otherwise specified. References to “domestic cats” and “other domestic animals” may require differing language or limitation of applicability to certain domestic species based on pre-existing legislative or regulatory frameworks. When using this guide, please bear in mind that the language below is offered only as a model and is not intended as a uniformly prescriptive roadmap. Please consult your state’s and counties’ preexisting statutes, regulations, and ordinances to determine how this model language and associated concepts may be integrated or developed to more effectively define and manage free-ranging domestic cats.

1. **Legal Authority.**
2. The agency is authorized to—
3. Adopt and promulgate rules and regulations prohibiting pets and domestic animals from being brought upon or possessed, grazed, maintained, or run at large on any area or portion of any area under its ownership or control.[[2]](#footnote-2)
4. Adopt and promulgate rules and regulations defining when a pet or domestic animal, by trespassing upon lands not under its owner’s control, has become “stray,” “feral,” or “free-ranging.”[[3]](#footnote-3)
5. Officers of this agency are authorized to—
6. Direct owners of pets or domestic animals running at large on lands owned or controlled by the agency to remove such animals from these lands.[[4]](#footnote-4)
7. Capture or destroy any domestic cat found hunting any game species or protected species [or running at large] and notify the owner whenever practicable. A cause of action for damages cannot be maintained for this act.[[5]](#footnote-5)
8. The agency is authorized to enter into pacts, contracts, and cooperative agreements with counties, municipalities, and agencies thereof, for the control and disposition of free-ranging domestic cats that are injurious to game species, or protected species.[[6]](#footnote-6)
9. **Findings and Purpose.**

The [Legislature/Assembly] finds and declares the following:

1. Domestic cats’ temperaments range from completely docile indoor pets to completely unsocialized outdoor cats that avoid contact with humans.
2. Domestic cats, when they are allowed to run at large, pose public safety and wildlife health risks, including infectious disease transmission and predation of native wildlife.[[7]](#footnote-7)
3. Domestic cats are skilled and instinctive predators that have contributed to the extinction of 63 species, accounting for 26 percent of all bird, mammal, and reptile extinctions in the modern era.[[8]](#footnote-8)
4. Domestic cats kill an estimated 2.4 billion birds and 12.3 billion mammals each year in the United States, causing an estimated $17 billion in economic damage.[[9]](#footnote-9)
5. **Definitions.**

As used in this Chapter, unless the context otherwise indicates, the terms or phrases below shall be defined as follows:

1. *Abandon.* To leave a domestic cat or other domestic animal, without the intent to return or retrieve it, on land other than fenced and enclosed land either belonging to the owner of the animal or under his use and control by virtue of a lease or other contract.[[10]](#footnote-10)
2. *Animal control contractor.* A duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by an agency of the state, or of a county, city, or town to perform animal control services.
3. *Domestic cat.* Any member of the species *Felis catus*.
4. *Identification.* Refers to 1) a collar or tag worn by a cat which includes the current name, address, and telephone number of the owner, 2) an ear tag issued by an animal control contractor, or 3) a microchip registering the owner with the National Computer Recovery Network or the animal control contractor.
5. *Impounded cat.* A domestic cat released to or under the custody or control of an animal control contractor.
6. *Owner.* Any person owning, harboring, caring for, or keeping a domestic cat or having custody thereof.
7. *Person.* Refers to corporations, estates, associations, partnerships and trusts, and one or more individual human beings.
8. *Stray* or *at large*. Refers to any domestic cat that is living or roaming off its owner’s property without permission to be on other public or private property. A domestic cat is considered “stray” or “at large” when it is present on any property that is not its owner’s, except when the domestic cat is under control of the owner by leash, cord, chain, or other means that is not more than eight feet in length. A domestic cat without an owner shall be considered stray or at large.
9. **Running at large.**
10. No owner of a domestic cat [or other domestic animal] shall permit such cat [or other domestic animal] to run at large.
11. No owner of a domestic cat [or other domestic animal] shall permit such cat [or other pet] to excrete any solid waste in any public place or on any premises not the property of the pet’s owner, provided that no violation of this subsection shall occur if the owner promptly and voluntarily removes the animal waste.
12. Effective on [DATE], any domestic cat or other domestic animal, while being a stray on lands owned or controlled by the agency, may be seized by officers and employees or agents of the agency, or by any other person authorized by law, and shall be disposed of, including through an animal control contractor where practicable.
13. **Identification.[[11]](#footnote-11)**
14. It is unlawful for any person to be an owner of a domestic cat over six months of age unless the person maintains an identification worn by [or implanted in] the cat.
15. It is unlawful for any person other than an officer, or a person authorized by the animal control contractor, to remove any identification from any domestic cat not owned by the person.
16. Role of the animal control contractor:
	* 1. An impounded domestic cat for which an identification is not maintained by an owner may not be released by the animal control contractor to a person claiming ownership of the cat until the owner complies with the identification requirements of this section.
		2. If an impounded domestic cat, with or without identification, has not been sterilized, the person claiming ownership may be cited by the animal control contractor for a violation of Section 6 below. The penalty for violating Section 6 shall be waived upon proof of sterilization of the cat by a veterinarian furnished to the animal control contractor within 30 days after the date the citation was issued.
17. **Sterilization.[[12]](#footnote-12)**
18. It is unlawful to own, possess, or care for any domestic cat over the age of five months that has not been spayed or neutered, except as provided in subsection (b).
19. The demonstration of one or more of the following exceptions shall exclude a domestic cat from the sterilization requirement:
20. A licensed veterinarian has determined that:
21. An animal is medically unsuited to undergo the surgical procedure and has signed a statement indicating the specific medical grounds for exemption.
22. An animal is temporarily medically unsuited to undergo the surgical procedure, with the specific medical grounds for exemption and expected date when the sterilization may proceed indicated in a written statement.
23. An animal is in the [jurisdiction] for less than one month.
24. An owner obtains an annual intact domestic cat permit and is in compliance with annual licensing requirements.
25. **Vaccination.**

All cats shall be vaccinated against rabies and re-vaccinated in accordance with the Compendium of Animal Rabies Prevention and Control prepared by the National Association of State Public Health Veterinarians.

1. **Abandonment.**
2. It is unlawful for the owner or any person in possession, whether temporarily or permanently, of any domestic cat [or other domestic animal] to abandon the cat [or other domestic animal] or to create or contribute to a concentration of free-ranging domestic cats.[[13]](#footnote-13)
3. It is unlawful to release a domestic cat [or other domestic animal], except hunting dogs and raptors where otherwise permitted for hunting or training purposes, on state lands owned or managed for conservation of native wildlife without prior written authorization of the agency.[[14]](#footnote-14)
4. **Duties of Finder.**

Any individual who finds a domestic cat and 1) provides care or safekeeping or 2) retains the animal in such a manner as to control its activities shall, within 48 hours:

1. Make a reasonable attempt to notify the owner of the cat if the owner can be ascertained from any tag, license, collar, or other form of identification or if the owner of the animal is otherwise known to the individual; and
2. Notify the public animal control authority that serves the locality where the cat was found and provide to the animal control authority contact information, including at least a name and telephone number, a description of the animal, and the location where the cat was found.
3. **Penalties.[[15]](#footnote-15)**
4. Any person found guilty of violating Sections 5, 6, or 7 of this Chapter shall be guilty of a [level of offense] and subject to a fine of $[X] upon first conviction, $[X] upon second conviction within a one-year period, and $[X] for subsequent convictions within a one-year period.
5. Any person found guilty of violating Sections 4 or 8 of this Chapter shall be guilty of a [level of offense] and subject to a fine of $[X] upon first conviction, $[X] upon second conviction within a one-year period, and $[X] for subsequent convictions within a one-year period.
6. Any person who violates subsection (b) and recklessly causes the death of or substantial bodily injury to the domestic cat shall be guilty of a [level of offense] and subject to a fine not exceeding $[X] in addition to any other penalties. Each domestic cat permitted to run at large or excrete solid waste in violation of Section 4, or abandoned in violation of Section 8, shall constitute a separate offense.
7. **Interjurisdictional cooperation:**

As mentioned in Section II above, addressing the pervasive impacts of free-ranging domestic cats will require cooperation among all levels of state government. While policy can be crafted to encourage such cooperation, or to resolve jurisdictional questions, state agencies may also find it useful to consider cooperative agreements or memoranda of understanding (MOUs) with agencies of local government that serve the purpose of protecting state- and county-owned areas of importance to wildlife.

One example of a framework bringing together diverse governmental and non-governmental stakeholders to address the ecological impacts of pets is a 2013 [memorandum of understanding](https://www.fws.gov/fisheries/ANS/pdf_files/MOU_signed_%20by_FWS_%20PIJAC_AFWA.pdf) (MOU) signed by the Association of Fish & Wildlife Agencies, the Pet Industry Joint Advisory Council, and the U.S. Fish & Wildlife Service. The MOU signatories agreed to “foster integration of regulatory and nonregulatory approaches to reduce the risks of invasive non-native species” while preserving the pre-existing authorities of governmental signatories.

Voluntary agreements like these are important for state agencies to consider when it comes to free-ranging domestic cats. Regulation of this issue falls under many states’ traditional responsibility for affairs that are “local in nature rather than State or national,”[[16]](#footnote-16) but its impacts are increasingly being recognized as environmental, implicating the jurisdiction and expertise of state natural resource agencies.[[17]](#footnote-17)

1. Feral and Free-Ranging Cat Work Group, Legal and Regulatory Subgroup Report (2017), *available at* <https://www.fishwildlife.org/application/files/2915/1492/1505/FFRC_Legal-Regulatory_Subgroup_report_2017Sept12.pdf> (retrieved July 22, 2021). [↑](#footnote-ref-1)
2. R.R.S. Neb. § 37-307. [↑](#footnote-ref-2)
3. Ak. Op. Atty. Gen. No. 661-87-0426, 1987 WL 121153 (Alaska A.G.) (July 30, 1987). [↑](#footnote-ref-3)
4. Ark. Admin. Code 013.05.1-3130. [↑](#footnote-ref-4)
5. Md. Code Ann. Nat. Res. § 10-413(d). [↑](#footnote-ref-5)
6. S.D. Cod. L. § 40-36-1. [↑](#footnote-ref-6)
7. Cal. Food & Agric. Code 31752.5. [↑](#footnote-ref-7)
8. Schweitzer and Gillin, eds. *Toolkit to Address Free-ranging Domestic Cats (Felis catus) on Agency Lands Managed for Native Wildlife and Ecosystem Health* 5 (2021) [hereinafter “Toolkit”]. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. La. Atty. Gen. Op. No. 90-516 (La. A.G.), 1990 WL 544964, Dec. 5, 1990. [↑](#footnote-ref-10)
11. Honolulu Rev. Ord. § 7-6. [↑](#footnote-ref-11)
12. *Id*. [↑](#footnote-ref-12)
13. Haw. Rev. Stat. § 711-1109.7; Haw. Admin. R. § 13-232-57.1. [↑](#footnote-ref-13)
14. 15A N.C. Admin. Code 10J .0102(m). [↑](#footnote-ref-14)
15. For the purposes of this model policy language, penalties are grouped according to category of violation (identification, sterilization, and vaccination constituting one category of offense; and permitting a cat to run at large and abandoning a cat constituting the other).

Grouping violations in such a manner may offer states a way to target enforcement toward specific impacts of feral and free-ranging cats, ensure that legislation is consistent with pre-existing penal codes and wildlife codes within individual states, and set escalating penalties based on the nature of the offense. [↑](#footnote-ref-15)
16. Toolkit at 13 (citing *Cty. of Cook v. Village of Bridgeview*, 8 N.E.3d 1275, 1278-81 (Ill. App. Ct. 2014)). [↑](#footnote-ref-16)
17. *Id*. (citing *Urban Wildlands Grp. V. City of Los Angeles*, No. B222696 (unpublished) (Cal. Ct. App. 2d Dec. 6, 2010) (subjecting a local trap/neuter/release program to state environmental review)). [↑](#footnote-ref-17)