

STATEWIDE HUNTING AND FISHING PROCLAMATION PROPOSAL PREAMBLE

1. Introduction.

The Texas Parks and Wildlife Department proposes amendments to §§65.3, 65.11, 65.24-65.26, 65.34, 65.42, 65.54, 65.56, 65.60, 65.62, 65.64, 65.66, 65.72, and 65.82, and new §65.49, concerning the Statewide Hunting and Fishing Proclamation.

The proposed amendment to §65.3, concerning Definitions, would alter the current definition of 'wildlife resources;' add definitions for 'alligator gig' and 'alligator hide tag;' and add a species of fish to the list of fishes designated as game fish.

Parks and Wildlife Code, §61.005, defines wildlife resources as, "all wild animals, wild birds, and aquatic animal life." The current definition of 'wildlife resources' in this subchapter restricts the applicability of the subchapter to game animals and game birds only. The amendment is necessary to expand the applicability of the subchapter to include alligators, because provisions governing the recreational take of alligator are being relocated from another subchapter to this subchapter.

The definition of 'alligator gig' would be added as a result of the relocation of recreational hunting rules for alligators to the Statewide Hunting and Fishing Proclamation. The proposed amendment is necessary because there are other types of gigs used in angling that are not lawful for the take of alligators; therefore, the regulations must stipulate the nature of a lawful alligator gig.

The definition of 'alligator hide tag' also would be added as a result of the relocation of the recreational hunting rules for alligators. The hide tag is a federal requirement pursuant to the Convention on International Trade in Endangered Species (CITES) intended to provide a means for identifying lawfully harvested alligators for purposes of international trade. The proposed amendment is necessary to distinguish the alligator hide tag from other types of tags referenced in the rules.

The proposed amendment also adds tripletail to the list of game fishes. The tripletail is becoming increasingly popular with recreational anglers and to offer greater protection to the species, the department proposes to designate tripletail as a game fish, which lawfully can be taken only by pole and line. The amendment is necessary to add further protection to an increasingly popular sport fish.

The proposed amendment to §65.11, concerning Lawful Means, would establish the means of take that are lawful for use on alligators, and would extend the prohibition on the use of rimfire ammunition, fully automatic firearms, and silencers to include alligators. As addressed in the discussion of proposed new §65.49 elsewhere in this rulemaking, all provisions relating to the hunting of alligators are being relocated from 31 TAC Chapter 65, Subchapter P to the Statewide Hunting and Fishing Proclamation. In general, the provisions are being transferred without change; however, there are several exceptions, as follows.

The proposed amendment to §65.11 is taken verbatim from current §65.356, which the department proposes to repeal in a rulemaking published elsewhere in this issue, except for the provisions in proposed §65.11(1)(E) and (5)(A)(v), which provide for the limited use of firearms to take alligators on private lands and waters. Under current rules, firearms are a prohibited means for taking alligators, although an alligator may be dispatched with a firearm once the alligator has been caught on a lawful taking device. Proposed new paragraph (1)(E) would allow the take of alligator by means of firearms

on private lands except in Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties (hereafter referred to as 'core counties') and on properties in other counties where the department has conducted biological surveys and issued CITES tags to the landowner. The area represented by the core counties is the prime historical habitat for the American alligator in Texas, consisting primarily of freshwater swamps and marshes, but also nearby rivers, lakes and smaller bodies of water, in areas where freezing conditions are rare or of short duration. In this area of the state, alligator hunting is commercially viable and must be regulated, both to equitably distribute the harvest and to manage the species for sustainable harvest and prevention of depletion, since alligators in this area of the state are a key species in certain wetland ecosystems. Means of take otherwise remain limited to 'capture'-type devices such as hook-and-line, snares, gigs, and archery equipment, with the requirement that all taking devices be connected to a line of at least 300-lb. test to ensure recovery of all alligators. When free-swimming alligators are shot with a firearm, they typically sink very quickly and become difficult or impossible to locate and recover. Therefore, the use of firearms to take alligators has been prohibited in core counties to minimize wounding loss and subsequent waste of meat and hides.

Outside of the core counties, where alligator populations exist they are ephemeral or the result of population expansion into marginal or less-than-desirable habitats (with the notable exception of the greater Houston metropolitan area, which is geographically within the historic range of the American alligator, but heavily urbanized). In these areas of the state, alligators must move frequently as landscape water conditions change, and are often seen traveling across land in search of new waters. Alligators near human habitation are often found crossing roads, entering suburbs and finding shelter in artificial ponds and even an occasional swimming pool during the drier months. Proposed new paragraph (1)(E) would maintain the prohibition on the use of firearms in the core counties, would allow the use of firearms to take alligators on private property elsewhere in the state (provided that CITES tags have not been issued for the property), and would prohibit the take of alligators by means of firearms from, on, in, or over public water. The department reasons that the risk of wounding loss is negligible for the take of alligators on dry land and in private waters, but increases substantially on public waters. The proposed amendment is necessary to provide additional hunting opportunity in areas of the state where alligator populations are expanding but where long-term viability of populations is unlikely because of erratic fluctuations in habitat conditions.

Additionally, the proposed amendment would modify the provisions governing the use of line sets. Under current rules, a hunter must possess at least one valid hide tag per line set in use. The provisions of proposed new §65.49 would allow hunters outside of the core counties to take one alligator per year (unless they are on a property for which the department has issued hide tags) and to tag the alligator after harvest. Obviously, a hunter under these circumstances will not be able to possess a hide tag while they are hunting; therefore, the current rule language must be altered. The proposed provision is necessary to prevent enforcement conflicts.

Under current rules, it is unlawful to hunt game animals or game birds with a fully automatic firearm or any firearm equipped with a silencer or sound-suppressing device,

or to use rimfire ammunition to hunt deer, antelope, or desert bighorn sheep. The proposed amendment would extend the applicability of those provisions to include alligators.

The proposed amendment to §65.24, concerning Permits, would clarify that the section does not apply to deer harvested under MLD permits. Under current rules, persons harvesting deer under an MLD permit are not required to possess an MLD tag on their person. The current rule acknowledges that landowners face logistical problems related to permit allotment and use. Hunters are not always successful, and to require each hunter to have a permit on their person while they are in the field means that unused permits would have to be returned to the landowner and reissued to subsequent hunters, which is inefficient, particularly on larger properties that might entertain dozens of hunters in a season. The department thus allows hunters to harvest a deer and then immediately take it by the most direct route to a location on the property where the MLD tag can then be attached to the carcass. The amendment is necessary to eliminate a conflict between the provisions of §65.24 and the provisions of §65.26 and §65.34.

The proposed amendment to §65.25, concerning Wildlife Management Plan, would allow for the establishment of special seasons and bag limits for upland game birds (turkey, quail, pheasant, lesser prairie chicken, and chachalaca), by species, on properties managed by the landowner under a department-approved wildlife management plan (WMP). The WMP would be required to include, at a minimum: population estimates, harvest data, a biological evaluation of the quality of existing habitat and the potential for maintaining or enhancing existing habitat or creating additional habitat, and department-approved habitat management practices deemed necessary by the department to maintain, increase, enhance, or connect habitat. Based on the information in the WMP and consistent with the tenets of sound biological management, the department would calculate a harvest quota and specify a time period during which harvest would be authorized for the property. The proposed amendment would impose identical criteria for WMPs irrespective of species, with one exception: a WMP for turkey would have to specify a harvest quota for both gobblers and hens. The sex-specific quotas are necessary because the department does not intend to authorize spring hen harvest. The proposed amendment would require a landowner to remain in the program for a minimum of three years, and would stipulate that a landowner who fails to perform the activities stipulated in the WMP is ineligible to participate in the program for three years. The three-year participation requirement is necessary both to ensure a minimum timeframe of continuous management necessary to improve or stabilize habitat, and at the same time, to discourage selective participation by persons seeking only an enhanced bag limit during years when populations are plentiful. The mandatory three-year prohibition on participation for persons who fail to abide by the conditions of a WMP is also necessary to discourage selective participation. The proposed amendment also would require a participating landowner to maintain a daily record of hunters and harvest, and would stipulate documentation requirements for hunters who possess birds harvested on properties subject to the provisions of the subsection. This portion of the proposed amendment is necessary for the department to ascertain compliance with harvest quotas and to provide enforcement personnel with a method of distinguishing birds lawfully taken on a managed lands property from those taken on other properties and which otherwise would be in excess of county or

statewide bag or possession limits. The proposed amendment also would provide for the department to waive management requirements in cases where unforeseen events make compliance impossible. For instance, a landowner's WMP may require prescribed burning, but if a drought occurs and burn bans are imposed, it would make it impossible to comply. The department would then defer compliance until such time as it is practicable. The amendment is necessary to avoid placing landowners in situations in which compliance with the WMP obviously and for good reason cannot be accomplished.

In general, the proposed amendment is necessary to advance the commission's policy of emphasizing quality habitat management on private lands as the keystone of healthy ecosystems. The department believes that habitat enhancement performed by private landowners encouraged by incentives such as enhanced bag limits and extended season lengths, when they are biologically feasible and do not result in either depletion or waste of the resource, is scientifically proven to maintain healthy ecosystems. Research indicates that hunting mortality is not a major factor in the expansion or contraction of upland game bird populations at the regional or statewide scale. Therefore, a harvest quota based on the concept of the sustainable yield for a specific property is unlikely to result in population reductions below the annual recuperative potential, provided the required habitat management practices are conducted.

The proposed amendment to §65.26, concerning Managed Lands Deer Permits (MLDP) – White-tailed Deer, would reword subsection (d) to remove unintended potential for misunderstanding. The current rule provides that a 'deer killed under the authority of an MLDP' must immediately be tagged or taken to a tagging station on the property. The department has become aware that this provision has been interpreted by some to mean that when landowners or hunters are harvesting deer they have the option of using an MLDP or a tag from a hunting license, or that if all MLDPs have been used, additional harvest is acceptable. A core element of the biological effectiveness of the MLDP program is the harvest quota established in the wildlife management plan. At the point that MLDPs have been issued to a landowner, the harvest quota is not a suggestion or a recommendation; it is the total number of deer that may be lawfully harvested from the property for which the permits were issued. Under the provisions of §65.25, concerning Wildlife Management Plan (WMP), an approved WMP, specifying a harvest quota for antlerless deer or both buck and antlerless deer, is required for the issuance of Managed Lands Deer Permits. Additionally, under the provisions of §65.26(g), exceeding the harvest quota is sufficient reason for the department to deny further issuance of permits. Therefore, in order to eliminate potential confusion, the proposed amendment would make clear that all deer taken on a property for which MLDPs (buck, antlerless, or both) have been issued must be tagged with an applicable MLDP, and that when the harvest quota for the property has been achieved, no additional deer may be taken on the property. The amendment is necessary to prevent confusion and possible inadvertent misunderstandings.

The proposed amendment to §65.34, concerning Managed Lands Deer Permits (MLDP) – Mule Deer, effects changes to address the same situation discussed in the proposed amendment to §65.26, and is necessary for the same reason.

The proposed amendment to §65.42, concerning Deer, would implement special antler restrictions in Bell, Bosque, Bowie, Burlison, Camp, Cass, Cherokee, Comal (east of IH 35), Comanche, Coryell, Delta, Eastland, Erath, Fannin, Franklin, Gregg, Hamilton,

Harrison, Hays (east of IH 35), Hopkins, Houston, Lamar, Lampasas, Leon, Marion, Morris, Nacogdoches, Panola, Rains, Red River, Rusk, Sabine, San Augustine, Shelby, Somervell, Titus, Travis (east of IH 35), Upshur, Williamson, and Wood counties. Hunting pressure on buck deer in these counties has been excessive for many years. In 1971, the bag limit in most counties in the eastern third of the state was reduced from two bucks to one in an effort to mitigate excessive hunting pressure. Despite the reduction, the data continues to indicate excessive harvest of bucks, which results in very poor age structure. Although the one-buck bag limit redistributed the harvest among hunters, it did not produce a significant amount of older age bucks in the herd. Under the one-buck bag limit, very few bucks survive into the older age classes (older than three years). Research results indicate that poor age structure within a buck herd creates a longer breeding season, which in turn leads to a longer fawning season and a reduction in fawn production. Poor age structure also contributes to adverse hunter satisfaction.

In April of 2002, the commission adopted a three-year experimental antler restriction regulation in six counties in the Oak Prairie ecoregion, with the following goals: improve the age structure of the buck herd, increase hunter opportunity, and encourage landowners and hunters to become more actively involved in better habitat management. The antler restriction regulation was designed to protect the majority of younger bucks until those deer could reach a level of advanced physical maturity.

The experimental regulation gave the department considerable insight into the impact that it can have on a buck herd. Department data indicate that the experimental regulation has been effective. The proportion of bucks younger than 3.5 years old in the harvest dropped from 79% to 29% during the 2004-2005 hunting season. Prior to the implementation of the regulation, only 20% of the harvested bucks were at least 3.5 years old; however, by the third year of the experiment, 71% of the harvested bucks were at least 3.5 years old. It is important to note that while buck harvest dropped 38% during the first year of the experiment (compared to the average harvest from 1997-2001), the harvest during the second year of the experiment exceeded the five-year average prior to the regulation change. The data also showed a decline in the harvest of spike bucks and an increase in the harvest of bucks with an inside spread of 13 inches or greater, which means that one effect of maintaining a one-buck limit under the antler restrictions is that hunting pressure is deflected from the spike-buck segment of the population, which is undesirable. Therefore, in April 2004 the department implemented a two-buck bag limit in counties with antler restrictions, with the proviso that if a hunter took two lawful bucks at least one of them had to have at least one unbranched antler. By adding the second buck to the bag, the department intended to encourage the harvest of spike bucks, which research has indicated are less likely to develop into lawful bucks (as defined for the counties with the antler-restriction rules in place).

Given the results of the experimental regulations, the department has endeavored to identify additional counties where implementation might yield similar results. The criteria used for candidate counties were: the county currently must be a one-buck county, 60% of the buck harvest in the county must consist of bucks less than 3.5 years of age, and the county must have a contiguous border with another county in which antler restriction regulations have been implemented. On this basis, the department identified the 40 counties affected by the proposed amendment.

The proposed amendment to §65.42 also would implement a four-deer bag limit for

the entirety of Upton County and would implement the late muzzleloader-only season countywide. Under current rules, the bag limit in the portions of Upton County that are either north of U.S. Highway 67 or both south of U.S. Highway 67 and west of State Highway 349 is three deer. Data indicate that deer populations in the northern and western parts of the county are increasing and able to withstand additional hunting pressure. Additionally, the counties adjoining Upton County on the east and northeast (Glasscock and Reagan counties) contain deer densities similar to those found in Upton County but are under a more liberal regulation (5 deer; no more than 2 bucks) than that being proposed for Upton County. The regulations have been in effect in Glasscock and Reagan counties for five years, and the deer herds in these counties have experienced no adverse impacts. The department therefore does not anticipate that the proposed amendment will result in either waste or depletion of the resource. The portion of the county that has had a four-deer bag limit has also had a 14-day late muzzleloader-only season. The expansion of the four-deer bag limit to countywide applicability also would entail the expansion of the muzzleloader season. Based on hunter-success data from other counties, the harvest of deer during the muzzleloader in Upton County should be negligible as a component of overall harvest.

Proposed new §65.49, concerning Alligators, would establish the open seasons, rules for tag issuance and use, reporting requirements, and provisions for the sale of alligators taken under a Texas hunting license. Prior to 2005, an alligator hunting license was required to hunt alligators in this state, and all provisions relating to the hunting of alligators were located in 31 TAC Chapter 65, Subchapter P. The passage of House Bill 2026 by the 79th Texas Legislature eliminated the alligator hunting license. As a consequence, the department has determined that it is appropriate to relocate all provisions relating to recreational alligator hunting from Subchapter P to the Statewide Hunting and Fishing Proclamation. In general, the provisions are being transferred without change; however, there are several exceptions, as follows.

The proposed new section would provide for the harvest of alligator by means of firearms under certain conditions, which is addressed in the discussion of the proposed changes to §65.11.

Under federal law, all alligators harvested in the United States must be permanently tagged with a CITES (Convention on the International Trade in Endangered Species) tag. Although the American alligator is not endangered, it is similar in appearance to other reptilian species that are endangered. The CITES tag functions to distinguish legally taken reptiles from unlawfully taken reptiles. Under the current system, the U.S. Fish and Wildlife Service annually issues CITES tags to the department, which then issues the tags to landowners, who then use or distribute the tags as they see fit. In order to determine appropriate levels of tag issuance and subsequent harvest, the department conducts annual surveys of populations, nesting activity, and harvest in counties containing commercially viable alligator populations. From this data the department derives the annual harvest quotas that form the basis for the issuance of CITES tags to landowners. At this time, the majority of tag issuance occurs in those areas of the state considered to be critical alligator habitat. In those counties (Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria, hereafter referred to as 'core' counties), a licensed hunter may take one alligator per CITES tag in possession under

current regulations. Under the proposed new rule, tag issuance and harvest in core counties and on properties outside of core counties for which the department has issued hide tags would continue to be conducted as is currently done. However, in the remainder of the state, a licensed hunter would be entitled to harvest one alligator per year, provided the take occurs on private property. Under the proposed new section, hunters who harvested an alligator would immediately complete and affix a Wildlife Resource Document to the alligator, and complete and mail to the department within 72 hours a Harvest Report (PWD-304A), which will be available in the Texas Parks and Wildlife Outdoor Annual, at department offices, and on the department's website), accompanied by a \$20 payment for a CITES tag. The department would then mail a CITES tag to the hunter, who would then permanently tag the alligator. The department does not anticipate that the additional harvest under the proposed new rule will be biologically significant. Although the department conducts comprehensive biological survey efforts in the core counties, limited resources do not allow for similar efforts everywhere in the state; however, the federal issuance of CITES tags to Texas, which is based on overall harvest data submitted to the U.S. Fish and Wildlife Service (Service) on an annual basis, has never been exceeded; in fact, tag utilization does not typically exceed 86% of tag issuance. Therefore, the department reasons that additional demand, since it will be restricted to areas outside of the core counties where the majority of the alligator population occurs, is unlikely to exceed permit availability, and in any event, since the total permit issuance by the Service cannot be exceeded, harvest on a macro level will not be biologically significant.

Additionally, the proposed amendment would prohibit the employment of more than one taking device per unused hide tag in possession at a time on properties for which hide tags have been issued. Under current regulations, hide tags must be obtained prior to hunting and hunters are prohibited from utilizing more than one taking device per unused hide tag in possession. The one-to-one ratio of taking devices to tags was established to prevent hunters from accidentally exceeding the number of alligators authorized for take, and to prevent the practice of 'culling,' whereby an unscrupulous person would take more alligators than authorized and retain only the most desirable individuals for tagging purposes. Because proposed new §65.49 would allow tags to be issued on a post-harvest basis in parts of the state where the bag limit is one alligator, it is necessary to create a parallel to the current requirements for persons hunting with hide tags in hand. The proposed amendment is necessary to prevent persons from exceeding bag limits and overharvest of the resource.

The proposed amendments to §§65.54, concerning Game Birds: Open Seasons and Bag Limits; 65.56, concerning, Lesser Prairie Chicken: Open Seasons, Bag, and Possession Limits; 65.60, concerning Pheasant: Open Seasons, Bag, and Possession Limits; 65.62, concerning, Quail: Open Seasons, Bag, and Possession Limits; 65.64, concerning Turkey; and 65.66, concerning Chachalacas, would add language to each section to create exceptions for the provisions of proposed §65.11, which would implement special seasons and bag limits for upland game birds on properties under department-approved management plans. The amendments are necessary to prevent regulatory conflicts. The proposed amendment to §65.66 also would include language to the effect that in all counties where there is not an open season, the season is closed. The amendment is necessary to be consistent with the structure of other sections, and to provide clarification.

The proposed amendment to §65.72, concerning Fish, consists of several changes.

The proposed amendment would add Kinney County to the current list of counties where bait fish are restricted to common carp, fathead minnows, gizzard and threadfin shad, golden shiners, goldfish, Mexican tetra, Rio Grande cichlid, silversides (*Atherinidae* family), and sunfish (*Lepomis*). The restrictions were promulgated to protect endangered pupfish (*Cyprinodon*) in the western Texas posed by the introduction and potential establishment of exotic species that prey upon or compete with indigenous species. The proposed amendment would also protect the Devils River minnow, which only occurs in Val Verde and Kinney counties.

The current harvest regulations for largemouth bass on Marine Creek Reservoir (Tarrant County) consist of statewide 14-inch minimum length limit and a five-fish daily bag limit. The proposed amendment would implement an 18-inch minimum length limit. The proposed amendment is necessary because Marine Creek Reservoir has been selected to be involved in the Operation World Record research project. The project will involve stocking coded-wire tagged largemouth bass and monitoring their growth for a minimum of five years following stocking. The stocked bass are ShareLunker offspring and are valuable, considering the limited number that will be produced and their importance to the project. The ShareLunker program allows anglers to loan largemouth bass weighing 13 pounds or more to the department for spawning and research purposes, which include the study of genetics, life history, growth, performance, behavior, and competition. The increased length limit will protect the stocked bass through at least 18 inches and will increase the department's ability to evaluate their performance in natural systems.

The proposed amendment to §65.72 also would allow the take of channel, blue, and flathead catfish by means of lawful archery equipment or crossbows. The use of archery equipment has historically been prohibited, primarily because of concerns that the guaranteed mortality of fish caught by mistake or in violation of legal length limits could negatively impact reproductive potential and age distribution in sensitive populations. Based on the estimated number of persons believed to currently engage in the take of fish by archery equipment (less than 1% of all licensed anglers), the department has determined that the take of catfish by archery equipment probably will not result in significant impacts to catfish populations.

The proposed amendment to §65.72 also would eliminate the requirement that tarpon be tagged and instead would implement a minimum length limit. Under current rules, no person may catch and retain a tarpon of less than 80 inches in length, but may retain one tarpon of more than 80 inches in length by tagging the fish with the trophy tarpon tag. The proposed amendment would eliminate the tagging requirement and replace it with a bag limit of one tarpon of 80" in length or longer per person per day. The amendment is necessary because the department is seeking ways to reduce regulatory complexity and paperwork. The proposed amendment would offer the same protection to the resource while allowing for pursuit and retention of a record size tarpon.

The proposed amendment to §65.72 also would modify the rules governing possession of black drum. Currently, black drum are managed by means of a bag limit combined with minimum and maximum size limits. The proposed amendment would allow a person to keep one black drum of greater than 52 inches in length per day as part of the five-fish daily bag limit. The amendment is necessary because the department

would like to make it possible for anglers to pursue and retain a state record black drum.

The proposed amendment to §65.72 also would reduce the possession limit for flounder taken under a recreational license. Under current rule, the possession limit for any fish is twice the daily bag limit, unless specified otherwise. Thus, with a daily bag limit of 10, the possession limit for flounder is 20, and for those flounder fishing trips which last past midnight, a 20 fish per angler possession limit applies. The proposed amendment would make the possession limit identical to the daily bag limit. The proposed amendment is necessary because data indicate that after a long-term declining trend in abundance, flounder have begun to stabilize and this will aid in maintaining or enhancing the current level of recovery. The proposed amendment would exert a limited but positive impact on flounder stocks and should aid law enforcement by providing less of an incentive for recreational catches to enter the commercial market.

The proposed amendment to §65.72 also would implement bag and minimum size limits for tripletail. The amendment is necessary because the species is becoming increasingly popular with anglers. The size limit should protect young females from harvest prior to first spawn. The bag limit will have the effect of distributing harvest opportunity. The department intends to continue monitoring populations to see what effect the regulation change has on the population of tripletail in Texas waters.

The proposed amendment to §65.82 would prohibit the take of sawfish (*Pristis perotteti*). The proposed amendment is necessary because the U.S. Fish and Wildlife Service has listed the smalltooth sawfish (*Pristis pectinata*) as endangered. Due to the extreme difficulty in distinguishing the smalltooth sawfish from the largetooth sawfish, the department believes that protection of both species is the only way to protect the listed species.

2. Fiscal Note.

Mr. Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be fiscal implications to state government as a result of enforcing or administering the rules. The expansion of alligator hunting opportunity will result in additional revenue to the department of up to approximately \$68,000. The estimate was obtained by taking the number of unused CITES hide tags in the most recent year for which data is available (3,400 in FY 2005) and multiplying that number by the cost of an alligator hide tag (\$20).

3. Public Benefit/Cost Note.

Mr. Macdonald also has determined that for each of the first five years the rules as proposed are in effect:

(A) The public benefit anticipated as a result of enforcing or administering the rules as proposed will be the dispensation of the agency's statutory duty to protect and conserve the wildlife resources of this state, the duty to equitably distribute opportunity for the enjoyment of those resources among the citizens, and the execution of the commission's policy to maximize recreational opportunity within the precepts of sound biological management practices.

(B) There will be no adverse economic effect on small businesses, microbusinesses, or persons required to comply with the rules as proposed. The economic impact of hunting and fishing in Texas, particularly in rural areas of the state, is significant. The

Survey of Fishing, Hunting, and Wildlife-related Recreation, conducted at five-year intervals since 1955 by the U.S. Fish and Wildlife Service, estimates that approximately \$3.5 billion was spent by hunters and anglers in Texas in 2001, the last year for which survey data is available. Of that total, nearly \$1.5 billion was spent on food, lodging, transportation, and fuel; \$1.3 billion was spent on equipment; and \$366 million was spent on licenses, permits, and fees paid to landowners for hunting rights. From these data it is readily apparent that hunting and fishing represent a significant positive economic impact to many individuals and types of businesses in the state.

(C) Typically, the department's annual changes to the regulations governing recreational fish and wildlife use are characterized by minor alterations, usually affecting bag limits, bag composition, season lengths, or provisions affecting licenses or permits. The proposed amendments and new section are believed to be typical in this regard. In assessing the effect of the proposed amendments and new section on small businesses, microbusinesses, and persons required to comply, the department has made the assumption that the majority of economic influence exerted by fish and wildlife regulations is a function of the presence or absence of opportunity, which is directly tied to the biological parameters (availability, viability, surplus, etc.) that determine whether or not the commission is able to provide an open season under the requirements of Parks and Wildlife Code, Chapter 61.

In order to assess these impacts, the department compared the results of the 2001 Fish and Wildlife Service survey with previous survey results. A comparison employing a 90 percent confidence interval around survey estimates from 1991 to 2001 reveals that economic activity (in adjusted dollars) surrounding hunting and angling has remained statistically stable during that time, the notable exception being an approximately 46% increase in travel expenses related to hunting. This comparison, when viewed against the backdrop of continual changes to regulations, would seem to indicate that minor fluctuations in the regulations do not, in and of themselves, result in significant economic impacts to the economy as a whole. While this comparison indicates little or no change at the macro (statewide level) there could be minor changes at the micro (local) level.

(D) The department has not drafted a local employment impact statement under the Administrative Procedure Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

(E) The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

(F) The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules) does not apply to the proposed rules.

4. Request for Public Comment.

Comments on the proposed rules may be submitted by phone (area code 512) or e-mail to Robert Macdonald (Wildlife 389-4775; e-mail: robert.macdonald@tpwd.state.tx.us), Ken Kurzawski (Inland Fisheries 389-4591; e-mail: ken.kurzawski@tpwd.state.tx.us), Jerry Cooke (Coastal Fisheries 389-4492; e-mail: jerry.cooke@tpwd.state.tx.us), David Sinclair (Wildlife Enforcement 389-4854; e-mail: david.sinclair@tpwd.state.tx.us), or Bill Robinson (Fisheries Enforcement 389-4628; e-mail: bill.robinson@tpwd.state.tx.us), Texas Parks and Wildlife Department, 4200 Smith

School Road, Austin, Texas 78744; (512) 389-4775 or 1-800-792-1112.

5. Statutory Authority.

The amendments and new section are proposed under the authority of Parks and Wildlife Code, §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species or to other categories of persons; Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed; Chapter 65, which authorizes the commission to regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species, including regulations providing for permit application forms, fees, and procedures; the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator; and limits, size, means, methods, and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator.

The proposed amendments and new section affect Parks and Wildlife Code, Chapters 46, 61, and 65.

§65.3. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms in this chapter shall have the meanings assigned in the Texas Parks and Wildlife Code.

(1) Agent--A person authorized by a landowner to act on behalf of the landowner. For the purposes of this chapter, the use of the term "landowner" also includes the landowner's agent.

(2) Alligator gig--A pole or staff equipped with at least one of the following:

(A) immovable prongs;

(B) two or more spring-loaded grasping arms; or

(C) a detachable head.

(3) Alligator hide tag (hide tag) - A department-issued tag required by federal law pursuant to the Convention on International Trade in Endangered Species (CITES) to be affixed to all alligators taken in the state. All alligator hide tags issued by the department are CITES tags.

~~(4)~~ Annual bag limit--The quantity of a species of a wildlife resource that may be taken from September 1 of one year to August 31 of the following year.

~~(5)~~ Antlerless deer--A deer having no hardened antler protruding through the skin.

~~(6)~~ Antler point--A projection that extends at least one inch from the edge of a main beam or another tine. The tip of a main beam is also a point.

~~(7)(6)~~~~(5)~~ Artificial lure--Any lure (including flies) with hook or hooks attached that is man-made and is used as a bait while fishing.

~~(8)~~~~(6)~~ Bait--Something used to lure any wildlife resource.

~~(9)~~~~(7)~~ Baited area--Any area where minerals, vegetative material or any other food substances are placed so as to lure a wildlife resource to, on, or over that area.

~~(10)~~~~(8)~~ Bearded hen--A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

~~(11)~~~~(9)~~ Buck deer-- A deer having a hardened antler protruding through the skin.

~~(12)~~~~(10)~~ Cast net--A net which can be hand-thrown over an area.

~~(13)~~~~(11)~~ Coastal waters boundary--All public waters east and south of the following boundary are considered coastal waters: Beginning at the International Toll Bridge in Brownsville, thence northward along U.S. Highway 77 to the junction of Paredes Lines Road (F.M. Road 1847) in Brownsville, thence northward along F.M. Road 1847 to the junction of F.M. Road 106 east of Rio Hondo, thence westward along F.M. Road 106 to the junction of F.M. Road 508 in Rio Hondo, thence northward along F.M. Road 508 to the junction of F.M. Road 1420, thence northward along F.M. Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. Highway 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of the Aransas River south of Woodsboro, thence eastward along the south shore of the Aransas River to the junction of the Aransas River Road at the Bonnie View boat ramp; thence northward along the Aransas River Road to the junction of F.M. Road 629; thence northward along F.M. Road 629 to the junction of F.M. Road 136; thence eastward along F.M. Road 136 to the junction of F.M. Road 2678; then northward along F.M. Road 2678 to the junction of F.M. Road 774 in Refugio, thence eastward along F.M. Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northwestward along State Highway 185 to the junction of F.M. Road 616 in Bloomington, thence northeastward along F.M. Road 616 to the junction of State Highway 35 east of Blessing, thence southward along State Highway 35 to the junction of F.M. Road 521 north of Palacios, thence northeastward along F.M. Road 521 to the junction of State Highway 36 south of Brazoria, thence southward along State Highway 36 to the junction of F.M. Road 2004, thence northward along F.M. Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Interstate Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the junction of State Highway 73 in Winnie, thence eastward along State Highway 73 to the junction of U.S. Highway 287 in Port Arthur, thence northwestward along U.S. Highway 287 to the junction of Interstate Highway 10 in Beaumont, thence eastward along Interstate Highway 10 to the Louisiana State Line. The waters of Spindletop Bayou inland from the concrete dam at Russels Landing on Spindletop Bayou in Jefferson County; public waters north of the dam on Lake Anahuac in Chambers County; the waters of Taylor Bayou and Big Hill Bayou inland from the saltwater locks on Taylor Bayou in Jefferson County; Lakeview City Park Lake, West Guth Park Pond, and Waldron Park Pond in Nueces County; Galveston County Reservoir and Galveston State Park ponds #1-7 in Galveston County; Lake Burke-

Crenshaw and Lake Nassau in Harris County; Fort Brown Resaca, Resaca de la Guerra, Resaca de la Palma, Resaca de los Cuates, Resaca de los Fresnos, Resaca Rancho Viejo, and Town Resaca in Cameron County; and Little Chocolate Bayou Park Ponds #1 and #2 in Calhoun County are not considered coastal waters for purposes of this subchapter.

(14)~~(12)~~ Community fishing lake--All public impoundments 75 acres or smaller located totally within an incorporated city limits or a public park, and all impoundments of any size lying totally within the boundaries of a state park.

(15)~~(13)~~ Crab line--A baited line with no hook attached.

(16)~~(14)~~ Daily bag limit--The quantity of a species of a wildlife resource that may be lawfully taken in one day.

(17)~~(15)~~ Day--A 24-hour period of time that begins at midnight and ends at midnight.

(18)~~(16)~~ Deer population data--Results derived from deer population surveys and/or from systematic data analysis of density or herd health indicators, such as browse surveys or other scientifically acceptable data, that function as direct or indirect indicators of population density

(19)~~(17)~~ Dip net--A mesh bag suspended from a frame attached to a handle.

(20)~~(18)~~ Final processing--the cleaning of a dead wildlife resource for cooking or storage purposes.

(21)~~(19)~~ Fish--

(A) Game fish--Blue catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, **tripletail**, wahoo, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the species listed in this subparagraph.

(B) Non-game fish--All species not listed as game fish, except endangered and threatened fish, which are defined and regulated under separate proclamations.

(22)~~(20)~~ Fishing--Taking or attempting to take aquatic animal life by any means.

(23)~~(21)~~ Fish length--That straight-line measurement (while the fish is lying on its side) from the tip of the snout (jaw closed) to the extreme tip of the tail when the tail is squeezed together or rotated to produce the maximum overall length.

(24)~~(22)~~ Fish species names--The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of "A List of Common and Scientific Names of Fishes of The United States and Canada."

(25)~~(23)~~ Fishing guide--a person who, for compensation, accompanies, assists, or transports a person or persons engaged in fishing in the water of this state.

(26)~~(24)~~ Fishing guide deck hand--a person in the employ of a fishing guide who assists in operating a boat for compensation to accompany or to transport a person or persons engaged in fishing in the water of this state.

(27)~~(25)~~ Folding panel trap--a metallic or non-metallic mesh trap, the side panels hinged to fold flat when not in use, and suspended in the water by multiple lines.

(28)~~(26)~~ Fully automatic firearm--Any firearm that is capable of firing more than one cartridge in succession by a single function of the trigger.

(29)~~(27)~~ Gaff--Any hand-held pole with a hook attached directly to the pole.

(30)~~[(28)]~~ Gear tag--A tag constructed of material as durable as the device to which it is attached. The gear tag must be legible, contain the name and address of the person using the device, and, except for saltwater trotlines and crab traps, the date the device was set out.

(31)~~[(29)]~~ Gig--Any hand-held shaft with single or multiple points.

(32)~~[(30)]~~ Jug line--A fishing line with five or less hooks tied to a free-floating device.

(33)~~[(31)]~~ Lawful archery equipment--Longbow, recurved bow, and compound bow.

(34)~~[(32)]~~ License year--The period of time for which an annual hunting or fishing license is valid.

(35)~~[(33)]~~ Muzzleloader--Any firearm that is loaded only through the muzzle.

(36)~~[(34)]~~ Natural bait--A whole or cut-up portion of a fish or shellfish or a whole or cut-up portion of plant material in its natural state, provided that none of these may be altered beyond cutting into portions.

(37)~~[(35)]~~ Permanent residence--One's principal or ordinary home or dwelling place. This does not include a temporary abode or dwelling such as a hunting/fishing club, or any club house, cabin, tent, or trailer house used as a hunting/fishing club, or any hotel, motel, or rooming house used during a hunting, fishing, pleasure, or business trip.

(38)~~[(36)]~~ Pole and line--A line with hook, attached to a pole. This gear includes rod and reel.

(39)~~[(37)]~~ Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(40)~~[(38)]~~ Purse seine (net)--A net with flotation on the corkline adequate to support the net in open water without touching bottom, with a rope or wire cable strung through rings attached along the bottom edge to close the bottom of the net.

(41)~~[(39)]~~ Sail line--A type of trotline with one end of the main line fixed on the shore, the other end of the main line attached to a wind-powered floating device or sail.

(42)~~[(40)]~~ Sand Pump--A self-contained, hand-held, hand-operated suction device used to remove and capture Callianassid ghost shrimp (*Callichirus islagrande*, formerly *Callianassa islagrande*) from their burrows.

(43)~~[(41)]~~ Seine--A section of non-metallic mesh webbing, the top edge buoyed upwards by a floatline and the bottom edge weighted.

(44)~~[(42)]~~ Silencer or sound-suppressing device--Any device that reduces the normal noise level created when the firearm is discharged or fired.

(45)~~[(43)]~~ Spear – Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not; include arrows.

(46)~~[(44)]~~ Spear gun--Any hand-operated device designed and used for propelling a spear, but does not include the crossbow.

(47)~~[(45)]~~ Spike-buck deer--A buck deer with no antler having more than one point.

(48)~~[(46)]~~ Throwline--A fishing line with five or less hooks and with one end attached to a permanent fixture. Components of a throwline may also include swivels, snaps, rubber and rigid support structures.

(49)~~[(47)]~~ Trap--A rigid device of various designs and dimensions used to

entrap aquatic life.

~~(50)~~~~(48)~~ Trawl--A bag-shaped net which is dragged along the bottom or through the water to catch aquatic life.

~~(51)~~~~(49)~~ Trotline--A nonmetallic main fishing line with more than five hooks attached and with each end attached to a fixture.

~~(52)~~~~(50)~~ Umbrella net--A non-metallic mesh net that is suspended horizontally in the water by multiple lines attached to a rigid frame.

~~(53)~~~~(51)~~ Unbranched antler--An antler having no more than one antler point.

~~(54)~~~~(52)~~ Upper-limb disability--A permanent loss of the use of fingers, hand or arm in a manner that renders a person incapable of using a longbow, compound bow or recurved bow.

~~(55)~~~~(53)~~ Wildlife resources – **Alligators, all**~~[All]~~ game animals, **all** game birds, and aquatic animal life.

~~(56)~~~~(54)~~ Wounded deer--A deer leaving a blood trail.

§65.11. Lawful Means. It is unlawful to hunt any of the wildlife resources of this state except by the means authorized by this section and as provided in §65.19 of this title (relating to Hunting Deer with Dogs).

(1) Firearms.

(A) It is lawful to hunt **alligators**, game animals, and game birds with any legal firearm, including muzzleloading weapons, except as specifically restricted in this section.

(B) Special muzzleloader-only deer seasons are restricted to muzzleloading firearms only.

(C) It is unlawful to use rimfire ammunition to hunt **alligator**, deer, antelope, or desert bighorn sheep.

(D) It is unlawful to hunt **alligators**, game animals or game birds with a fully automatic firearm or any firearm equipped with a silencer or sound-suppressing device.

(E) In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, alligators may not be hunted by means of firearms. In all other counties, alligators may be hunted by means of firearms on private property, including private waters, but may not be hunted by means of firearms from, on, in, across, or over public water.

(F) Alligators lawfully caught on a taking device may be dispatched by means of firearms in all counties.

(2) Archery.

(A) A person may hunt by means of lawful archery equipment during any open season; however, no person shall hunt deer by lawful archery equipment or crossbow during a special muzzleloader-only deer season.

(B) Arrows that are treated with poisons or drugs, or that contain explosives are not lawful devices for hunting any species of wildlife resource in this state.

(C) While hunting turkey and all game animals other than squirrels by means of longbow, compound bow, or recurved bow:

(i) the bow must have a minimum peak draw weight of 40

pounds at the time of hunting; and

(ii) the arrow must be equipped with a broadhead hunting point at least 7/8-inch in width upon impact, with a minimum of two cutting edges. A mechanical broadhead must begin to open upon impact and when open must be a minimum of 7/8-inch in width.

(D) It is unlawful to hunt deer or turkey with a broadhead hunting point while in possession of a firearm during an archery-only season.

(E) Special archery-only seasons are restricted to lawful archery equipment only, except as provided in paragraph (3) of this section.

(3) Crossbow. Crossbows are lawful during any general open season. A person having an upper-limb disability may use a crossbow to hunt deer and turkey during an archery-only season, provided the person has in their immediate possession a physician's statement certifying the extent of the disability. When hunting turkey and all game animals other than squirrels by means of crossbow:

(A) the crossbow must have a minimum of 125 pounds of pull;

(B) the crossbow must have a mechanical safety;

(C) the crossbow stock must be not less than 25 inches in length; and

(D) the bolt must conform with paragraphs (2)(B) and (2)(C)(ii) of this

section.

(4) Falconry. It is lawful to hunt any game bird or game animal by means of falconry under the provisions of Subchapter K of this chapter (relating to Raptor Proclamation).

(5) Alligator.

(A) Legal devices for taking alligators in the wild are as follows:

(i) hook and line (line set);

(ii) alligator gig;

(iii) lawful archery equipment and barbed arrow;

(iv) hand-held snare with integral locking mechanism; and

(v) lawful firearms, in counties where take by firearm is allowed.

(B) A line of at least 300-pound test shall be securely attached to all taking devices other than firearms used to hunt alligators. Except as provided in this subsection, hook-bearing lines must be attached to a stationary object capable of maintaining a portion of the line above water when an alligator is caught on the line. A line attached to an arrow, snare, or gig must have a float attached when used to take alligators. The float shall be no less than six inches by six inches by eight inches, or, if the float is spherical, no less than eight inches in diameter.

(C) Line-set provisions.

(i) Hook-bearing lines may not be set prior to the general open season and shall be removed no later than sunset of the last day of the open season.

(ii) From sunset to one-half hour before sunrise:

(I) no person shall use any taking device other than line sets to hunt alligators; and

(II) no person shall set any baited line capable of taking an alligator and no person shall remove alligators from line sets.

(iii) On a property for which the department has issued hide tags, no person shall set more than one line per unused hide tag in possession.

(iv) On a property that is not in a county listed in subsection (a)(1) of this subsection and for which the department has not issued hide tags, no person

shall set more than one line.

(v) Line sets shall be inspected daily, and alligators shall be killed, tagged or documented, and removed immediately upon discovery.

(vi) All line sets on properties for which hide tags have been issued shall be secured at one end on the tract of land specified for the hide tags. All other line sets shall be secured at one end on private property.

(vii) Each baited line shall be labeled with a plainly visible, permanent, and legibly marked gear tag that contains:

(I) the full name and current address of the person who set the line;

(II) the hunting license number of the person who set the line; and

(III) a valid hide tag number, if the line is set on a property for which hide tags have been issued.

(6)[(5)] Special Provisions.

(A) Desert bighorn sheep. Except as provided in this paragraph, no motorized conveyance of any type shall be used to herd or harass desert bighorn sheep.

(B) Hunting by remote control. It is an offense for any person to hunt a wildlife resource by the means listed in this section if that person is not physically present and personally operating the means of take at the location where the hunting occurs during the time that the hunting occurs.

§65.24. Permits.

(a) Permits shall be issued only to the landowner.

(b) Except as provided in §65.26 of this title (relating Managed Lands Deer Permits (MLDP) – White-tailed Deer and §65.34 of this title (relating to Managed Lands Deer Permits (MLDP) – Mule Deer, no [No] person may hunt white-tailed deer, mule deer, desert bighorn sheep, or antelope when permits are required unless that person has received from the landowner and has in possession a valid permit issued by the department.

(c) When permits are required to hunt or possess the wildlife resources listed in subsection (b) of this section, it is unlawful to:

(1) use a permit more than once;

(2) use a permit on a tract of land other than the tract for which the permit was issued;

(3) falsify or fail to fully complete any information required by a permit application; or

(4) possess the wildlife resource without attaching a valid, properly executed permit, except as provided in §65.26 and §65.34 of this title, which shall remain attached until the wildlife resource reaches its final destination.

(d) No state-issued permit is required to hunt antlerless white-tailed deer on a National Wildlife Refuge.

(e) An applicant for a permit issued under §65.26 of this title [~~(relating Managed Lands Deer Permits (MLDP))~~], §65.27 of this title (relating to Antlerless and Spike Buck Control Permits (control permits)), or §65.34 of this title [~~(relating to Managed Lands Deer Permits (MLDP) – Mule Deer)~~] may request a review of a decision by the department to deny issuance of those permits.

(1) An applicant seeking review of a decision of the department under

this subsection shall contact the department within ten working days of being notified by the department of permit denial.

(2) The department shall conduct the review and notify the applicant of the results within ten working days of receiving a request for a review.

(3) The request for review shall be presented to a review panel. The review panel shall consist of the following:

- (A) the Director of the Wildlife Division;
- (B) the Regional Director with jurisdiction;
- (C) the Big Game Program Director; and
- (D) the White-tailed Deer or Mule Deer program leader, as

appropriate.

(4) The decision of the review panel is final.

(5) The department shall report on an annual basis to the White-tailed Deer Advisory Committee the number and disposition of all reviews under this subsection that involve white-tailed deer.

§65.25. Wildlife Management Plan (WMP).

(a) Deer.

(1) An approved WMP, specifying a harvest quota for antlerless deer or both buck and antlerless deer, is required for the issuance of Managed Lands Deer Permits and Antlerless/Spike-Buck Deer Control Permits.

(2) MLD permit issuance shall be determined by the WMP as follows.

(A) Level 1 MLD permits shall be issued to a landowner whose WMP includes current deer population data.

(B) Level 2 MLD permits shall be issued to a landowner whose WMP includes:

(i) deer population data for both the current year and the immediately preceding year;

(ii) deer harvest data from the immediately preceding year;

and

(iii) at least two recommended habitat management practices.

(C) Level 3 MLD permits shall be issued to a landowner whose WMP includes:

(i) deer population data for the current year and the immediately preceding two years;

(ii) deer harvest data from the immediately preceding two years; and

(iii) at least four recommended habitat management practices.

(3) A WMP is not valid unless it is:

(A) consistent with Parks and Wildlife Code, §61.053 and §61.056;

and

(B) signed by a Wildlife Division biologist or technician. A WMP is valid for one year following the date of such signature.

(b) Managed Lands - upland game birds. The department may authorize special Managed Lands seasons and bag and possession limits for Rio Grande turkey, quail, pheasant, lesser prairie chicken, or chachalaca on properties for which the department has approved WMP as set forth under this subsection.

(1) A WMP required by this subsection shall be required annually. The

WMP shall include the following, for each species the landowner designates:

(A) a population estimate for the current year;

(B) accurate harvest data from the property for the initial hunting season and each season thereafter that the landowner participates under this subchapter;

(C) a biological evaluation of the quality of existing habitat and the potential for maintaining or enhancing existing habitat or creating additional habitat;

(D) department-recommended habitat management practices deemed necessary by the department to maintain, increase, enhance, or connect habitat;

(E) a time period during which harvest is authorized; and

(F) a recommended harvest quota.

~~[(b) Lesser Prairie Chicken. No person may hunt a lesser prairie chicken in this state except on a property for which the department has approved a WMP as set forth under this subsection that contains a recommended harvest for lesser prairie chicken.]~~

~~[(1) The WMP required by this subsection shall include:]~~

~~[(A) a lesser prairie chicken population estimate for the current year (April breeding ground counts);]~~

~~[(B) accurate harvest data from the property for the initial hunting season and each season thereafter that the landowner seeks to hunt lesser prairie chicken on the property;]~~

~~[(D) at least five department-recommended habitat management practices designed to increase, enhance, or connect lesser prairie chicken habitat; and]~~

~~[(E) a recommended harvest not to exceed five percent of the estimated lesser prairie chicken population on the property.]~~

(2) No person may hunt a lesser prairie chicken in this state except on a property for which the department has approved a WMP as set forth under this subsection that contains a recommended harvest for lesser prairie chicken.

(3) A harvest recommendation for Rio Grande turkey shall specify separate quotas for gobblers and hens.

(4)[(2)] The landowner agrees, by signing the WMP, to perform data collection **for a minimum of three years** for the purposes of meeting the requirements of **this subsection** [paragraph (1) of this subsection]. **A landowner who does not fulfill the obligations of this paragraph is ineligible to participate in the Managed Lands program under this subsection for a period of three years.**

(5)[(3)] A WMP under this subsection is not valid unless it has been signed by a department employee authorized to approve management plans. A WMP under this subsection is valid for one year following such signature. The department may refuse to approve a WMP if the landowner has not complied with the provisions of this subsection.

(6)[(4)] The department may authorize a recommended harvest in the absence of population or harvest data only for the **2007 license** year [2005]; thereafter, a property must meet the requirements of paragraph (1) of this subsection.

(7) [(5)] **In the event that unforeseeable developments such as floods, droughts, or other natural disasters make the attainment of recommended habitat**

management practices impractical or impossible, the department may, on a case-by-case basis, waive the requirements of this section, provided, however, that the department may also adjust special seasons and bag limits accordingly as the situation dictates. [The bag and possession limits for the harvest of lesser prairie chicken shall be as provided in §65.56 of this title (relating to Lesser Prairie Chicken: Open Seasons, Bag, and Possession Limits).]

(8)[(6)] Except as provided in §65.10 of this title (relating to Possession of Wildlife Resources), no[No] person may possess a Rio Grande turkey, quail, pheasant, lesser prairie chicken, or chachalaca taken under the provisions of this section at any place other than the property where the bird was taken unless the person [a harvested lesser prairie chicken anywhere other than the property on which the lesser prairie chicken was harvested unless that person] also possesses a completed, department-supplied affidavit signed by the landowner of the property where the [person harvested the] Rio Grande turkey, quail, pheasant, lesser prairie chicken, or chachalaca was harvested [lesser prairie chicken].

(9) The owner of a property for which the department has established a special season or bag limit under this section shall maintain and keep a current, legible daily record book.

(A) The daily record book shall contain:

(i) the name, address, and hunting license number of each person who enters the property to hunt a species for which the department has established a special season or bag limit under this section; and

(ii) the number of each species killed each day by each person under a special season or bag limit established under this section.

(B) It is an offense for any person to:

(i) fail to maintain or keep current the record book required by this subsection; or

(ii) fail or refuse to supply the information required by this subsection.

(C) The record book shall be made available for inspection at the request of any employee of the department acting within the scope of official duties.

(D) The landowner shall retain each record book for a minimum of two years.

§65.26. Managed Lands Deer Permits (MLDP) – White-tailed Deer

(a) MLDPs for white-tailed deer may be issued only to a landowner who has a current WMP in accordance with §65.25 of this title (relating to Wildlife Management Plan). In the case that a landowner is otherwise in fulfillment of the provisions of §65.25 of this title but does not have current population data, the department may conditionally authorize partial issuance of MLDPs, not to exceed 30 per cent of the total MLDPs to be issued for that property during the affected license year, with the balance of MLDPs to be issued upon submission of the required population data.

(b) An applicant may request the issuance of any type of MLDP listed in this section.

(1) Level 1. Level 1 MLDPs authorize only the take of antlerless white-tailed deer. A Level 1 permit is valid during any open deer season in the county for which it is issued and the provisions of §65.42(b)(8) of this title (relating to Archery-Only Open Season), §65.42(b)(9) of this title (relating to Muzzleloader-Only Open Season), and the stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I apply.

There is no bag limit for antlerless deer on properties for which Level 1 permits have been issued; however, the county and statewide bag limits for buck deer apply.

(2) Level 2.

(A) Level 2 MLDPs authorize the take of buck or antlerless white-tailed deer as specified by the permit.

(i) A Level 2 antlerless permit is valid from the Saturday closest to September 30 through the last day in February on the property for which it is issued;

(ii) A Level 2 buck permit is valid:

(I) for spike bucks taken by any lawful means, for all bucks taken by means of lawful archery equipment, and for any buck taken by a hunter 16 years of age or younger during a youth-only open deer season: from the Saturday closest to September 30 through the last day in February on the property for which it is issued; and

(II) for any buck, irrespective of means: from the opening day of the general open deer season in the county for which it is issued through the last day in February on the property for which it is issued.

(B) On all tracts of land for which Level 2 permits have been issued there is no bag limit for buck or antlerless deer and the provisions of §65.42(b)(8) of this title (relating to Archery-Only Open Season), §65.42(b)(9) of this title (relating to Muzzleloader-Only Open Season), and the stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I do not apply.

(C) By acceptance of Level 2 permits a landowner agrees to accomplish at least two habitat management recommendations contained in the WMP within three years of permit issuance, and agrees to maintain the habitat management practices for as long as Level 2 permits are accepted thereafter. A landowner who fails to accomplish at least two habitat management recommendations of the WMP within three years is not eligible for Level 2 permits the following year, but is eligible for Level 1 MLDPs or may choose to cease accepting MLDPs.

(3) Level 3. Level 3 MLDPs authorize the take of buck and antlerless white-tailed deer as specified by the permit. A Level 3 permit is valid from the Saturday nearest September 30 through the last day in February on the property for which it is issued. On all tracts of land for which Level 3 permits have been issued:

(A) there is no bag limit for buck or antlerless deer and the provisions of §65.42(b)(8) of this title, §65.42(b)(9) of this title, and the stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I do not apply.

(B) By acceptance of Level 3 permits a landowner agrees to accomplish at least four habitat management recommendations contained in the WMP within three years of permit issuance, and agrees to maintain the habitat management practices for as long as Level 3 permits are accepted thereafter. A landowner who fails to accomplish at least four habitat management recommendations of the WMP within three years is not eligible for Level 3 permits the following year, but may be eligible for other levels of MLDPs or may choose to cease accepting MLDPs.

(c) The number of MLDPs distributed to a hunter shall be at the discretion of the landowner.

(d) **If MLDP antlerless permits have been issued for a property, each antlerless deer harvested on the property must be immediately tagged with a valid**

MLDP antlerless permit. If MLDP buck permits have been issued for a property, each buck deer harvested on the property must be immediately tagged with a valid MLDP buck permit. If an appropriate MLDP is not attached immediately at the time of kill, the person who killed the deer shall immediately take the carcass to a location on the property where an appropriate MLDP shall be attached. [~~A deer killed under the authority of an MLDP must be tagged with an MLDP immediately by the person who killed the deer or the person who killed the deer shall immediately take the carcass by the most direct route to a tagging station (location where permits are maintained on the permitted property) where an appropriate MLDP shall be attached.~~]

(e) If a landowner in possession of MLDPs does not wish to abide by the harvest quota or habitat management practices specified by the WMP, the landowner must return all MLDPs to the department by the Saturday closest to September 30.

(f) In the event that unforeseeable developments such as floods, droughts, or other natural disasters make the attainment of recommended habitat management practices impractical or impossible, the department may, on a case-by-case basis, waive the requirements of this section.

(g) The department reserves the right to deny issuance of MLDPs:

(1) for one year for a property upon which the harvest quota specified by the WMP has been exceeded; and

(2) for three years for a property that otherwise is not in compliance with the WMP.

(h) Administratively complete applications received by the department before August 15 of each year shall be approved or denied by October 1 of the same year.

§65.34. Managed Lands Deer Permits (MLDP) – Mule Deer.

(a) MLDPs for mule deer may be issued only to a landowner who has a current wildlife management plan (WMP) in accordance with subsection (b) of this section that specifies a harvest quota for both buck and antlerless mule deer or antlerless mule deer only. A WMP is not valid unless it is:

(1) consistent with Parks and Wildlife Code, §§61.053 and 61.056; and

(2) signed by a Wildlife Division biologist or technician authorized to write wildlife management plans. A WMP is valid for one year following the date of such signature.

(b) MLDP issuance for mule deer shall be determined by the WMP as follows. MLDPs shall be issued to a landowner whose WMP includes:

(1) deer population data for both the current year and the two immediately preceding years;

(2) deer harvest data from the immediately preceding two years; and

(3) at least three recommended habitat improvements.

(c) An MLDP issued under this section permits the take of antlerless and/or buck mule deer, as specified on the permit. An MLDP issued under this paragraph is valid:

(1) only on the property for which it is issued (as described in the WMP); and

(2) from the first Saturday in November through the first Sunday in January.

(d) There is no bag limit for antlerless deer on properties for which antlerless permits have been issued.

(e) There is no bag limit for buck deer on properties for which buck permits have been issued.

(f) The provisions of §65.42(c)(5) of this title (relating to Archery-Only Open Season) and the stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I, do not apply on properties for which both buck and antlerless permits have been issued.

(g) If MLDP antlerless permits have been issued for a property, each antlerless deer harvested on the property must be immediately tagged with a valid MLDP antlerless permit. If MLDP buck permits have been issued for a property, each buck deer harvested on the property must be immediately tagged with a valid MLDP buck permit ~~[Except as provided in this subsection, all deer harvested by MLDP must immediately be tagged with an appropriate MLDP].~~ If an appropriate MLDP is not attached immediately at the time of kill, the person who killed the deer shall immediately take the carcass to a location on the property where an appropriate MLDP shall be attached.

(h) If a landowner in possession of MLDPs does not wish to abide by the harvest quota or habitat management practices specified by the WMP, the landowner must return all MLDPs to the department no later than one day prior to the date that the permits are valid under subsection (c) of this section.

(i) In the event that unforeseeable developments such as floods, droughts, or other natural disasters make the attainment of recommended habitat management practices or harvest goals impractical or impossible, the department may, on a case-by-case basis, waive the requirements of this section.

(j) The department reserves the right to deny further issuance of MLDPs to a landowner who exceeds the harvest quota specified by the WMP or who does not otherwise abide by the WMP. A property for which the department denies further permit issuance under this subsection is ineligible to receive MLDPs for a period of three years from the date of denial.

(k) MLDP requests received by the department before August 15 of each year shall be approved or denied by November 1 of the same year.

§65.42. Deer.

(a) No person may exceed the annual bag limit of five white-tailed deer (no more than three bucks) and two mule deer (no more than one buck), except as provided by:

(1) §65.26 of this title (relating to Managed Lands Deer Permits (MLDP)--White-tailed Deer);

(2) §65.34 of this title (relating to Managed Lands Deer Permits (MLDP)--Mule Deer);

(3) §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits);

(4) §65.28 of this title (relating to Landowner Assisted Management Permits (LAMPS));

(5) special permits under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation); or

(6) special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(b) White-tailed deer. The open seasons and annual bag limits for white-tailed

deer shall be as follows.

(1) In Aransas, Atascosa, Bee, Brooks, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (that southeastern portion located both south of U.S. Highway 90 and east of Spur 239), Webb, Willacy, Zapata, and Zavala counties, there is a general open season.

(A) Open season: the first Saturday in November through the third Sunday in January.

(B) Bag limit: five deer, no more than three bucks.

(C) Special Late General Season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and spike-buck deer only.

(i) Open season: 14 consecutive days starting the first Monday following the third Sunday in January.

(ii) Bag limit: five antlerless or spike-buck deer in the aggregate, no more than three of which may be spike bucks.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(2) In Bandera, Bexar, Blanco, Brown, Burnet, Coke, Coleman, Comal (west of Interstate 35), Concho, Crockett, Edwards, Gillespie, Glasscock, Hays (west of Interstate 35), Howard, Irion, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Llano, Mason, McCulloch, Medina (north of U.S. Highway 90), Menard, Mills, Mitchell, Nolan, Real, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis (west of Interstate 35), Uvalde (north of U.S. Highway 90) and Val Verde (north of U.S. Highway 90; and that portion located both south of U.S. 90 and west of Spur 239) counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: five deer, no more than two bucks.

(C) Special Late General Season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and spike-buck deer only.

(i) Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(ii) Bag limit: five antlerless or spike-buck deer in the aggregate, no more than two of which may be spike bucks.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(3) In Brewster, Culberson, Jeff Davis, Pecos, Presidio, Reeves, Terrell, and Upton [(that southeastern portion located both south of U.S. Highway 67 and east of State Highway 349)] counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks.

(C) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(4) In Angelina, Chambers, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, and Walker counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks and no more than two antlerless.

(C) From opening day through the Sunday immediately following Thanksgiving, antlerless deer may be taken without antlerless deer permits unless MLDP antlerless, LAMPS, or USFS antlerless permits have been issued for the tract of land. On USFS, Corps of Engineers, Sabine River Authority, and Trinity River Authority lands, the take of antlerless deer shall be by permit only. If USFS antlerless, MLDP antlerless, or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by USFS antlerless, MLDP antlerless, or LAMPS permits. On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

(5) In Bell (west of IH 35), Bosque, Comanche, Coryell, Eastland, Erath, Hamilton, Lampasas, Somervell, and Williamson (west of IH 35) counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(i) at least one unbranched antler; or

(ii) an inside spread of 13 inches or greater.

(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.

(D) Antlerless bag limit: two.

(E) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(6) In Brazoria, Fort Bend, Goliad (south of U.S. Highway 59), Jackson (south of U.S. Highway 59), Matagorda, Victoria (south of U.S. Highway 59), and Wharton (south of U.S. Highway 59) counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(i) at least one unbranched antler; or

(ii) an inside spread of 13 inches or greater.

(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.

(D) Antlerless bag limit: two.

(E) From opening day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits

unless MLDP antlerless permits have been issued for the tract of land. If MLDP antlerless permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by MLDP antlerless permit.

(7) In Cass, Harrison, Marion, Nacogdoches, Panola, Sabine, San Augustine, and Shelby, counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(i) at least one unbranched antler; or

(ii) an inside spread of 13 inches or greater.

(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.

(D) Antlerless bag limit: two.

(E) During the first 16 days of the general season, antlerless deer may be taken without antlerless deer permits unless MLDP, LAMPS, or USFS antlerless permits have been issued for the tract of land. On USFS, Corps of Engineers, and Sabine River Authority lands, the take of antlerless deer shall be by permit only. If USFS antlerless, MLDP antlerless, or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. After the first 16 days of the general season, antlerless deer may be taken only by USFS antlerless, MLDP antlerless, or LAMPS permits.

(8) In Bowie, Camp, Cherokee, Delta, Fannin, Franklin, Gregg, Hopkins, Houston, Lamar, Morris, Red River, Rusk, Titus, Upshur, and Wood counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(i) at least one unbranched antler; or

(ii) an inside spread of 13 inches or greater.

(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.

(D) Antlerless bag limit: two.

(E) From Thanksgiving Day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLDP antlerless or LAMPS permits have been issued for the tract of land. On USFS, Corps of Engineers, and Sabine River Authority lands, the take of antlerless deer shall be by permit only. If USFS antlerless, MLDP antlerless, or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the first Saturday in November through the day before Thanksgiving Day, and from the Monday immediately following Thanksgiving Day through the first Sunday in January, antlerless deer may be taken only by USFS antlerless, MLDP antlerless, or LAMPS permits.

(9)[(5)] In Austin, Bastrop, Bell (east of IH 35), Burleson, Caldwell,

Colorado, Comal (east of IH 35), De Witt, Fayette, Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hays (east of IH 35), Jackson (north of U.S. Highway 59), Karnes, Lavaca, Lee, Leon, Rains, Travis (east of IH 35), Victoria (north of U.S. Highway 59), Waller, [~~Wilson,~~] Washington, [~~and~~] Wharton (north of U.S. Highway 59), Williamson (east of IH 35), and Wilson counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

- (i) at least one unbranched antler; or
- (ii) an inside spread of 13 inches or greater.

(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.

(D) Antlerless bag limit: two, by MLDP antlerless or LAMPS permit only.

~~[(6) In Brazoria, Fort Bend, Goliad (south of U.S. Highway 59), Jackson (south of U.S. Highway 59), Matagorda, Victoria (south of U.S. Highway 59), and Wharton (south of U.S. Highway 59) counties, there is a general open season.]~~

~~[(A) Open season: first Saturday in November through the first Sunday in January.]~~

~~[(B) The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:]~~

- ~~[(i) at least one unbranched antler; or]~~
- ~~[(ii) an inside spread of 13 inches or greater.]~~

~~[(C) Buck bag limit: two bucks, to include no more than one buck with an inside spread of 13 inches or greater.]~~

~~[(D) Antlerless bag limit: two.]~~

~~[(E) From opening day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLDP antlerless permits have been issued for the tract of land. If MLDP antlerless permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by MLDP antlerless permit.]~~

(10)~~[(7)]~~ In Archer, Armstrong, Baylor, [~~Bell (west of IH 35),~~] Borden, [~~Bosque,~~] Briscoe, Callahan, Carson, Childress, Clay, Collingsworth, [~~Comanche, Coryell,~~] Cottle, Crosby, Dickens, Donley, [~~Eastland, Erath,~~] Fisher, Floyd, Foard, Garza, Gray, Hall, [~~Hamilton,~~] Hansford, Haskell, Hemphill, Hood, Hutchinson, Jack, Jones, Kent, King, Knox, [~~Lampasas,~~] Lipscomb, McLennan, Montague, Motley, Ochiltree, Palo Pinto, Parker, Randall, Roberts, Scurry, Shackelford, [~~Somervell,~~] Stephens, Stonewall, Swisher, Taylor, Throckmorton, Wheeler, [~~Williamson (west of IH 35),~~] Wise, and Young counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(11)~~(8)~~ In Cooke, Hardeman, Hill, Johnson, Wichita, and Wilbarger counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) From opening day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLDP antlerless permits have been issued for the tract of land. If MLDP antlerless permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by MLDP antlerless permit.

(12)~~(9)~~ In ~~[Cass,] Denton[, Harrison, Marion, Nacogdoches, Panola, Sabine, San Augustine, Shelby,]~~ and Tarrant counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) During the first 16 days of the general season, antlerless deer may be taken without antlerless deer permits unless MLDP, LAMPS, or USFS antlerless permits have been issued for the tract of land. On USFS, Corps of Engineers, and Sabine River Authority lands, the take of antlerless deer shall be by permit only. If USFS antlerless, MLDP antlerless, or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. After the first 16 days of the general season, antlerless deer may be taken only by USFS antlerless, MLDP antlerless, or LAMPS permits.

(13)~~(10)~~ In ~~[Bowie,] Brazos, [Camp, Cherokee, Delta, Fannin, Franklin,]~~ Grayson, ~~[Gregg,] Grimes, [Hopkins, Houston, Lamar,]~~ Madison, **and** ~~[Morris, Red River,] Robertson[, Rusk, Titus, Upshur, and Wood]~~ counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) From Thanksgiving Day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLDP antlerless or LAMPS permits have been issued for the tract of land. On USFS, Corps of Engineers, and Sabine River Authority lands, the take of antlerless deer shall be by permit only. If USFS antlerless, MLDP antlerless, or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the first Saturday in November through the day before Thanksgiving Day, and from the Monday immediately following Thanksgiving Day through the first Sunday in January, antlerless deer may be taken only by USFS antlerless, MLDP antlerless, or LAMPS permits.

(D) Special regulation. In Grayson County:

(i) lawful means are restricted to lawful archery equipment and crossbows only, including MLDP properties; and

(ii) antlerless deer shall be taken by MLDP only, except on the Hagerman National Wildlife Refuge.

(14)~~(11)~~ In Anderson, ~~[Bell (east of Interstate 35), Burleson, Comal (east of Interstate 35),]~~ Crane, Ector, Ellis, Falls, Freestone, ~~[Hays (east of Interstate 35),]~~ Henderson, Hunt, Kaufman, ~~[Leon,]~~ Limestone, Loving, Midland, Milam, Navarro, ~~[Rains,]~~ Smith, ~~[Travis (east of Interstate 35), Upton (that portion located north of U.S. Highway 67; and that area located both south of U.S. Highway 67 and west of state highway 349),]~~ Van Zandt, **and** Ward~~[, and Williamson (east of Interstate 35)]~~ counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: one buck, no more than two antlerless. Antlerless deer may be taken only by MLDP antlerless or LAMPS permits.

(15)~~(12)~~ In Dallam, Hartley, Moore, Oldham, Potter, and Sherman counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for 16 consecutive days.

(B) Bag limit: one buck, no more than two antlerless. Antlerless deer may be taken only by MLDP antlerless permit.

(16)~~(13)~~ In Andrews, Bailey, Castro, Cochran, Collin, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Galveston, Hale, Hockley, Hudspeth, Lamb, Lubbock, Lynn, Martin, Parmer, Rockwall, Terry, Winkler, and Yoakum counties, there is no general open season.

(17)~~(14)~~ Archery-only open seasons. In all counties where there is a general open season for white-tailed deer, there is an archery-only open season during which either sex of white-tailed deer may be taken as provided for in §65.11(2) and (3) of this title (relating to Means and Methods).

(A) Open season: the Saturday closest to September 30 for 30 consecutive days.

(B) Bag limit: the bag limit in any given county is as provided for that county during the general open season.

(C) No permit is required to hunt antlerless deer unless MLDP permits have been issued for the property.

(18)~~(15)~~ Muzzleloader-only open seasons, and bag and possession limits shall be as follows.

(A) In Brewster, Culberson, Jeff Davis, Pecos, Presidio, Reeves, Terrell, and Upton ~~[(that portion located both south of U.S. Highway 67 and east of state highway 349)]~~ counties, there is an open season during which only antlerless and spike-buck deer may be taken only with a muzzleloader.

(i) Open Season: from the first Saturday following the closing of the general open season for nine consecutive days.

(ii) Bag limit: four antlerless or spike-buck deer in the aggregate, no more than two spike bucks.

(B) In Angelina, Chambers, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, and Walker

counties, there is an open season during which only antlerless and spike-buck deer may be taken only with a muzzleloader.

(i) Open Season: from the first Saturday following the closing of the general open season for nine consecutive days.

(ii) Bag limit: four antlerless or spike-buck deer in the aggregate, no more than two spike bucks and no more than two antlerless.

(C) No permit is required to hunt antlerless deer unless MLDP permits have been issued for the property.

(19)~~(16)~~ Special Youth-Only Seasons. There shall be special youth-only general hunting seasons in all counties where there is a general open season for white-tailed deer.

(A) early open season: the Saturday and Sunday immediately before the first Saturday in November.

(B) late open season: the third weekend (Saturday and Sunday) in January.

(C) Bag limits, provisions for the take of antlerless deer, and special requirements in the individual counties listed in paragraphs (1) - (11) of this subsection shall be as specified for the first two days of the general open season in those counties, except as provided in subparagraph (D) of this paragraph.

(D) Provisions for the take of antlerless deer in the individual counties listed in paragraph (10) of this subsection shall be as specified in those counties for the period of time from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(E) Licensed hunters 16 years of age or younger may hunt deer by any lawful means during the seasons established by subparagraphs (A) and (B) of this paragraph, except in Grayson County, where legal means are restricted to crossbow and lawful archery equipment.

(F) A licensed hunter 16 years of age or younger may hunt any deer on any property (including MLDP properties) during the seasons established by subparagraphs (A) and (B) of this paragraph.

(G) The stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I, does not apply during the seasons established by this paragraph.

(c) Mule deer. The open seasons and annual bag limits for mule deer shall be as follows.

(1) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Stonewall, and Swisher counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for 16 consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(2) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler counties, there is a general open season.

(A) Open season: last Saturday in November for 16 consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(3) In Andrews (west of U.S. Highway 385), Bailey, Cochran, Hockley, Lamb, Terry, and Yoakum counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for nine consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken by permit only.

(4) In all other counties, there is no general open season for mule deer.

(5) Archery-only open seasons and bag and possession limits shall be as follows. During an archery-only open season, deer may be taken only as provided for in §65.11(2) and (3) of this title (relating to Means and Methods). No antlerless permit is required unless MLD antlerless permits have been issued for the property.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Lipscomb, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Stonewall, Swisher, Upton, Val Verde, Ward, and Winkler counties, there is an open season.

(i) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(ii) Bag limit: one buck deer.

(B) In Brewster, Pecos, and Terrell counties, there is an open season.

(i) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(ii) Bag limit: two deer, no more than one buck.

(C) In all other counties, there is no archery-only open season for mule deer.

§65.49. Alligators.

(a) Open seasons and bag limits. In all counties there is a general open season for alligator.

(1) In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, and on all properties for which the department has issued hide tags, the open season is from September 10 through September 30.

(2) In all other counties, the open season is from April 1 - June 30.

(3) Bag limit:

(A) on a property for which the department has issued hide tags: one alligator per unused hide tag in possession; or

(B) in counties with the season provided under paragraph (2) of this subsection: one alligator per person per license year, unless hide tags have been issued for the property.

(b) Harvest.

(1) No person may hunt an alligator in this state unless that person is in possession of a valid hunting license.

(2) No person may hunt an alligator on a property for which the department has issued hide tags unless the person is in physical possession of at least one valid, unused alligator hide tag per taking device employed by the person.

(3) An alligator captured on a taking device must be immediately killed, documented, and tagged as required by this subsection.

(4) If an alligator is killed on a property for which hide tags have been issued, the alligator must be immediately tagged with a hide tag within ten inches of the tip of the alligator's tail.

(5) Except in the counties listed in subsection (a)(1) of this section, a person may kill an alligator without possessing a hide tag, provided:

(A) the alligator is taken on private property with the consent of the owner of the property; and

(B) the department has not issued hide tags for the property.

(6) A person who kills an alligator under the provisions of paragraph (5) of this subsection shall immediately affix a completed Wildlife Resource Document to the alligator, which shall accompany the alligator until the alligator is permanently tagged with a hide tag as provided in subsection (c)(5) of this section.

(c) Tag issuance and usage.

(1) Except as provided in this subchapter or Subchapter P of this chapter, no person may possess an untagged alligator hide or undocumented alligator part.

(2) A hide tag issued for a property is valid only for that property.

(3) Landowners may apply for hide tags from the department by submitting a completed application form (PWD 369) to the department. In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, tag issuance shall be based on annual surveys of alligator habitat and populations. In all other counties, tag issuance to landowners shall be on a case-by-case basis following a biological assessment by a department biologist.

(4) Except as provided in paragraph (5) of this subsection, hunters shall obtain hide tags from the landowner.

(5) A person who takes an alligator under subsection (b)(5) of this section shall permanently tag the alligator immediately upon receipt of a hide tag from the department.

(c) Management Tag. The department may issue management tags to a landowner with a department-approved alligator management plan that specifies a harvest quota of sub-adult alligators. All provisions of this subchapter pertaining to tags and tagging also apply to management tags.

(d) Reports; return of unused tags.

(1) Except as provided in subsections (b)(6) and (c)(5) of this section, a person who takes an alligator shall complete an alligator hide tag report (PWD-304) immediately upon harvest. The report shall be submitted to the department within seven days of harvest.

(2) A person who takes an alligator under subsection (b)(5) of this

section shall complete and submit to the department an alligator hide tag report (PWD-304A) within 72 hours of harvest.

(3) A person to whom the department has issued more than one hide tag shall file an annual report (PWD 370) accounting for all tags within 10 working days following the close of the open season in the county for which the tags were issued. All unused tags shall be returned with this report.

(4) The department may refuse to issue additional hide tags to any person who:

(A) does not file the reports as required by this section; or

(B) does not return unused hide tags as required by this section.

(e) Sale. Alligators taken under this subchapter may be sold only to a person possessing either a valid wholesale alligator dealer permit or a valid alligator farmer permit.

(f) Exception.

(1) This subchapter shall not prohibit a person from killing an alligator:

(A) in immediate defense of his or her life or the lives of others;

or

(B) to protect livestock or other domestic animals from imminent injury or death.

(2) Alligators killed under this subsection shall be immediately reported to the department.

(g) Alligator feeding. It is an offense for any person to intentionally feed a free-ranging alligator, except for a licensed hunter or control hunter lawfully engaged at the time in the activity of hunting alligators. This paragraph does not apply to federal, state, or local government employees in the performance of official duties.

65.54. Game Birds: Open Seasons and Bag Limits. Except as provided in this subchapter and Subchapter K of this chapter (relating to Raptor Proclamation), it is unlawful to hunt a game bird at any time other than during the open seasons provided in this chapter, or to take more than the daily bag limits, or to have in possession a game bird taken at any time other than during the open seasons. On the first day of any open season the possession limit is the same as the daily bag limit.

65.56. Lesser Prairie Chicken: Open Seasons, Bag, and Possession Limits.

(a) The season lengths and bag limits established in this section do not apply on properties for which the department has established special seasons and bag limits for lesser prairie chicken under the provisions of §65.25 of this title (relating to Wildlife Management Plan (WMP)).~~[There is no open season for lesser prairie chicken except on properties for which the department has approved a wildlife management plan that contains a component specifically addressing the management of lesser prairie chicken.]~~

(1) Open season: Third Saturday in October for two consecutive days.

(2) Daily bag limit: Two lesser prairie chickens.

(3) Possession limit: Four lesser prairie chickens.

(b) It is unlawful to hunt prairie chicken by any means other than shotgun or falconry.

§65.60. Pheasant. Open Seasons, Bag, and Possession Limits.

(a) The season lengths and bag limits established in this section do not apply on properties for which the department has established special seasons and bag

limits for pheasant under the provisions of §65.25 of this title (relating to Wildlife Management Plan (WMP)).

(b)~~(a)~~ In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Lubbock, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, and Wilbarger counties, there is an open season for pheasants.

- (1) Open season: First Saturday of December for 30 consecutive days.
- (2) Daily Bag limit: Two cock pheasants.
- (3) Possession limit: Four cock pheasants.

(c)~~(b)~~ In Chambers, Jefferson, and Liberty, counties, there is an open season for pheasants.

- (1) Open season: Saturday nearest November 1 through the last Sunday in February.
- (2) Daily bag limit: Three cock pheasants.
- (3) Possession limit: Six cock pheasants.

(d)~~(c)~~ In all other counties, there is no open season on pheasants.

(e)~~(d)~~ It is unlawful to hunt pheasant with the aid of a cable, chain, rope, or other device connected to or between a moving object or objects.

§65.62. Quail: Open Seasons, Bag, and Possession Limits.

(a) The season lengths and bag limits established in this section do not apply on properties for which the department has established special seasons and bag limits for quail under the provisions of §65.25 of this title (relating to Wildlife Management Plan (WMP)).

(b)~~(a)~~ In all counties there is an open season for quail beginning the Saturday closest to October 28 through the last Sunday in February.

(c)~~(b)~~ Daily bag limit: 15 quail.

(d)~~(c)~~ Possession limit: 45 quail.

(e)~~(d)~~ There is no open season on Mearns' quail (commonly called fool's quail).

§65.64. Turkey.

(a) The season lengths and bag limits established in this section do not apply on properties for which the department has established special seasons and bag limits for turkey under the provisions of §65.25 of this title (relating to Wildlife Management Plan (WMP)).

(b)~~(a)~~ The annual bag limit for Rio Grande and Eastern turkey, in the aggregate, is four, no more than one of which may be an Eastern turkey.

(c)~~(b)~~ Rio Grande Turkey. The open seasons and bag limits for Rio Grande turkey shall be as follows.

- (1) Fall seasons and bag limits:

(A) In Aransas, Atascosa, Bee, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kinney (south of U.S. Highway 90), LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (in that southeastern portion located both south of U.S. Highway 90 and east of Spur 239), Webb, Zapata, and Zavala counties, there is a fall general open season.

- (i) Open season: first Saturday in November through the third

Sunday in January.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(B) In Brooks, Kenedy, Kleberg, and Willacy counties, there is a fall general open season.

(i) Open season: first Saturday in November through the last

Sunday in February.

(ii) Bag limit: four turkeys, either sex.

(C) In Archer, Armstrong, Bandera, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Briscoe, Brown, Burnet, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Donley, Eastland, Ector, Edwards, Erath, Fisher, Floyd, Foard, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Howard, Hutchinson, Irion, Jack, Johnson, Jones, Karnes, Kendall, Kent, Kerr, Kimble, King, Kinney (north of U.S. Highway 90), Knox, Lipscomb, Lampasas, Llano, Lynn, Martin, Mason, McCulloch, McLennan, Medina (north of U.S. Highway 90), Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Roberts, Runnels, Sutton, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde (north of U.S. Highway 90), Ward, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Wise, Val Verde (that portion located north of U.S. Highway 90; and that portion located both south of U.S. 90 and west of Spur 239), and Young counties, there is a fall general open season.

(i) Open season: first Saturday in November through the first

Sunday in January.

(ii) Bag limit: four turkeys, either sex.

(2) Archery-only season and bag limits. In all counties where there is a general fall season for turkey there is an open season during which turkey may be taken only as provided for in §65.11(2) and (3) of this title (relating to Means and Methods).

(A) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(B) Bag limit: in any given county, the annual bag limit is as provided by this section for the fall general season in that county.

(3) Spring season and bag limits.

(A) In Archer, Armstrong, Aransas, Atascosa, Bandera, Baylor, Bell, Bee, Bexar, Blanco, Borden, Bosque, Brooks, Brewster, Briscoe, Brown, Burnet, Callahan, Calhoun, Cameron, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, Fisher, Floyd, Foard, Frio, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hidalgo, Hill, Hood, Howard, Hutchinson, Irion, Jack, Jeff Davis, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lampasas, LaSalle, Lipscomb, Live Oak, Llano, Lynn, Martin, Mason, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Refugio, Roberts, Runnels, San Saba, San Patricio, Schleicher, Scurry, Shackelford, Somervell,

Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Ward, Webb, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Young, Zapata, and Zavala counties, there is a spring general open season.

(i) Open season: Saturday closest to April 1 for 44 consecutive days.

(ii) Bag limit: four turkeys, gobblers only.

(B) In Bastrop, Caldwell, Colorado, De Witt, Fayette, Guadalupe, Jackson, Lavaca, Lee, Milam, and Victoria counties, there is a spring general open season.

(i) Open season: from April 1 through April 30.

(ii) Bag limit: one turkey, gobblers only.

(4) Special Youth-Only Seasons. Only licensed hunters 16 years of age or younger may hunt during the seasons established by this subsection.

(A) There shall be a special youth-only fall general hunting season in all counties where there is a fall general open season.

(i) open season : the weekend (Saturday and Sunday) immediately preceding the first Saturday in November, and the third weekend (Saturday and Sunday) in January.

(ii) bag limit: as specified for individual counties in paragraph (1) of this subsection.

(B) There shall be special youth-only spring general open hunting seasons for Rio Grande turkey in the counties listed in paragraph (3)(A) of this section.

(i) open seasons: the weekend (Saturday and Sunday) immediately preceding the first Saturday in April and the weekend (Saturday and Sunday) immediately following the close of the general open spring season.

(ii) bag limit: as specified for individual counties in paragraph (3)(A)(ii) of this subsection.

~~(d)~~ Eastern turkey. The open seasons and bag limits for Eastern turkey shall be as follows. In Angelina, Bowie, Brazoria, Camp, Cass, Cherokee, Delta, Fannin, Fort Bend, Franklin, Grayson, Gregg, Hardin, Harrison, Hopkins, Houston, Hunt, Jasper, Lamar, Liberty, Marion, Matagorda, Montgomery, Morris, Nacogdoches, Newton, Panola, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Walker, Wharton, and Wood counties, there is a spring season during which both Rio Grande and Eastern turkey may be lawfully hunted.

(1) Open season: from April 1 for 30 consecutive days.

(2) Bag limit (both species combined): one turkey, gobbler only.

(3) In the counties listed in this subsection:

(A) it is unlawful to hunt turkey by any means other than a shotgun, lawful archery equipment, or crossbows;

(B) it is unlawful for any person to take or attempt to take turkeys by the aid of baiting, or on or over a baited area; and

(C) all turkeys harvested during the open season must be registered at designated check stations within 24 hours of the time of kill. Harvested turkeys may be field dressed but must otherwise remain intact.

~~(e)~~ In all counties not listed in subsection (b) or (c) of this section, the

season is closed for hunting turkey.

§65.66. Chachalacas.

(a) The season lengths and bag limits established in this section do not apply on properties for which the department has established special seasons and bag limits for chachalaca under the provisions of §65.25 of this title (relating to Wildlife Management Plan (WMP)).

(b) In Cameron, Hidalgo, Starr, and Willacy counties, there is an open season for chachalacas.

(1) Open season: Saturday nearest November 1 through the last Sunday in February.

(2) Daily bag limit: Five chachalacas.

(3) Possession limit: Ten chachalacas.

(c) In all other counties, the season is closed for chachalaca.

§65.72. Fish.

(a) General rules.

(1) There are no public waters closed to the taking and retaining of fish, except as provided in this subchapter.

(2) Game fish may be taken only by pole and line, except as provided in this subchapter.

(3) It is unlawful:

(A) to take or attempt to take, or possess fish within a protected length limit, in greater numbers, by other means, or at any time or place, other than as permitted under this subchapter;

(B) while fishing on or in public waters to have in possession fish in excess of the daily bag limit or fish within a protected length limit as established for those waters;

(C) to land by boat or person any fish within a protected length limit, or in excess of the daily bag limit or possession limit established for those fish;

(D) to use game fish or any part thereof as bait;

(E) to possess a finfish of any species, except broadbill swordfish, shark or king mackerel, taken from public water that has the head or tail removed until such person finally lands the catch on the mainland, a peninsula, or barrier island not including jetties or piers and does not transport the catch by boat;

(F) to use airboats or jet-driven devices to pursue and harass or harru fish; or

(G) to release into the public waters of this state a fish with a device or substance implanted or attached that is designed, constructed or adapted to produce an audible, visual, or electronic signal used to monitor, track, follow, or in any manner aid in the location of the released fish.

(4) Finfish tags: Prohibited Acts.

(A) No person may purchase or use more finfish (red drum ~~or tarpon~~) tags during a license year than the number and type authorized by the commission, excluding duplicate tags issued under Parks and Wildlife Code, §46.006.

(B) It is unlawful to:

(i) use the same finfish tag for the purpose of tagging more than one finfish;

(ii) use a finfish tag in the name of another person;

(iii) use a tag on a finfish for which another tag is specifically required;

(iv) catch and retain a finfish required to be tagged and fail to immediately attach and secure a tag, with the day and month of catch cut out, to the finfish at the narrowest part of the finfish tail, just ahead of the tail fin;

(v) have in possession both a Red Drum Tag and a Duplicate Red Drum Tag issued to the same license or salt water stamp holder;

(vi) have in possession both a Red Drum Tag or a Duplicate Red Drum Tag and a Bonus Red Drum Tag issued to the same license or salt water stamp holder;

(vii) have in possession both an Exempt Red Drum Tag and a Duplicate Exempt Red Drum Tag issued to the same license holder; or

(viii) have in possession both an Exempt Red Drum Tag or a Duplicate Exempt Red Drum Tag and a Bonus Red Drum Tag issued to the same holder.

(5) Commercial fishing seasons.

(A) The commercial seasons for finfish species listed in this paragraph and caught in Texas waters shall run concurrently with commercial seasons established for the same species caught in federal waters of the Exclusive Economic Zone (EEZ).

(B) The commercial fishing season in the EEZ will be set by the National Marine Fisheries Service for:

(i) red snapper under guidelines established by the Fishery Management Plan for Reef Fish Resources for the Gulf of Mexico;

(ii) king mackerel under guidelines established by the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; and

(iii) sharks (all species, their hybrids and subspecies) under guidelines established by the Fishery Management Plan for Highly Migratory Species).

(C) When federal and/or state waters are closed, it will be unlawful to:

(i) purchase, barter, trade or sell finfish species listed in this paragraph landed in this state;

(ii) transfer at sea finfish species listed in this paragraph caught or possessed in the waters of this state; and

(iii) possess finfish species listed in this paragraph in excess of the current recreational bag or possession limit in or on the waters of this state.

(6) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Jeff Davis, Hudspeth, **Kinney**, Loving, Pecos, Presidio, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler counties, the only fishes that may be used or possessed for bait while fishing are common carp, fathead minnows, gizzard and threadfin shad, sunfish (*Lepomis*), goldfish, golden shiners, Mexican tetra, Rio Grande cichlid, and silversides (*Atherinidae* family).

(b) Bag, possession, and length limits.

(1) The possession limit does not apply to fish in the possession of or stored by a person who has an invoice or sales ticket showing the name and address of the seller, number of fish by species, date of the sale, and other information required on a sales ticket or invoice.

(2) There are no bag, possession, or length limits on game or non-game fish, except as provided in these rules.

(A) Possession limits are twice the daily bag limit on game and non-game fish except as provided in these rules.

(B) For flounder, the possession limit is the daily bag limit.

(C)[(B)] Statewide daily bag and length limits shall be as follows.

Species	Daily Bag	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	1	32	No limit
Bass: Largemouth, smallmouth, spotted and Guadalupe bass.	5 (in any combination)		
Largemouth and Smallmouth bass.		14	No limit
Bass, striped, its hybrids, and subspecies.	5 (in any combination)	18	No limit
Bass, white	25	10	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in any combination)	12	No limit
Catfish, flathead.	5	18	No limit
Catfish, gafftopsail.	No limit	14	No limit
Cobia.	2	37	No limit
Crappie: white and black crappie, their hybrids, and subspecies.	25 (in any combination)	10	No limit
Drum, black.	5	14	30_
<u>*Special Regulation: One black drum over 52 inches may be retained per day as part of the five-fish bag limit.</u>			
Drum, red.	3*	20	28*

*Special Regulation: During a license year, one red drum over the stated maximum length limit may be retained when affixed with a properly executed Red Drum Tag, a properly executed Exempt Red Drum Tag or with a properly executed Duplicate Exempt Red Drum Tag and one red drum over the stated maximum length limit may be retained when affixed with a properly executed Bonus Red Drum Tag. Any fish retained under authority of a Red Drum Tag, an Exempt Red Drum Tag, a Duplicate Exempt Red Drum Tag, or a Bonus Red Drum Tag may be retained in addition to the daily bag and possession limit as stated in this section.

Flounder: all species, their hybrids, and subspecies.	10*	14	No limit
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*Special Regulation: **The daily bag limit of 10 is the possession limit allowed for flounder for those fishing with a recreational license.** The daily bag and possession limit for the holder of a valid Commercial Finfish Fisherman's license is 60 flounder, except on board a licensed commercial shrimp boat.

Grouper, goliath.	0		
Mackerel, king.	2	27	No limit
Mackerel, Spanish.	15	14	No limit
Marlin, blue.	No limit	131	No limit
Marlin, white.	No limit	86	No limit
Mullet: all species, their hybrids, and subspecies.	No limit	No limit	*

*Special regulation: During the period October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel.

Sailfish	No limit	84	No limit
Saugeye	3	18	No limit
Seatrout, spotted.	10	15	25*

*Special Regulation: One spotted seatrout greater than 25 inches may be retained per day.

Shark: all species, their hybrids, and subspecies.	1	24	No limit
Sheepshead.	5	12	No limit

Snapper, lane.	No limit	8	No limit
Snapper, red.	4	15	No limit
Snapper, vermilion.	No limit	10	No limit
Snook.	1	24	28
Tarpon.	<u>1</u> [0]	<u>80</u>	<u>No limit</u> [Catch and release only*].
[*Special Regulation: One tarpon 80 inches in length or larger may be retained during a license year when affixed with a properly executed Tarpon Tag.]			
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in any combination)	No limit	No limit
<u>Tripletail.</u>	<u>3</u>	<u>17</u>	<u>No limit.</u>
Walleye.	5*	No limit	No limit
*Special regulation: Two walleye of less than 16 inches may be retained per day.			

(D)[(C)] Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(i) The following is a figure:

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass: largemouth, smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.			
Lake Texoma (Cooke and Grayson).	5 (in any combination)	14	
In all waters in the Lost Maples State Natural Area (Bandera)	0	No Limit	Catch and release only.
Bass: largemouth and smallmouth			
Lake Toledo Bend (Newton, Sabine and	8 (in any	14	Possession Limit is 10.

Shelby).	combination with spotted bass)		
Bass: largemouth.			
Conroe (Montgomery and Walker), Fort Phantom Hill (Jones), Granbury (Hood), Possum Kingdom (Palo Pinto, Stephens, Young), Proctor (Comanche), and Ratcliff (Houston).	5	16	
Lakes Aquilla (Hill) , Bellwood (Smith), Braunig (Bexar), Bright (Williamson), Brushy Creek (Williamson), Bryan (Brazos), Calaveras (Bexar), Casa Blanca (Webb), Cleburne State Park (Johnson), Cooper (Delta and Hopkins), Fairfield (Freestone), Gilmer (Upshur), Jacksonville (Cherokee), <u>Marine Creek Reservoir (Tarrant)</u> , Meridian State Park (Bosque), Old Mount Pleasant City (Titus), Pflugerville (Travis), Rusk State Park (Cherokee), and Welsh (Titus)	5	18	
Nelson Park Lake (Taylor) and Buck Lake (Kimble).	0	No Limit	Catch and release and only.
Lakes Alan Henry (Garza) and O.H. Ivie (Coleman, Concho, and Runnels).	5	No Limit	It is unlawful to retain more than two bass of less than 18 inches in length.
Purtis Creek State Park Lake (Henderson and Van Zandt), and Raven (Walker).	0	No Limit	Catch and release only except that any bass 21 inches or greater in length may be retained in a live well or other aerated holding device and immediately transported to the Purtis Creek or Huntsville State Park, or Gibbons Creek weigh stations. After weighing, the bass

			must be released immediately back into the lake or donated to the ShareLunker Program.
Lakes Bridgeport (Jack and Wise), Burke-Crenshaw (Harris), Caddo (Marion and Harrison), Davy Crockett (Fannin), Grapevine (Denton and Tarrant), Georgetown (Williamson), Madisonville (Madison), San Augustine City (San Augustine), and Sweetwater (Nolan)	5	14 - 18 Inch Slot Limit	It is unlawful to retain largemouth bass between 14 and 18 inches in length.
Lakes Athens (Henderson), Bastrop (Bastrop), Buescher State Park (Bastrop), Houston County (Houston), Joe Pool (Dallas, Ellis, and Tarrant), Mill Creek (Van Zandt), Murvaul (Panola), Nacogdoches (Nacogdoches), Pinkston (Shelby), Timpson (Shelby), Town (Travis), and Walter E. Long (Travis).	5	14 - 21 Inch Slot Limit	It is unlawful to retain largemouth bass between 14 and 21 inches in length. No more than 1 bass 21 inches or greater in length may be retained each day.
Lakes Fayette County (Fayette), Gibbons Creek Reservoir (Grimes), Monticello (Titus), and Ray Roberts (Cooke, Denton, and Grayson).	5	14 - 24 Inch Slot Limit	It is unlawful to retain largemouth bass between 14 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day.
Lake Fork (Wood, Rains and Hopkins)	5	16 - 24 Inch Slot Limit	It is unlawful to retain largemouth bass between 16 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day.
Bass: smallmouth.			
Lakes O. H. Ivie (Coleman, Concho, and Runnels), Alan Henry (Garza), and Devil's River (Val Verde) from State	3	18	

Highway 163 bridge crossing near Juno downstream to Dolan Falls.			
Lake Meredith (Hutchinson, Moore, and Potter).	3	12 - 15 Inch Slot Limit	It is unlawful to retain smallmouth bass between 12 and 15 inches in length.
Bass: spotted			
Lake Alan Henry (Garza)	3	18	
Lake Toledo Bend (Newton, Sabine and Shelby).	8 (in any combination with largemouth bass)	No Limit	Possession Limit is 10.
Bass: striped and white bass, their hybrids, and subspecies.			
Lake Toledo Bend (Newton, Sabine and Shelby).	5	No Limit	No more than 2 striped bass 30 inches or greater in length may be retained each day.
Lake Texoma (Cooke and Grayson).	10 (in any combination)	No Limit	No more than 2 striped or hybrid striped bass 20 inches or greater in length may be retained each day. Striped or hybrid striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released. Possession limit is 10.
Red River (Grayson) from Denison Dam downstream to and including Shawnee Creek (Grayson).	5 (in any combination)	No Limit	Striped bass caught and placed on a stringer, in a live well or any other holding device become part of

			the daily bag limit and may not be released.
Lake Possum Kingdom (Palo Pinto, Stephens, Young) and Trinity River (Polk and San Jacinto) from the Lake Livingston dam downstream to the F.M. Road 3278 bridge.	2 (in any combination)	18	
Bass: white			
Lakes Texoma (Cooke and Grayson) and Toledo Bend (Newton, Sabine, and Shelby).	25	No Limit	
Catfish: channel and blue catfish, their hybrids, and subspecies.			
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in any combination)	12	Possession limit is 50. The holder of a commercial fishing license may not retain channel or blue catfish less than 14 inches in length.
Trinity River (Polk and San Jacinto) from the Lake Livingston dam downstream to the F.M. Road 3278 bridge.	10 (in any combination)	12	No more than 2 channel or blue catfish 24 inches or greater in length may be retained each day.
Lake Texoma (Cooke and Grayson).	15 (in any combination)	12	
North Concho River (Tom Green) from O.C. Fisher Dam to Bell Street Dam, South Concho River (Tom Green) from Lone Wolf Dam to Bell Street Dam	5 (in any combination)	No limit	
Community fishing lakes	5 (in any combination)	No limit	
Bellwood (Smith), Dixieland (Cameron), and Tankersley (Titus).	5 (in any combination)	12	

Catfish: flathead			
Lake Texoma (Cooke and Grayson) and the Red River (Grayson) from Denison Dam to and including Shawnee Creek (Grayson).	5	20	
Crappie: black and white crappie, their hybrids and subspecies.			
Lake Toledo Bend (Newton, Sabine, and Shelby).	50 (in any combination)	10	Possession limit is 50. From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained.
Lake Fork (Wood, Rains, and Hopkins) and Lake O'The Pines (Camp, Harrison, Marion, Morris, and Upshur).	25 (in any combination)	10	From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained.
Lake Texoma (Cooke and Grayson).	37 (in any combination)	10	Possession limit is 50.
Drum, red.			
Lakes Braunig and Calaveras (Bexar), Coletto Creek Reservoir (Goliad and Victoria), Colorado City (Mitchell), Fairfield (Freestone), and Tradinghouse Creek (McLennan).	3	20	No maximum length limit.
Nasworthy (Tom Green)	No Limit	No Limit	
Shad: gizzard and threadfin shad.			
The Trinity River below Lake Livingston in Polk and San Jacinto Counties.	500 (in any combination)	No Limit	Possession Limit 1,000 in any combination.

Trout: Rainbow and brown trout, their hybrids, and subspecies.			
Guadalupe River (Comal) from the second bridge crossing on the River Road upstream to the easternmost bridge crossing on F.M. Road 306.	1	18	
Walleye.			
Lake Texoma (Cooke and Grayson).	5	18	

(ii) Bag and possession limits for black drum and sheepshead do not apply to the holder of a valid Commercial Finfish Fisherman's License.

(iii) Fish caught in federal waters in compliance with a federal fishery management plan may be landed in Texas.

(iv) The bag limit for a guided fishing party is equal to the total number of persons in the boat licensed to fish or otherwise exempt from holding a license minus each fishing guide and fishing guide deckhand multiplied by the bag limit for each species harvested.

(c) Devices, means and methods.

(1) In fresh water only, it is unlawful to fish with more than 100 hooks on all devices combined.

(2) Game and non-game fish may be taken by pole and line only in:

(A) community fishing lakes;

(B) sections of rivers lying totally within the boundaries of state

parks;

(C) Lake Pflugerville (Travis County);

(D) the North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam; and

(E) the South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam.

(3) It is unlawful to take, attempt to take, or possess fish caught in public waters of this state by any device, means, or method other than as authorized in this subsection.

(4) In salt water only, it is unlawful to fish with any device that is marked with a buoy made of a plastic bottle(s) of any color or size.

(5) Device restrictions.

(A) Cast net. It is unlawful to use a cast net exceeding 14 feet in diameter.

(i) Only non-game fish may be taken with a cast net.

(ii) In salt water, non-game fish may be taken for bait purposes only.

(B) Dip net.

(i) It is unlawful to use a dip net except:

(I) to aid in the landing of fish caught on other legal devices; and

(II) to take non-game fish.

(ii) In salt water, non-game fish may be taken for bait purposes only.

(C) Gaff.

(i) It is unlawful to use a gaff except to aid in landing fish caught by other legal devices, means or methods.

(ii) Fish landed with a gaff may not be below the minimum, above the maximum, or within a protected length limit.

(D) Gig. Only non-game fish may be taken with a gig.

(E) Jugline. For use in fresh water only. Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a jugline. It is unlawful to use a jugline:

(i) with invalid gear tags. Gear tags must be attached within six inches of the free-floating device, are valid for 30 days after the date set out, and must include the number of the permit to sell non-game fish taken from freshwater, if applicable;

(ii) for commercial purposes that is not marked with an orange free-floating device;

(iii) for non-commercial purposes that is not marked with a white free-floating device;

(iv) in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, and Tankersley Reservoir in Titus County.

(F) Lawful archery equipment. Only non-game fish, **channel catfish, blue catfish, and flathead catfish** may be taken with lawful archery equipment or crossbow.

(G) Minnow trap (fresh water and salt water).

(i) Only non-game fish may be taken with a minnow trap.

(ii) It is unlawful to use a minnow trap that exceeds 24 inches in length or with a throat larger than one by three inches.

(H) Perch traps. For use in salt water only.

(i) Perch traps may be used only for taking non-game fish.

(ii) It is unlawful to fish a perch trap that:

(I) exceeds 18 cubic feet in volume;

(II) is not equipped with a degradable panel. A trap shall be considered to have a degradable panel if one of the following methods is used in construction of the trap:

(-a-) the trap lid tie-down strap is secured to the trap by a loop of untreated jute twine (comparable to Lehigh brand #530) or sisal twine (comparable to Lehigh brand # 390). The trap lid must be secured so that when the twine degrades, the lid will no longer be securely closed; or

(-b-) the trap lid tie-down strap is secured to the trap by a loop of untreated steel wire with a diameter of no larger than 20 gauge. The trap lid must be secured so that when the wire degrades, the lid will no longer be securely closed; or

(-c-) the trap contains at least one sidewall, not including the bottom panel, with a rectangular opening no smaller than 3 inches by 6 inches. Any obstruction placed in this opening may not be secured in any manner except:

(-1-) it may be laced, sewn, or otherwise obstructed by a single length of untreated jute twine (comparable to Lehigh brand # 530) or sisal twine (comparable to Lehigh brand # 390) knotted only at each end and not tied or looped more than once around a single mesh bar. When the twine degrades, the opening in the sidewall of the trap will no longer be obstructed; or

(-2-) it may be laced, sewn, or otherwise obstructed by a single length of untreated steel wire with a diameter of no larger than 20 gauge. When the wire degrades, the opening in the sidewall of the trap will no longer be obstructed; or

(-3-) the obstruction may be loosely hinged at the bottom of the opening by no more than two untreated steel hog rings and secured at the top of the obstruction in no more than one place by a single length of untreated jute twine (comparable to Lehigh brand # 530), sisal twine (comparable to Lehigh brand # 390), or by a single length of untreated steel wire with a diameter of no larger than 20 gauge. When the twine or wire degrades, the obstruction will hinge downward and the opening in the sidewall of the trap will no longer be obstructed.

(III) that is not marked with a floating visible orange buoy not less than six inches in height and six inches in width. The buoy must have a gear tag attached. Gear tags are valid for 30 days after date set out.

(I) Pole and line.

(i) Game and non-game fish may be taken by pole and line. It is unlawful to take or attempt to take fish with one or more hooks attached to a line or artificial lure used in a manner to foul-hook a fish (snagging or jerking). A fish is foul-hooked when caught by a hook in an area other than the fish's mouth.

(ii) Game and nongame fish may be taken by pole and line. It is unlawful to take fish with a hand-operated device held underwater except that a spear gun and spear may be used to take nongame fish.

(iii) Game and non-game fish may be taken by pole and line, except that in the Guadalupe River in Comal County from the second bridge crossing on River Road upstream to the easternmost bridge crossing on F.M. Road 306, rainbow and brown trout may not be retained when taken by any method except artificial lures. Artificial lures cannot contain or have attached either whole or portions, living or dead, of organisms such as fish, crayfish, insects (grubs, larvae, or adults), or worms, or any other animal or vegetable material, or synthetic scented materials. This does not prohibit the use of artificial lures that contain components of hair or feathers. It is an offense to possess rainbow and brown trout while fishing with any other device in that part of the Guadalupe River defined in this paragraph.

(J) Purse seine (net).

(i) Purse seines may be used only for taking menhaden, only from that portion of the Gulf of Mexico within the jurisdiction of this state extending from one-half mile offshore to nine nautical miles offshore, and only during the period of time beginning the third Monday in April through the first day in November each year.

(ii) Purse seines used for taking menhaden may not be used within one mile of any jetty or pass.

(iii) The purse seine, not including the bag, shall not be less than three-fourths inch square mesh.

(K) Sail line. For use in salt water only.

(i) Non-game fish, red drum, spotted seatrout, and sharks may be taken with a sail line.

(ii) Line length shall not exceed 1,800 feet from the reel to the sail.

(iii) The sail and most shoreward float must be a highly visible orange or red color. All other floats must be yellow.

(iv) No float on the line may be more than 200 feet from the sail.

(v) A weight of not less than one ounce shall be attached to the line not less than four feet or more than six feet shoreward of the last shoreward float.

(vi) Reflectors of not less than two square inches shall be affixed to the sail and floats and shall be visible from all directions for sail lines operated from 30 minutes after sunset to 30 minutes before sunrise.

(vii) There is no hook spacing requirement for sail lines.

(viii) No more than one sail line may be used per fisherman.

(ix) Sail lines may not be used by the holder of a commercial fishing license.

(x) Sail lines must be attended at all times the line is fishing.

(xi) Sail lines may not have more than 30 hooks and no hook may be placed more than 200 feet from the sail.

(L) Seine.

(i) Only non-game fish may be taken with a seine.

(ii) It is unlawful to use a seine:

(I) which is not manually operated.

(II) with mesh exceeding 1/2-inch square.

(III) that exceeds 20 feet in length.

(iii) In salt water, non-game fish may be taken by seine for bait purposes only.

(M) Shad trawl. For use in fresh water only.

(i) Only non-game fish may be taken with a shad trawl.

(ii) It is unlawful to use a shad trawl longer than six feet or with a mouth larger than 36 inches in diameter.

(iii) A shad trawl may be equipped with a funnel or throat and must be towed by boat or by hand.

(N) Spear. Only non-game fish may be taken with a spear.

(O) Spear gun. Only non-game fish may be taken with spear gun.

(P) Throwline. For use in fresh water only.

(i) Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a throwline.

(ii) It is unlawful to use a throwline in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County,

Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, and Tankersley Reservoir in Titus County.

(Q) Trotline.

(i) Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken by trotline.

(ii) It is unlawful to use a trotline:

(I) with a mainline length exceeding 600 feet;

(II) with invalid gear tags. Gear tags must be attached within three feet of the first hook at each end of the trotline and are valid for 30 days after date set out, except on saltwater trotlines, a gear tag is not required to be dated;

(III) with hook interval less than three horizontal feet;

(IV) with metallic stakes; or

(V) with the main fishing line and attached hooks and stagings above the water's surface.

(iii) In fresh water, it is unlawful to use a trotline:

(I) with more than 50 hooks;

(II) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Lakes Coffee Mill and Davy Crockett in Fannin County, Fayette County Reservoir in Fayette County, Pinkston Reservoir in Shelby County, Lake Bryan in Brazos County, Bellwood Lake in Smith County, Dixieland Reservoir in Cameron County, Boerne City Park Lake in Kendall County, and Tankersley Reservoir in Titus County.

(iv) In salt water:

(I) it is unlawful to use a trotline:

(-a-) in or on the waters of the Gulf of Mexico within the jurisdiction of this state;

(-b-) from which red drum, sharks or spotted seatrout caught on the trotline are retained or possessed;

(-c-) placed closer than 50 feet from any other trotline, or set within 200 feet of the edge of the Intracoastal Waterway or its tributary channels. No trotline may be fished with the main fishing line and attached hooks and stagings above the water's surface;

(-d-) baited with other than natural bait, except sail lines;

(-e-) with hooks other than circle-type hook with point curved in and having a gap (distance from point to shank) of no more than one-half inch, and with the diameter of the circle not less than five-eighths inch. Sail lines are excluded from the restrictions imposed by this clause; or

(-f-) in Aransas County in Little Bay and the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to a point at the east end of Talley Island, including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(II) No trotline or trotline components, including lines

and hooks, but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday through 1:00 p.m. on Sunday of each week, except that attended sail lines are excluded from the restrictions imposed by this clause. Under the authority of the Texas Parks and Wildlife Code, §66.206(b), in the event small craft advisories or higher marine weather advisories issued by the National Weather Service are in place at 8:00 a.m. on Friday, trotlines may remain in the water until 6:00 p.m. on Friday. If small craft advisories are in place at 1:00 p.m. on Friday, trotlines may remain in the water until Saturday. When small craft advisories are lifted by 8:00 a.m. on Saturday, trotlines must be removed by 1:00 p.m. on Saturday. When small craft advisories are lifted by 1:00 p.m. on Saturday, trotlines must be removed by 6:00 p.m. on Saturday. When small craft advisories or higher marine weather advisories are still in place at 1:00 p.m. on Saturday, trotlines may remain in the water through 1:00 p.m. on Sunday. It is a violation to tend, bait, or harvest fish or any other aquatic life from trotlines during the period that trotline removal requirements are suspended under this provision for adverse weather conditions. For purposes of enforcement, the geographic area customarily covered by marine weather advisories will be delineated by department policy.

(III) It is unlawful to fish for commercial purposes with:

(-a-) more than 20 trotlines at one time;

(-b-) any trotline that is not marked with yellow flagging attached to stakes or with a floating yellow buoy not less than six inches in height, six inches in length, and six inches in width attached to end fixtures;

(-c-) any trotline that is not marked with yellow flagging attached to stakes or with a yellow buoy bearing the commercial finfish fisherman's license plate number in letters of a contrasting color at least two inches high attached to end fixtures;

(-d-) any trotline that is marked with yellow flagging or with a buoy bearing a commercial finfish fisherman's license plate number other than the commercial finfish fisherman's license plate number displayed on the finfish fishing boat;

(IV) It is unlawful to fish for non-commercial purposes with:

(-a-) more than 1 trotline at any time; or

(-b-) any trotline that is not marked with a floating yellow buoy not less than six inches in height, six inches in length, and six inches in width, bearing a two-inch wide stripe of contrasting color, attached to end fixtures.

(R) Umbrella net.

(i) Only non-game fish may be taken with an umbrella net.

(ii) It is unlawful to use an umbrella net with the area within the frame exceeding 16 square feet.

§65.82. Other Aquatic Life.

(a) It is unlawful for a person to knowingly take, kill, or disturb sea turtles or sea turtle eggs in or from the waters of the State of Texas.

(b) There is no open season on porpoises, dolphins (mammals), ~~and~~ whales, **or sawfishes (*Pristis perotteti*)**.

(c) It is unlawful for any person to take or kill shell-bearing mollusks, hermit crabs, starfish, or sea urchins from November 1 through April 30 within the following

boundary: the bay and pass sides of South Padre Island from the East end of the north jetty at Brazos Santiago Pass to the West end of West Marisol drive in the town of South Padre Island, out 1,000 yards from the mean high-tide line, and bounded to the south by the centerline of the Brazos Santiago Pass.

(d) It is unlawful for any person to take, kill, or possess more than 15 univalve snails (all species), to include no more than two of each of the following species: lightning whelk, horse conch, Florida fighting conch, pear whelk, banded tulip, and Florida rocksnail.

(e) Any other aquatic life (except threatened and endangered species) not addressed in this subchapter may be taken only by hand or with the devices defined as lawful for taking fish, crabs, oysters, or shrimp in places and at times as provided by proclamations of the Parks and Wildlife Commission and the Parks and Wildlife Code.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on