

TEXAS PARKS AND WILDLIFE DEPARTMENT

EXECUTIVE DIRECTOR ORDER NO. 016-002

Under the provisions of Parks and Wildlife Code, §12.027, if the Texas Parks and Wildlife Commission (the Commission) or the Executive Director of the Texas Parks and Wildlife Department (the Department) finds that there is an immediate danger to a species authorized to be regulated by the Department, the Commission or the Executive Director may adopt emergency rules as provided by Government Code, §2001.034.

White-tailed deer and mule deer are game animals subject to regulation by the Commission under the provisions of various chapters of the Parks and Wildlife Code, including Chapters 43 (Subchapters E, L, R, and R-1), 61, 62, and 63. Chronic Wasting Disease (CWD) is a transmissible, fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer and mule deer.

On October 5, 2015, the Executive Director found that the discovery of CWD in two Texas deer breeding facilities regulated under Parks and Wildlife Code, Chapter 43, Subchapter L and regulations adopted pursuant to that subchapter (31 TAC Chapter 65, Subchapter T) created an immediate danger to the white-tailed deer and mule deer resources of Texas and that the adoption of emergency rules with fewer than 30 days' notice was necessary to address the immediate danger by limiting potential impacts to native cervids as a result of permits issued by the department for the trap, transport, and transplanting of game animals and game birds ("Triple T" permits), the trap, transport and processing of surplus deer ("TTP" permits); and deer management permits (DMP). The emergency adoption was published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7305, 7307)

The department subsequently proposed an interim DMP rule to replace the emergency DMP rule; the proposed rule was published in the December 18, 2015 issue of the *Texas Register* (40 TexReg 9086). The adoption of the interim DMP rule was approved by the Commission in a duly noticed meeting on January 21, 2016. The interim DMP rule will replace the emergency DMP rule and the emergency DMP rule will be withdrawn simultaneously upon the effectiveness of the interim rule; however, the interim rule will not take effect prior to the February 1, 2016 expiration date of the initial 120-day period of effectiveness for the emergency rule. Under the provisions of Government Code, §2001.034, a state agency may extend the effectiveness of an emergency rule for an additional 60 days. An extension of the emergency rules is necessary to continue their effectiveness until the adoption of the interim rules can be filed and take effect, which will take place prior to the expiration of the 60-day extension. Therefore, the entirety of the 60-day extension will not be necessary.

Similarly, the emergency Triple T rule adopted on October 5, 2015 and published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7307) also will expire on February 1, 2016 unless extended. To ensure that the rule remains in effect until the expiration of the current Triple T permit year (March 31, 2016), the effectiveness of the emergency Triple T rule also must be extended for an additional 60 days.

Therefore, finding that the immediate danger of CWD to native deer continues to exist, the Executive Director hereby ORDERS a 60-day extension of 31 TAC §§65.94 and 65.95. This order is effective immediately upon filing, and authorizes publication of a Notice of Extension of Emergency Adoption in the *Texas Register*.

This order is issued pursuant to §12.027 of the Texas Parks and Wildlife Code and §2001.034 of the Texas Government Code and is effective immediately.

Signed this the 28th day of January, 2016.

A handwritten signature in black ink, appearing to read "Carter Smith". The signature is fluid and cursive, with a large, sweeping initial "C".

Carter Smith
Executive Director
Texas Parks and Wildlife Department