

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 174. INDIGENT DEFENSE

POLICIES AND STANDARDS

SUBCHAPTER B. CONTRACT DEFENDER PROGRAM REQUIREMENTS

DIVISION 2. APPLICATION OF STANDARDS AND CONTRACTING PROCEDURES

1 TAC §174.11

The Texas Indigent Defense Commission (Commission) is a permanent Standing Committee of the Texas Judicial Council. The Commission proposes an amendment to §174.11, concerning Contract Defender Program Requirements.

EXPLANATION OF PROPOSED AMENDMENT

The proposed amendment to §174.11 would require the court or courts to specify the maximum annual appointed caseloads or workloads for contract defender programs of one week or less in the indigent defense plan. The amendment is proposed because the Commission finds recurring short-term contracts, often called term assignment systems, to a small number of attorneys lead to an uneven distribution of appointments among available attorneys, as well as excessive caseloads. This proposed amendment is intended to reduce excessive attorney caseloads and lead to a fairer distribution of appointments.

FISCAL NOTE

Mr. Scott Ehlers, Executive Director, Texas Indigent Defense Commission, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the sections will have no fiscal impact on state or local governments.

PUBLIC BENEFIT AND COSTS

Mr. Ehlers has determined that for each of the first five-year period the amendment is in effect the public benefit will be an improvement in the indigent defense services by helping the Commission assure the requirements of federal and state law related to indigent defense are followed. There are no anticipated economic costs to persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Ehlers has determined that for each year of the first five years in which the proposed amendments are in effect, the amendment will have the following effect on government growth. The proposed amendment will not create or eliminate any government programs or employee positions. Additionally, the proposed amendment will not require an increase or decrease in future legislative appropriations to the Commission or change any fees paid to the Commission. The proposed amendment does not create a new regulation. The proposed amendment expands certain existing regulations, including by providing that courts that have attorneys providing legal representation to indigent defendants under contract periods of one week or less shall set a maximum annual caseload or workload for such attorneys. The proposed amendments would not repeal any rules, nor increase or decrease the number of individuals subject to the applicability of the rules. The proposed amendment is not anticipated to affect this state's economy.

SUBMITTAL OF COMMENTS

Comments on the proposed amendment may be submitted in writing to Wesley Shackelford, Deputy Director, Texas Indigent Defense Commission, 209 West 14th Street, Room 202, Austin, Texas 78701 or by email to wshackelford@tidc.texas.gov no later than 30 days from the date that the proposed amendment is published in the *Texas Register*.

STATUTORY AUTHORITY

The amendment is proposed under the Texas Government Code §79.034(a-1)(8), which authorizes the Commission to develop policies and standards for providing legal representation to indigent defendants under a contract defender program.

No other statutes, articles, or codes are affected by the proposed amendments.

§174.11. Application of Subchapter.

This subchapter applies to all contract defender programs in which legal representation is provided for a period of more than one week. Contract defender programs for terms of one week or less are governed by the alternative appointment programs provisions in Article 26.04(g)-(h) and subject to §174.28(c)(5) related to the distribution of appointments in assigned counsel systems. In a county or counties with a contract defender program of one week or less in duration, the countywide procedures adopted under Art. 26.04(a), Code of Criminal Procedure, shall set the maximum annual number of appointed cases or workload for each attorney at the applicable offense level (felony, misdemeanor, juvenile). This subchapter does not apply to public defender or managed assigned counsel programs established and governed by Chapter 26, Code of Criminal Procedure.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 30, 2025.

TRD-202502179

Wesley Shackelford

Deputy Director

Texas Judicial Council

Earliest possible date of adoption: August 17, 2025

For further information, please call: (512) 936-6994



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

31 TAC §53.5

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §53.5, concerning Recreational Hunting Licenses, Stamps, and Tags General Rules. The proposed amendment would comport the agency's rules regarding license types to reflect the enactment of Senate Bill 1247 by the most recent session of the Texas Legislature. Senate Bill 1247 amended Parks and Wildlife Code, Chapter 42, to eliminate three types of nonresident hunting licenses (the nonresident special hunting license, the nonresident spring turkey hunting license, and the nonresident banded bird hunting license), retitle the general nonresident hunting license as the nonresident general hunting license, and add alligators to the species that may be lawfully taken under that license.

The proposed amendment also would eliminate subsection (a)(3)(B) to comport the section with other rules that establish provisions for digital license products offered by the department and make a nonsubstantive grammatical change in subsection (a)(9).

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to the department as a result of administering the rule, as the proposed amendment is simply a housekeeping measure to reflect legislative action.

There will be no fiscal implications to other units of state or local government.

There will be no effect on persons required to comply with the rule as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be accurate regulations with respect to nonresident hunting licenses.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a

proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule as proposed does not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rule.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

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

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 rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation or expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Shaun Oldenburger (Small Game Program Director) at (512) 389-4778, email: shaun.oldenburger@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendment is proposed under the provisions of Senate Bill 1247, enacted by the 89th Texas Legislature (RS), which eliminated the nonresident special hunting license, the nonresident spring turkey hunting license, and the nonresident banded bird hunting license.

The proposed amendment affects Parks and Wildlife Code, Chapter 42.

§53.5. *Recreational Hunting Licenses, Stamps, and Tags.*

(a) Hunting Licenses:

(1) - (2) (No change.)

(3) youth hunting--\$7.

[(A)] Valid for any person under 17 years of age on the date of license purchase.

[(B)] This license is available in a digital version that does not include the license log or the physical license tags found on the physical license.]

(4) nonresident general [general nonresident] hunting--\$315;

[(5) nonresident special hunting--\$132;]

(5) [(6)] nonresident five-day [special] hunting--\$48;

[(7) nonresident spring turkey hunting--\$126;]

[(8) nonresident banded bird hunting--\$27; and]

(6) [(9)] Texas resident active-duty [active duty] military hunting package--\$0. Package consists of a resident hunting license, an upland game bird stamp, a migratory game bird stamp, an archery stamp.

(b) - (d) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 7, 2025.

TRD-202502254

James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



CHAPTER 65. WILDLIFE

SUBCHAPTER F. PERMITS FOR AERIAL MANAGEMENT OF WILDLIFE AND EXOTIC SPECIES

31 TAC §§65.151, 65.152, 65.154, 65.160

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §§65.151, 65.152, 65.154, and 65.160, concerning Permits for Aerial Management of Wildlife and Exotic Species. The proposed amendments would comport existing rules governing the take of wildlife and exotic animals from aircraft to reflect the provisions of Senate Bill (S.B.) 1245, enacted by the most recent session of the Texas Legislature. Senate Bill 1245 amended Parks and Wildlife Code, Chapter 43, Subchapter G, to allow a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department. The proposed amendments make additional alterations to reflect the digital proof of authorization for Subagents, clarifications of various provisions intended to emphasize unlawful use of aircraft for purposes other than those provided by law, disposition of wildlife and exotic animals killed under a permit under the subchapter, and records verification for permit renewals.

Under federal law (16 U.S.C. §742j-1, commonly referred to as the Airborne Hunting Act, or AHA) it is unlawful to shoot or attempt to shoot or intentionally harass any bird, fish, or other animal from aircraft except for certain specified reasons, including protection of wildlife, livestock, and human health. Under Parks and Wildlife Code, §43.109, the Parks and Wildlife Commission (Commission) is authorized to promulgate regulations governing the management of wildlife and exotic animals by the use of aircraft.

The proposed amendment to §65.151, concerning Definitions, adds "aoudad sheep" where necessary to make the provisions of the subchapter functional with respect to the management of

aoudad sheep by means of aircraft. Such changes are made throughout the rules as necessary.

The proposed amendment to §65.152, concerning General Rules, would alter current subsection (c)(2) to accommodate digital as well as physical proof of Subagent authorization, which is necessary to streamline procedures for status verification. Additionally, the proposed amendment would add new subsection (c)(4) to make clear that although a landowner may act as a gunner during AMP activities, it can only occur if the landowner has not provided or offered any direct financial consideration, remuneration, or exchange of anything of value in return authorizing AMP activities on that person's property. The provision would apply to the take of coyotes and feral hogs as well, and is necessary to make abundantly clear that AMP activities authorized by the department must be consistent with provisions of federal law that prohibit sport hunting from aircraft. For similar reasons, the proposed amendment would insert the term "landowner" in subsection (d) to ensure that the word "person," as it is used in the subchapter, includes landowners.

The proposed amendment to §65.152 also would alter subsection (d)(5) to clarify that the provisions of the paragraph apply to landowners and not to anyone else, which is necessary to avoid confusion, and provide clarification that the edible parts of animals and the hides may be retained and sold following take, if not prohibited by other law, which is necessary because other provisions of the proposed rules would prohibit the retention of aoudad sheep horns. The proposed amendment also would reiterate provisions regarding financial benefits, for reasons discussed earlier in this preamble, and expressly prohibit the retentions of horns and/or antlers from animals taken under an AMP. As stressed throughout this preamble, the department endeavors to remain consistent with federal law that prohibits the use of aircraft for recreational or sport hunting. The retention of trophies, such as horns or antlers, following AMP activities, is inappropriate because such trophies are mere memorializations without rational connection to legitimate population management.

The amendment to §65.154, concerning Issuance of Permit; Amendment and Renewal, would add new subsection (b) to make abundantly clear that the department will not issue an AMP for the purpose of locating or recovering animals wounded or taken by from the ground by hunters. Again, the department wishes to emphasize the desire to be consistent with federal law regarding the management of wildlife and exotic species by means of aircraft. The proposed amendment also alters current subsection (d) to preserve subject-verb agreement and grammatical parallelism.

The proposed amendment to §65.160, concerning Landowner Authorization (LOA), would add new subsection (c) to stipulate that the department will not process an application for permit renewal until the applicant has certified in writing, using a form or method approved by the department, that all information concerning current LOAs associated with the permit for which the permittee is seeking renewal is accurate, including all required georeference data.

Accurate records re LOAs are important because AMP activities are restricted to specific properties and are invalid without the approval of the current landowner or agent and there are obvious sensitivities involving nearby and neighboring properties, necessitating that the department have accurate, current information with respect to all LOAs that a particular permittee is involved with. The department has repeatedly encountered dif-

difficulties with permittees who do not maintain accurate records with respect to LOAs and seeks to remedy that difficulty by requiring the acknowledgment of the accuracy of LOAs in writing as a condition of permit renewal. The proposed amendment also eliminates unnecessary capitalization.

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 no fiscal implications to state government as a result of enforcing or administering the rules as proposed.

There will be no effect on persons required to comply with the rules as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the effective oversight of persons authorized to manage wildlife and exotic species from aircraft and the benefits for public resources occurring as a result of sound management activities.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules affect a permit that privileges individual persons to manage wildlife and exotic species and therefore do not directly affect small businesses, micro-businesses, or rural communities. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the rules. On this basis, the department has a determined that neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

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

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

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.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation, but will expand an existing regulation (by allowing the take of aoudad sheep from aircraft

under a department-issued permit); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Kory Gann, Big Game Program Director, at (512) 389-4363, email: kory.gann@tpwd.texas.gov, or via the department website at www.tpwd.texas.gov.

The amendments are proposed under the provisions of Senate Bill (S.B.) 1245, enacted by the 89th Texas Legislature (R.S.), which allows a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department, and Parks and Wildlife Code, Chapter 43, Subchapter G, which provides the commission with authority to make regulations governing the management of wildlife or exotic animals by the use of aircraft, including forms and procedures for permit applications; procedures for the management of wildlife or exotic animals by the use of aircraft; limitations on the time and the place for which a permit is valid; establishment of prohibited acts; rules to require, limit, or prohibit any activity as necessary to implement Parks and Wildlife Code, Chapter 43, Subchapter G.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapter G.

§65.151. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (11) (No change.)

(12) Subagent--A person designated by an Agent to act as a gunner for the purpose of taking of feral hogs, aoudad sheep, or coyotes.

(13) (No change.)

§65.152. General Rules.

(a) - (b) (No change.)

(c) It is lawful for a person who holds an AMP to contract with a qualified Landowner, Agent, or Subagent to act as a gunner the taking of depredating feral hogs, aoudad sheep, or coyotes from a helicopter, provided:

(1) (No change.)

(2) a department-approved Subagent authorization ~~[form]~~ has been properly executed and ~~[is in the physical possession of]~~ the Subagent is in possession of physical or digital evidence of such authorization during all AMP activities in which the Subagent participates; ~~[and]~~

(3) the AMP holder possesses a valid, properly executed LOA; and ~~[:]~~

(4) no direct financial consideration, remuneration, or exchange of anything of value is offered or given to a landowner or landowner's authorized agent for authorizing AMP activities on the landowner's property.

(d) A person (which includes a landowner, pilot, applicant, gunner, observer, or Subagent) commits an offense if that person:

(1) ~~[the person]~~ counts, photographs, relocates, captures, hunts, or takes or attempts to count, photograph, relocate, capture,

hunt, or take from an aircraft any wildlife or exotic animals other than wildlife or exotic animals authorized by the AMP and LOA;

(2) ~~[the person]~~ intentionally harasses any wildlife or exotic animals by the use of an aircraft other than wildlife or exotic animals authorized in an AMP and LOA;

(3) ~~[the person]~~ participates in the take or attempted take of any wildlife or exotic animal other than depredating feral hogs or coyotes without having on his or her person a valid hunting license issued by the department;

(4) ~~[the person]~~ pilots an aircraft to manage wildlife or exotic animals without a valid pilot's license as required by the FAA;

(5) ~~[the person]~~ pays, barter, or exchanges anything of value to a landowner to participate as a gunner, observer, or Subagent except as may be otherwise provided in this subchapter;

(6) ~~is [the person]~~ acting as a gunner or pilot under an AMP and takes or attempts to take any wildlife or exotic animals for any purpose other than is necessary to protect or to aid in the administration of lands, water, wildlife, livestock, domesticated animals, human life, or crops, except that ~~hides and edible parts of [any]~~ wildlife or exotic animals~~;~~ ~~onee~~ lawfully taken pursuant to this subchapter may be sold if their sale is not otherwise prohibited;

(7) ~~[the person]~~ acting as a gunner or pilot takes or attempts to take wildlife or exotic animals during the hours between 1/2-hour after sunset and 1/2-hour before sunrise;

(8) ~~[the person]~~ operates an aircraft for the management of wildlife or exotic animals and is not named as an authorized pilot by an AMP;

(9) ~~[the person]~~ takes, kills, captures, or attempts to take, kill, or capture more wildlife or exotic animals on properties than are specified in the LOA;

(10) ~~[the person]~~ uses an AMP for the purpose of sport hunting;

(11) ~~[the person]~~ is engaging in AMP activities and pilots an aircraft over land for which the person has not received written permission to overfly, except as is necessary to gain initial access to the land described in the LOA prior to commencing AMP activities and to leave following the conclusion of AMP activities; ~~or~~

(12) solicits, requests, or receives a direct financial consideration for authorizing AMP activities on a property;

(13) offers or gives direct financial consideration to a landowner for authorizing AMP activities on the landowner's property;

(14) retains or possesses any horns or antlers of any wildlife or exotic animal taken under an AMP; or

(15) [(12)] [the person] otherwise violates a provision of this subchapter.

(e) - (g) (No change.)

(h) The department will not approve an LOA for the take of feral hogs or aoudad sheep on a tract of land where feral hogs or aoudad sheep have been released or liberated by or with the approval of the Landowner or Agent for the purpose of being hunted.

§65.154. *Issuance of Permit; Amendment and Renewal.*

(a) (No change.)

(b) The department will not issue an AMP for the purpose of locating or recovering wildlife or exotic animals wounded or taken from the ground.

(c) ~~[(b)]~~ The permit shall include the following information:

(1) - (4) (No change.)

(d) ~~[(e)]~~ The department may amend an AMP following the completion and submission of a form provided by the department. An application for amendment is subject to the same issuance criteria as the original application for an AMP.

(e) ~~[(d)]~~ No person who has been finally convicted of, pleaded nolo contendere to, received deferred adjudication for, or has been assessed an administrative penalty for an offense listed in this section may act or contract to act as a gunner for an AMP holder.

(f) ~~[(e)]~~ An AMP is not transferable or assignable.

§65.160. *Landowner Authorization (LOA).*

(a) - (b) (No change.)

(c) The department will not process an application for permit renewal until the applicant has certified in writing, using a form or method approved by the department, that all information concerning current LOAs associated with the permit for which the permittee is seeking renewal is accurate, including all required georeference data.

(d) ~~[(e)]~~ A single LOA form may be submitted by a group of landowners ~~[Landowners]~~ or by an association on behalf of such landowners. The LOA form shall have attached a list of participating landowner names, ranch names, addresses, acreage, and a georeferenced map (a map image incorporating a system of geographic ground coordinates, such as latitude/longitude or UTM coordinates) showing the exact boundaries of each property for each participating Landowner. The LOA may be signed by one authorized Agent who represents the group of landowners or an association.

(e) ~~[(d)]~~ The landowner ~~[Landowner]~~ or the landowner's agent ~~[Landowner's Agent]~~ shall ensure that information included in the LOA is true and correct prior to executing an authorization.

(f) ~~[(e)]~~ An expedited LOA may be obtained solely for the purpose of preventing the depredation of livestock, with the prior written approval of a game warden assigned to the county where the prospective management of wildlife or exotic animals is to be performed, or that warden's immediate or second-line supervisor, following submission to the game warden (or supervisor) of:

(1) - (2) (No change.)

(g) ~~[(f)]~~ Upon approval by the game warden (or supervisor), the AMP holder may conduct the authorized activities, but must, within 72 hours of completion of the activities authorized under the expedited LOA, complete and submit a LOA application to the department via the department's online system.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TRD-202502252

James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775

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