

November 1, 2010

**TO USERS OF TEXAS PARKS AND WILDLIFE DEPARTMENT
REGULATIONS:**

The Texas Parks and Wildlife Commission has changed existing rules and/or adopted new rules.

Please make the changes noted below to your copy of the TEXAS PARKS AND WILDLIFE REGULATIONS booklet. Please use the numbers at the bottom center of the pages for proper sequencing.

REMOVE the following:

- (1) Current Table of Contents
- (2) Current OGT Rules (13.1- 13.3)
- (3) Current Statewide Recreational and Commercial Fishing Proclamation (71.3.1 - 71.3.2)
- (4) Current State Parks Proclamation (75.1 - 75.14)
- (5) Current Statewide Shrimping Proclamation (90.1 - 90.75)
- (6) Current Migratory Game Bird Proclamation (125.1 - 125.16)

INSERT the following:

- (1) New Table of Contents (11/01/10)
- (2) Amended OGT Rules (13.1 - 13.3)
- (3) Amended Statewide Recreational and Commercial Fishing Proclamation (57.1-57.52)
- (4) New State Parks Proclamation (75.1-75.10)
- (5) Amended Statewide Shrimping Proclamation (90.1 - 90.75)
- (6) Amended Migratory Game Bird Proclamation (125.1 - 125.17)

Sincerely,



David Sinclair
Chief of Staff
Fisheries, Wildlife and Marine Enforcement



PARKS AND WILDLIFE PROCLAMATIONS



Issued Under the Authority of the
Texas Parks and Wildlife Code

Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744



PARKS AND WILDLIFE PROCLAMATIONS

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OPERATION GAME THIEF FUND

1. Introduction.

The Operation Game Thief Committee adopts amendments to §§55.111-55.113 and 55.116, concerning Operation Game Thief (OGT), without changes to the proposed text as published in the March 19, 2010, issue of the Texas Register (35 TexReg 2284).

2. Justification for the Rules.

Operation Game Thief is a type of crime-stopper program designed to encourage the public to assist the Texas Parks and Wildlife Department (TPWD) in enforcing conservation laws by reporting unlawful conduct. Created in 1981 by the 67th Texas Legislature, the program offers rewards of up to \$1,000 for information leading to the arrest and conviction of persons who commit crimes involving wildlife resources. The program also provides supplemental benefits to the families of department peace officers killed in the line of duty. The program is privately funded but administered by the Operation Game Thief Committee under the provisions of Parks and Wildlife Code, Chapter 12, Subchapter C.

The amendments provide for a more expedited method of disbursing death benefits to families of peace officers killed in the line of duty, clarify the definition of "in the line of duty," provide for a more efficient method of approving routine expenditures to enhance program delivery and administration, incorporate legislative changes that retroactively affect death-benefit disbursements, and make additional nonsubstantive, housekeeping-type changes.

The amendment to §55.111, concerning Definitions, alters paragraph (3) to clarify that the OGT coordinator also serves as the secretary for the OGT committee. Under Parks and Wildlife Code, §12.202(a), the executive director (the director) of the Texas Parks and Wildlife Department (the department) or his or her designee is required to serve as the secretary to the committee. The change is necessary to clarify that the secretary and the coordinator are the same person. The amendment also alters paragraph (6) to provide that the term "director" includes any person designated by the director to act for the director. The amendment is necessary to eliminate awkward sentence construction throughout the rules. The amendment also alters paragraph (8) to clarify that eligibility for reward is contingent upon arrest and conviction with respect to an eligible violation. The amendment to paragraph (11) updates the definition for "line of duty" The 81st Texas Legislature enacted Senate Bill 872, amending Government Code, Chapter 615, which governs the provision of financial assistance to eligible survivors of certain public servants killed in the line of duty. Senate Bill 872 amended the

definition of "line of duty" in Government Code, §615.021(e)(2) to include an action performed as part of a training program the individual is required or authorized by rule, condition of employment, or law to undertake. The amendment is necessary to be consistent with current statutory law.

The amendment to §55.112, concerning Donations and Disbursements, eliminates references to the "designee" of the director, for reasons already identified in the discussion of the amendment to §55.111(6). The amendment also alters subsection (d) to remove a statement concerning approval of rewards and death benefits by the committee; to replace the requirement for approval of the chairman of the committee of all disbursements in excess of \$500 with a requirement that the chairman be notified in writing of all such disbursements; and, to make a grammatical change in the interest of clarity. The statement regarding the approval of rewards and death benefits by the chairman of the committee is unnecessary because it is redundant. Parks and Wildlife Code, §12.202(c), already stipulates that four members of the committee must approve disbursement of rewards or death benefits; therefore, the current provision is unnecessary. The amendment also requires the notification of the chairman of the committee of all disbursements in excess of \$500. The current rule requires the chairman of the committee to approve all disbursements other than rewards and death benefits. The OGT program is a round-the-clock program that incurs many expenses throughout the year. Since the OGT committee meets only twice per year under normal circumstances, it is therefore problematic to condition disbursements on the prior approval of the chairman. Therefore, it is necessary to provide for a mechanism that preserves oversight while providing operational flexibility. The change requires the notification of the chairman of all disbursements in excess of \$500, which will allow for the smooth day-to-day operation of the OGT program while keeping the chairman of the committee informed. The amendment also makes grammatical changes to improve the readability of subsection (c) and to remove a reference to a telephone service that no longer exists.

The amendment to §55.113, concerning Reporting Violations; Eligibility of Applicant, nonsubstantively alters subsection (f) to enhance readability. The current provision is a run-on sentence that it is difficult to understand.

The amendment to §55.116, concerning Death Benefits: Payment, makes nonsubstantive changes regarding capitalization of titles and provides that the provisions of the subsection apply retroactively to October 1, 2008. Senate Bill 872 also amended Government Code, §615.081, which allows eligible survivors of peace officers killed in the line of duty to retroactively apply for benefits provided or created as a consequence of S.B. 872 for line-of-duty deaths occurring after 1993. The only instance of the death of a department peace officer that would be affected

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by S.B. 872 occurred in 2008. The amendment is necessary to comply with the provisions of statutory law.

3. Additional Information.

The full text of this rulemaking (including complete justification for the rules, a detailed description of the changes, and responses to public comment) can be found online at the Texas Register (www.sos.state.tx.us).

4. Statutory Authority.

The amendments are adopted under Parks and Wildlife Code, §12.201, which authorizes the Operation Game Thief Committee to adopt rules for the implementation of the Operation Game Thief program and maintenance of the Operation Game Thief fund.



OPERATION GAME THIEF FUND

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

- (1) Chairman--Chairman of the Operation Game Thief Committee.
 - (2) Committee--The Operation Game Thief Committee.
 - (3) Coordinator--The staff member appointed by the director to coordinate the operation game thief program. The coordinator is also the secretary of the committee.
 - (4) Death benefits--A monetary amount determined by the committee and paid to an eligible recipient.
 - (5) Department--The Texas Parks and Wildlife Department.
 - (6) Director--The executive director of the Parks and Wildlife Department or his or her designee.
 - (7) Donation--Something of value, negotiable or convertible, and shall include, but not be limited to, currency, stocks, bonds, or property, whether real or personal.
 - (8) Eligible applicant--A person making application for a reward for furnishing information to the department which leads to an arrest and conviction for an eligible violation.
 - (9) Eligible recipient--The individual(s) designated as the deceased department peace officer's beneficiary of benefits on records maintained by the Employees Retirement System of Texas.
 - (10) Information--Specific information of a violation furnished to the department that leads to the arrest and conviction of the violator.
 - (11) Line of duty--As defined by Government Code, §615.021.
 - (12) Operation game thief fund--Monies collected and deposited in a special fund outside the state treasury.
 - (13) Reward--A monetary amount determined by the committee and disbursed to an eligible applicant.
- Effective 08/04/2010*

§55.112. Donations and Disbursements.

- (a) The director shall develop procedures for the acceptance, conversion, and deposit of all donations offered by individuals, clubs, or other organizations.
- (b) Conversion of donations of real or personal property into United States currency shall be accomplished by the director.
- (c) Donations received shall be deposited by the director in interest-bearing accounts (operation game thief fund) insured by the Federal Deposit Insurance

Corporation or invested in United States Treasury bills and bonds or certificates of deposit at the best available yields.

(d) The chairman shall be notified in writing of any disbursement in excess of \$500. A disbursement under this subsection may include but is not limited to promotional costs to enhance the fund. All donations may be used for these purposes unless otherwise specifically prohibited by the donor. All disbursements from accounts will be by check signed by the director. The committee will be furnished an annual report detailing all expenditures from the fund.

Effective 08/04/2010

§55.113. Reporting Violations; Eligibility of Applicant.

(a) No person other than a person furnishing information to the department that leads to the arrest and conviction of a person for committing a violation of a statute listed in Parks and Wildlife Code, §12.203, or a regulation adopted under any of those statutes may be eligible for receiving a reward.

(b) A person shall be eligible for receiving a reward if information required in subsection (a) of this section is forwarded to a designated office established by the department for the reporting of such information, or to a game warden employed by the department, provided the person seeking eligibility for a reward thereafter forwards the information, as soon as practicable, to the designated office established by the department for the reporting of such information.

(c) The designated office defined in subsection (b) of this section shall provide:

(1) employees on duty 24 hours a day;

(2) a toll-free telephone number for use by the public for reporting violations; and

(3) assignment of a specific operation game thief report code number for persons reporting a violation.

(d) A person furnishing information required by subsection (a) of this section to a game warden employed by the department, but who does not as soon as is practicable thereafter report the information to the office established by the department for the reporting of such information, may apply in writing to the committee for a reward to be paid from the Operation Game Thief Fund. The request may then be considered in the same manner as other applications for award.

(e) The director shall prescribe the documentation to be furnished to substantiate the information provided.

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(f) Informants may be identified either by name, address and telephone number or may request an anonymous code number which shall be used in lieu of applicant's name in all subsequent transactions with the informant.

Effective 08/04/2010

§55.114. Rewards: Payment.

(a) The amount of reward granted to eligible applicants may not exceed \$1,000 and shall be determined on an individual basis by the coordinator, with the approval of the Director of Law Enforcement according to the degree of flagrancy of each violation.

(b) In the event two or more eligible applicants furnish information pertaining to a specific flagrant violation, the reward may be divided among the eligible applicants in an amount determined by the coordinator with the approval of the Director of Law Enforcement.

(c) At each meeting the committee shall review all disbursements of rewards made by the coordinator since the last committee meeting and may increase the amount of any reward paid or approve additional rewards.

Effective 02/07/2006

§55.115. Limitations: Unclaimed Rewards.

(a) Rewards granted to eligible applicants that remain unclaimed for a period of two years from the date granted and approved by the committee shall be terminated and the money returned to the fund.

(b) A request from an eligible applicant for a reward that has been terminated may be resubmitted to the committee for consideration of reinstatement at the next scheduled committee meeting.

Effective 06/15/1988

§55.116. Death Benefits: Payment.

(a) The amount of a death benefit payment granted to an eligible recipient shall be \$25,000 and payment processing will be initiated by the coordinator, with the approval of the director of the Law Enforcement Division and the chairman, to occur within 15 working days after the death occurs.

(b) At each meeting, the committee shall review all disbursements of death benefits made by the coordinator since the last committee meeting and may increase the amount of any death benefit or approve additional death benefits.

(c) This section applies to any death occurring on or after October 1, 2008.

Effective 08/04/2010



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FISHING PROCLAMATIONS**

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STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATIONS

1. Introduction.

The Texas Parks and Wildlife Commission adopts the repeal of §57.994, concerning Individual Fishing Quota (IFQ) and new §57.994, concerning Individual Fishing Quota (IFQ), without changes to the proposed text as published in the July 16, 2010, issue of the Texas Register (35 TexReg 6280).

2. Justification for the Rule.

The repeal and new rule eliminate the repetition of federal rule language regarding the Individual Fishing Quota and instead adopt the provisions of 50 CFR §§622.16 and 622.20 by reference.

The IFQ is a federal regulatory program governing the commercial harvest of certain species of fish in federal waters. Federal rules require a federal permit and a federal Individual Fishing Quota (IFQ) vessel endorsement for the harvest of Gulf of Mexico reef fish. The IFQ is an allocation of a percentage of the total allowable harvest to individuals engaged in commercial fishing for certain species in federal waters, who in turn must comply with certain documentation and reporting requirements. Until recently, federal IFQ rules impacted Texas only with respect to the commercial harvest of red snapper; however recent federal action amended 50 CFR Part 622, Subpart B to extend the applicability of federal IFQ rules to include additional species in the Gulf of Mexico (gulf groupers and tilefish). The final rule was published in the Federal Register on March 1, 2010 (75 FR 9116) and took effect on March 31, 2010. The new rule is necessary to allow enforcement of these requirements in state as well as federal jurisdiction and to insure that fish landed in Texas are landed in compliance with federal limits.

3. Additional Information.

The full text of this rulemaking (including complete justification for the rules, a detailed description of the changes, and responses to public comment) can be found online at the Texas Register (www.sos.state.tx.us).

4. Statutory Authority.

The repeal and new rule are adopted under Parks and Wildlife Code, §67.004, which requires the commission to establish any limits on the taking,

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possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish that the department considers necessary to manage the species.

GENERAL PROVISIONS

§57.970. Application and Delegation of Authority.

(a) This subchapter applies to:

- (1) all persons and activities governed under the applicable provisions of Parks and Wildlife Code;
- (2) all aquatic animal life, except otherwise provided; and
- (3) all aquatic life caught in the Exclusive Economic Zone (EEZ) and landed in this state for a recreational or commercial purpose.

(b) The executive director may, after notifying the Chairman of the Commission, adopt, repeal, or modify state coastal fisheries regulations in order to provide for consistency with federal regulations in the EEZ.

Effective June 27, 2010

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

(1) 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.

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

(3) Bait--Something used to lure any aquatic wildlife resource.

(4) Cast net--A net which can be hand-thrown over an area.

(5) Charter Vessel--A vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

(6) Circle hook--A hook originally designed and manufactured so that the point of the hook is turned perpendicularly back toward the shank of the hook to form a generally circular or oval shape.

(7) Coastal waters boundary--All public waters east and south of the following boundary are considered saltwater: 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

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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,

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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.

(8) 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.

(9) Crab line--A baited line with no hook attached.

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

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

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

(13) Final processing--The cleaning of a dead wildlife resource for cooking or storage purposes.

(14) 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.

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

(16) 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.

(17) Fish species names--The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of "Common and Scientific Names of Fishes from The United States, Canada and Mexico."

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

(19) 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.

(20) 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.

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

(22) 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.

(23) Gig--Any hand-held shaft with single or multiple points.

(24) Headboat--A vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

(25) Inside waters--All bays, inlets, outlets, passes, rivers, streams, and other bodies of water landward from the shoreline of the state along the Gulf of Mexico and contiguous to, or connected with, but not a part of, the Gulf of Mexico and within which the tide regularly rises and falls.

(26) Jug line--A fishing line with five or less hooks tied to a free-floating device.

(27) Lawful archery equipment--Longbow, recurved bow, and compound bow.

(28) License year--The period of time for which an annual fishing license is valid.

(29) 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.

(30) Paddle craft--Any non-motorized vessel.

(31) Paddle-craft fishing guide--A person who, for compensation, accompanies, assists, or transports a person or persons by means of a non-motorized vessel engaged in fishing in the coastal waters of this state.

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(32) Permanent residence--One's domicile. 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.

(33) Pole and line--A line with hook, attached to a pole. This gear includes rod and reel.

(34) Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(35) 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.

(36) 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.

(37) 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.

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

(39) Spear--Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not include arrows.

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

(41) 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.

(42) Trap--A rigid device of various designs and dimensions used to entrap aquatic life.

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

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

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

(46) Wildlife resources--For the purposes of this subchapter, all aquatic animal life.

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§57.972. General Rules.

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

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

(c) The bag and possession limits set forth in this subchapter do not apply to the possession or landing of fish lawfully raised under an offshore aquaculture permit issued under Chapter 57, Subchapter C of this title (relating to Introduction of Fish, Shellfish, and Aquatic Plants).

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

(e) 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).

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

(g) It is unlawful:

(1) for any person to take or attempt to take fish by any means, or at any time or place, other than as permitted under this subchapter;

(2) for any person to possess fish within a protected length limit or in greater numbers than as permitted under this subchapter;

(3) for any person, 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;

(4) for any person 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;

(5) for any person to use game fish or any part thereof as bait, except for processed catfish heads used as crab-trap bait by a licensed crab fisherman, provided the catfish is obtained from an aquaculture facility permitted to operate in the United States. A person who uses catfish as bait under this paragraph shall, upon the request of a department employee acting within the scope of official duties, furnish appropriate authenticating documentation, such as a bill of sale or receipt, to prove that the catfish was obtained from a legal source;

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(6) for any person to possess a finfish of any species, except broadbill swordfish, shark or king mackerel, taken from public water (salt water or fresh 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;

(7) for any person to use any vessel to harass fish;

(8) for any person 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;

(9) for any person to knowingly take, kill, or disturb sea turtles or sea turtle eggs in or from the waters of the State of Texas;

(10) for any person to knowingly take or possess a diamondback terrapin (*Malaclemys terrapin*) or their eggs unless the person is authorized to do so under a permit issued under Chapter 69, Subchapter J of this title (relating to Scientific, Educational, and Zoological Permits);

(11) 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;

(12) 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: lightening whelk, horse conch, Florida fighting conch, pear whelk, banded tulip, and Florida rocksnail; or

(13) for any person to:

(A) purchase or use more finfish (red drum) 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) use the same finfish tag for the purpose of tagging more than one finfish;

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

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

(E) 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;

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

(G) 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 saltwater stamp holder;

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

(I) 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.

Effective June 27, 2010

§57.973. Devices, Means and Methods.

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

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

(1) community fishing lakes; however, on community fishing lakes that are not within or part of a state park, no person may employ more than two devices (i.e. poles or lines) at the same time;

(2) sections of rivers lying totally within the boundaries of state parks;

(3) Lake Pflugerville (Travis County);

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

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

(c) 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 subchapter.

(d) 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.

(e) 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 the Parks and Wildlife Commission and regulations adopted by the Parks and Wildlife Code.

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(f) Device restrictions. Devices legally used for taking fresh or saltwater fish or shrimp may be used to take crab as authorized by this subchapter.

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

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

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

(2) Crab line. It is unlawful to fish a crab line for commercial purposes that is not marked with a floating white buoy not less than six inches in height, six inches in length and six inches in width bearing the commercial crab fisherman's license plate number in letters of a contrasting color at least two inches high attached to the end fixtures.

(3) Crab trap. It is unlawful to:

(A) fish for commercial purposes under authority of a commercial crab fisherman's license with more than 200 crab traps at one time;

(B) fish for commercial purposes under authority of a commercial finfish fisherman's license with more than 20 crab traps at one time;

(C) fish for non-commercial purposes with more than six crab traps at one time;

(D) fish a crab trap in the fresh waters of this state;

(E) fish a crab trap that:

(i) exceeds 18 cubic feet in volume;

(ii) is not equipped with at least two escape vents (minimum 2-3/8 inches inside diameter) in each crab-retaining chamber, and located on the outside trap walls of each chamber; and

(iii) 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:

(I) 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

(II) 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

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(III) 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:

(-a-) 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

(-b-) 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

(-c-) 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;

(F) fish a crab trap for commercial purposes under authority of a commercial crab fisherman's license:

(i) that is not marked with a floating white buoy not less than six inches in height, six inches in length, and six inches in width attached to the crab trap;

(ii) that is not marked with a white buoy bearing the commercial crab fisherman's license plate number in letters of a contrasting color at least two inches high attached to the crab trap;

(iii) that is marked with a buoy bearing a commercial crab fisherman's license plate number other than the commercial crab fisherman's license plate number displayed on the crab fishing boat;

(G) fish a crab trap for commercial purposes under authority of a commercial finfish fisherman's license:

(i) that is not marked with a floating white buoy not less than six inches in height, six inches in length, and six inches in width attached to the crab trap;

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(ii) that is not marked with a white buoy bearing the letter 'F' and the commercial finfish fisherman's license plate number in letters of a contrasting color at least two inches high attached to the crab trap;

(iii) that is marked 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;

(H) fish a crab trap for non-commercial purposes without a floating white buoy not less than six inches in height, six inches in length, and six inches in width, bearing a two-inch wide center stripe of contrasting color, attached to the crab trap;

(I) fish a crab trap in public salt waters without a valid gear tag. Gear tags must be attached within 6 inches of the buoy and are valid for 30 days after date set out;

(J) fish a crab trap within 200 feet of a marked navigable channel in Aransas County; and in 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 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 or possess, use or place more than three crab traps in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County;

(K) remove crab traps from the water or remove crabs from crab traps during the period from 30 minutes after sunset to 30 minutes before sunrise;

(L) place a crab trap or portion thereof closer than 100 feet from any other crab trap, except when traps are secured to a pier or dock;

(M) fish a crab trap in public waters that is marked with a buoy made of a plastic bottle(s) of any color or size; or

(N) use or place more than three crab traps in public waters of the San Bernard River north of a line marked by the boat access channel at Bernard Acres.

(4) Dip net.

(A) 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.

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

(5) Folding panel trap.

(A) Only crabs may be taken with a folding panel trap.

(B) It is unlawful to use a folding panel trap with an overall surface area, including panels, exceeding 16 square feet.

(6) Gaff.

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

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

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

(8) 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:

(A) 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 fresh water, if applicable;

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

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

(D) 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.

(9) Lawful archery equipment. Only non-game fish may be taken with lawful archery equipment or crossbow.

(10) Minnow trap (fresh water and salt water). It is unlawful to use a minnow trap in salt water that is not equipped with a gear tag. A gear tag is valid for 30 days after the date it is set out.

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

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

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

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

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

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(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:

(I) 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

(II) 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

(III) 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:

(-a-) 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

(-b-) 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

(-c-) 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.

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(12) Pole and line.

(A) 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.

(B) Game and non-game 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 non-game fish.

(C) 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.

(13) Purse seine (net).

(A) 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.

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

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

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

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

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

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

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

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(E) 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.

(F) 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.

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

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

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

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

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

(15) Sand pump. It is unlawful for any person to use a sand pump:

(A) that is not manually operated; or

(B) for commercial purposes.

(16) Seine.

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

(B) It is unlawful to use a seine:

(i) which is not manually operated;

(ii) with mesh exceeding 1/2-inch square; or

(ii) that exceeds 20 feet in length.

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

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

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

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

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

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

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

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

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

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(B) 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.

(21) Trotline.

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

(B) 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.

(C) 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.

(D) In salt water:

(i) it is unlawful to use a trotline:

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

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

(III) 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;

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

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(V) 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

(VI) 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 1:00 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 smallcraft 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:

(I) more than 20 trotlines at one time;

(II) any trotline that is not marked with yellow flagging attached to stakes or with a floating yellow buoy not less than six

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inches in height, six inches in length, and six inches in width attached to end fixtures;

(III) 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;

(IV) 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:

(I) more than 1 trotline at any time; or

(II) 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.

(22) Umbrella net.

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

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

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§57.974. Reservoir Boundaries. Reservoir boundaries for daily bag, possession, and length limits.

(1) Buchanan Reservoir in Burnet, Lampasas, Llano and San Saba counties comprises all impounded waters of the Colorado River from Lake Buchanan dam upstream to the U.S. Highway 190 bridge.

(2) Caddo Lake in Marion and Harrison counties comprises all impounded waters of Big Cypress Bayou from the Texas-Louisiana border upstream to the State Highway 43 bridge.

(3) Canyon Reservoir in Comal County comprises all impounded waters of the Guadalupe River from the Canyon dam upstream to the U.S. Highway 281 bridge.

(4) Cooper Lake in Delta and Hopkins counties comprises all waters within the Corps of Engineers lands on Cooper Lake upstream from State Highway 19/154 and downstream from F.M. Road 71.

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(5) Gibbons Creek Reservoir in Grimes County comprises all impounded waters within the Texas Municipal Power Agency property boundaries.

(6) Inks Lake in Burnet and Llano counties comprises all impounded waters of the Colorado River from the Roy Inks dam (Inks Lake dam) upstream to the Lake Buchanan dam.

(7) Lake Conroe in Montgomery and Walker counties comprises all impounded waters of the West Fork of the San Jacinto River from the Lake Conroe dam upstream to F.M. Road 1790 bridge.

(8) Lake Georgetown in Williamson County comprises all impounded waters of the North Fork of the San Gabriel River from the Lake Georgetown dam upstream to U.S. Highway 183 bridge.

(9) Lake Limestone in Leon, Limestone, and Robertson counties comprises all impounded waters of the Navasota River from the Lake Limestone dam upstream to the Fort Parker State Park Lake dam.

(10) Lake Livingston in Leon, Houston, Madison, Polk, San Jacinto, Trinity, and Walker counties comprises all impounded waters of the Trinity River from the Lake Livingston dam upstream to the lock and dam near State Highway 7.

(11) Lake Lyndon B. Johnson in Burnet and Llano counties comprises all impounded waters of the Colorado River from the Alvin Wirtz Dam (Lake Lyndon B. Johnson dam) upstream to the Roy Inks dam (Inks Lake dam) including the Llano River upstream to the State Highway 16 bridge and Sandy Creek upstream to the State Highway 71 bridge.

(12) Lake Marble Falls in Burnet County comprises all impounded waters of the Colorado River from the Max Starcke dam (Lake Marble Falls dam) upstream to the Alvin Wirtz dam (Lake Lyndon B. Johnson dam).

(13) Lake Murvaul in Panola County comprises all impounded waters of Murvaul Creek Bayou upstream from the Lake Murvaul dam and Murvaul Creek Bayou downstream from the dam to the Farm to Market Road 1970 bridge.

(14) Lake O'the Pines in Camp, Marion, Morris, and Upshur Counties comprises all impounded waters of Big Cypress Creek from Ferrell's Bridge dam (the Lake O'the Pines dam) upstream to the U.S. Highway 259 bridge.

(15) Lake Palestine in Anderson, Cherokee, Henderson, Smith, and Van Zandt counties comprises all impounded waters of the Neches River

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from the Blackburn Crossing dam (the Lake Palestine dam) upstream to F.M. Road 279 bridge including Kickapoo and Flat Creeks in Henderson County.

(16) Lake Pat Mayse in Lamar County comprises all impounded waters of Sanders Creek from Pat Mayse Lake Dam upstream to County Road 35610.

(17) Lake Somerville in Burleson, Lee, Milam, and Washington Counties comprises all impounded waters of Yegua, East Yegua, and Middle Yegua Creeks upstream from the Lake Somerville dam.

(18) Lake Travis in Burnet and Travis Counties comprises all impounded waters of the Colorado River from the Mansfield dam (Lake Travis dam) upstream to the Max Starcke dam (Lake Marble Falls dam) including the Pedernales River upstream to the Hammetts Crossing-Hamilton Pool Road bridge.

(19) Purtis Creek State Park Lake in Henderson and Van Zandt Counties comprises all waters within the Purtis Creek State Park boundaries.

(20) Toledo Bend Reservoir in Newton, Sabine, and Shelby counties comprises all impounded waters of the Sabine River from the Toledo Bend Reservoir Dam to the U.S. Highway 84.

Effective June 27, 2010

§57.975. Freeze Event Closures.

(a) Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) Affected area--an area of coastal water where fishing from the bank is possible and where game fish are known or expected to take refuge from cold weather conditions.

(2) Freeze--a period of cold weather that begins when the air temperature drops to or below 32 degrees Fahrenheit and creates a risk of depletion of one or more game fish species.

(b) The Executive Director shall provide appropriate notice to the public that a freeze has occurred and fishing in the affected area or areas is prohibited. The Executive Director shall provide appropriate public notice as to when fishing in the affected area or areas is allowed to resume.

(c) No person shall fish with a hook and line, pole and line, or throwline in an affected area during a freeze after the Executive Director has given notice to the public that a freeze has occurred and fishing in the affected area is prohibited and before the Executive Director gives notice that fishing may resume.

Effective June 27, 2010

§57.976. Possession of Wildlife Resource; Importation.

(a) Possession of wildlife resource. A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the wildlife resource is accompanied by a wildlife resource document from the person who killed or caught the aquatic resource. An wildlife resource may be possessed without a WRD by the person who took the wildlife resource, provided the person is in compliance with all other applicable provisions of this subchapter and the Parks and Wildlife Code. The properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence and is finally processed. The wildlife resource document must contain the following information:

(1) the name, signature, address, and fishing license number, as required, of the person who killed or caught the wildlife resource;

(2) the name of the person receiving the wildlife resource;

(3) a description of the wildlife resource (number and type of species or parts);

(4) the date the wildlife resource was killed or caught; and

(5) the location where the wildlife resource was killed or caught (name of ranch; area; lake, bay or stream; and county).

(b) Importation.

(1) No person may import into this state or possess an aquatic wildlife resource taken outside this state, unless the person possessing the aquatic wildlife resource produces upon demand by a game warden a valid fishing, or other applicable license, stamp, tag, permit, or document for the state or country in which the wildlife resource was legally taken.

(2) A person possessing a wildlife resource under this section must produce upon demand by a game warden a valid driver's license or personal identification certificate.

(3) Any person may possess a wildlife resource killed outside this state that is listed in this state as threatened or endangered, provided the person possesses proof that the animal or bird was lawfully killed.

Effective June 27, 2010

§57.977. Violations and Penalties. The penalties for a violation of this subchapter are prescribed by the Parks and Wildlife Code.

Effective June 27, 2010

STATEWIDE RECREATIONAL FISHING PROCLAMATION

§57.980. Application. The provisions of this division apply to any person who:

(1) engages in an activity for which a recreational fishing license is required by Parks and Wildlife Code, Chapter 46; or

(2) who is exempt from the license requirement under the provisions of Parks and Wildlife Code, Chapter 46.

Effective June 27, 2010

§57.981. Bag, Possession, and Length Limits.

(a) 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.

(b) There are no bag, possession, or length limits on game or non-game fish, except as provided in this subchapter.

(1) Possession limits are twice the daily bag limit on game and non-game fish except as otherwise provided in this subchapter.

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

(3) 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.

(4) Except as provided in subsection (c) of this section, the statewide daily bag and length limits shall be as follows.

Species	Daily Bag	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	1	34	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	5 (in any combination)	18	No limit

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subspecies.			
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*
*Special Regulation: One black drum over 52 inches may be retained per day as part of the five-fish bag limit.			
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.	5*	14	No limit
*Special Regulation: During the month of November, lawful means are restricted to pole-and-line only and the bag and possession limit for flounder is two.			
Gar, alligator*	1	No limit	No limit
*Special Regulation: Between May 1 and May 31 no person shall take alligator gar in that portion of Lake Texoma encompassed within the boundaries of the			

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Hagerman National Wildlife Refuge or that portion of Lake Texoma from the U.S. 377 bridge (Willis Bridge) upstream to the IH 35 bridge.			
Grouper, gag	2	4	37
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 other than Atlantic sharpnose, blacktip, and bonnethead sharks.	1	64*	No limit
Atlantic sharpnose, blacktip, and bonnethead sharks.	1	24	No limit
*Special Regulation: The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time: Atlantic angel, Basking, Bigeye sand tiger, Bigeye sixgill, Bigeye thresher, Bignose, Caribbean reef, Caribbean sharpnose, Dusky, Galapagos, Longfin mako, Narrowtooth, Night, Sandbar, Sand tiger, Sevengill, Silky, Sixgill, Smalltail,			

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Whale, and White.			
Sheepshead.	5	15	No limit
Snapper, lane.	No limit	8	No limit
Snapper, red.	4*	15	No limit
*Special Regulation: Red snapper may be taken using pole and line, but it is unlawful to use any kind of hook other than a circle hook.			
Snapper, vermillion.	No limit	10	No limit
Snook.	1	22	28
Tarpon.	1	85	No limit
Triggerfish, gray.	20	16	No limit
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in any combination)	No limit	No limit
Tripletail.	3	17	No limit
Walleye.	5*	No limit	No limit
*Special regulation: Two walleye of less than 16 inches may be retained per day.			

(c) Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(1) Freshwater species.

Species and Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass: largemouth, smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.			
In all waters in the Lost Maples State Natural Area (Bandera).	0	No limit	Catch and release only.
Bass: largemouth and smallmouth.			

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Lake Toledo Bend (Newton, Sabine and Shelby).	8 (in any combination with spotted bass)	14	Possession limit is 10.
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	
Lake Nacogdoches (Nacogdoches).	5		It is unlawful to retain largemouth bass of 16 inches or greater in length. Largemouth bass 24 inches or greater in length may be retained in a live well or other aerated holding device for purposes of weighing, but may not be removed from the immediate vicinity of the lake. After weighing, the bass must be released immediately back into the lake unless the department has instructed that the bass be kept for donation to the ShareLunker Program.
Lakes Aquilla (Hill) Bellwood (Smith), Braunig (Bexar), Bright (Williamson), Brushy Creek (Williamson), Bryan (Brazos), Calaveras (Bexar), Casa Blanca	5	18	

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(Webb), Cleburne State Park (Johnson), Cooper (Delta and Hopkins), Fairfield (Freestone), Gilmer (Upshur), Jacksonville (Cherokee), Marine Creek Reservoir (Tarrant), Meridian State Park (Bosque), Old Mount Pleasant City (Titus), Pflugerville (Travis), Rusk State Park (Cherokee), and Welsh (Titus).			
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 24 inches or greater in length may be retained in a live well or other aerated holding device for purposes of weighing, but may not be removed from the immediate vicinity of the lake. After weighing, the bass must be released immediately back into the lake unless the department has instructed that the bass be kept for donation to the ShareLunker Program.
Lakes Bridgeport (Jack and Wise), Burke-Crenshaw (Harris), Caddo	5	14 - 18 inch Slot limit	It is unlawful to retain largemouth bass between 14 and 18 inches in length.

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(Marion and Harrison), Davy Crockett (Fannin) Grapevine (Denton and Tarrant), Georgetown (Williamson), Madisonville (Madison), San Augustine City (San Augustine), and Sweetwater (Nolan).			
Lakes Athens (Henderson), Bastrop (Bastrop), Buescher State Park (Bastrop), Houston County (Houston), Joe Pool (Dallas, Ellis, and Tarrant), Mill Creek (Van Zandt), Murvaul (Panola), 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), and Monticello (Titus).	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		18	

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(Val Verde) from State 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 20.
Red River (Grayson) from	5 (in any	No limit	Striped bass caught and

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Denison Dam downstream to and including Shawnee Creek (Grayson).	combination)		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	
Carp: common.			
Lady Bird Lake (Travis).	No limit	No limit	It is unlawful to retain more than one common carp of 33 inches or longer per day.
Catfish: blue.			
Lakes Lewisville (Denton), Richland-Chambers (Freestone and Navarro), and Waco (McLennan).	25 (in any combination with channel catfish)	30-45-inch slot limit	It is unlawful to retain blue catfish between 30 and 45 inches in length. No more than one blue catfish 45 inches or greater in length may be retained each day.
Catfish: channel and blue catfish, their hybrids, and subspecies.			
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in any combination)	12	
Trinity River (Polk and	10 (in any	12	No more than 2 channel or

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San Jacinto) from the Lake Livingston dam downstream to the F.M. Road 3278 bridge.	combination)		blue catfish 24 inches or greater in length may be retained each day.
Lake Texoma (Cooke and Grayson).	15 (in any combination)	12	No more than one blue catfish 30 inches or greater in length may be retained each day.
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

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			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), Coleta Creek Reservoir (Goliad and Victoria), Fairfield (Freestone), and Tradinghouse Creek (McLennan).	3	20	No maximum length limit.
Shad, gizzard and threadfin.			
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	

(2) Saltwater species.

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Species	Daily Bag	Minimum Length (Inches)	Special Regulation
Seatrout, spotted.	5*	15	25**
All inside waters of the Lower Laguna Madre south of marker 21.			
*Special Regulation: The daily bag limit of 5 is the possession limit allowed for spotted seatrout.			
**Special Regulation: One spotted seatrout greater than 25 inches may be retained per day.			

Effective June 27, 2010

§57.982. Crabs and Ghost Shrimp.

(a) It is unlawful while fishing on public waters to have in possession crabs or ghost shrimp in excess of the daily bag limit as established for those waters.

(b) There are no bag, possession, or size limits on crabs or ghost shrimp except as provided in this subchapter.

(c) It is unlawful to:

- (1) possess egg-bearing (sponge) crabs or stone crabs;
- (2) possess blue crabs less than five inches in width (measured across the widest point of the body from tip of spine to tip of spine) except that not more than 5.0%, by number, of undersized crabs may be possessed for bait purposes only, if placed in a separate container at the time of taking;
- (3) remove or possess the left claw from a stone crab (each retained claw must be at least 2-1/2 inches long as measured from the tip of the immovable claw to the first joint behind the claw);

(4) fail to return immediately a stone crab to the waters where caught;

(5) buy or sell a female crab that has its abdominal apron detached; or

(6) possess more than 20 ghost shrimp (*Callinectes islagrande*, formerly *Callinassa islagrande*) per person.

(d) It is unlawful to place, fish, or leave a crab trap or crab trap component in the coastal waters of the state from the third Friday in February for 10 consecutive days.

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(e) There are no places closed for the taking of crabs except as provided in this subchapter.

Effective June 27, 2010

STATEWIDE COMMERCIAL FISHING PROCLAMATION

§57.990. Applicability. The provisions of this division apply to any person who engages in an activity for which a commercial fishing license is required by statute or this subchapter.

Effective June 27, 2010

§57.991. Commercial Fishing Seasons.

(a) The commercial seasons for finfish species listed in this section 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:

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

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

(3) 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 is unlawful to:

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

(2) transfer at sea finfish species listed in this section caught or possessed in the waters of this state; or

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

Effective June 27, 2010

§57.992. Bag, Possession, and Length Limits.

(a) 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.

(b) There are no bag, possession, or length limits on game or non-game fish, except as otherwise provided in this subchapter.

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(1) Possession limits are twice the daily bag limit on game and non-game fish except as provided in this subchapter.

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

(3) 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.

(4) The statewide daily bag and length limits for commercial fishing shall be as follows.

Species and Location	Daily Bag	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	1	34	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in any combination)*	14	No limit
* Special Regulation: In Lake Livingston (Polk, San Jacinto, Trinity, and Walker counties), the daily bag limit for channel and blue catfish is 50 in any combination. In lakes lying totally within a state park and community fishing lakes, the daily bag limit for channel and blue catfish is five in any combination.			
Catfish, gafftopsail.	No limit	14	No limit
Cobia.	2	37	No limit
Drum, black.	5	14	30*
*Special Regulations: The bag and possession limits for black drum do not apply to the holder of a valid Commercial Finfish Fisherman's License.			
Flounder: all species, their hybrids, and subspecies.	30*	14	No limit
*Special Regulation: The daily bag and possession limit for the holder of a valid Commercial Finfish Fisherman's license is 30 flounder, except on board a licensed commercial shrimp boat. During the month of November, lawful means are restricted to pole-and-line only and the bag and possession limit for flounder is two.			
Gar, alligator*	1	No limit	No limit
*Special Regulation: Between May 1 and May 31 no person shall take alligator			

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gar in that portion of Lake Texoma encompassed within the boundaries of the Hagerman National Wildlife Refuge or that portion of Lake Texoma from the U.S. 377 bridge (Willis Bridge) upstream to the IH 35 bridge.			
Grouper, gag	2	4	37
Grouper, goliath	0		
Mackerel, king.	2	27	No limit
Mackerel, Spanish.	15	14	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.			
Shad: gizzard and threadfin	No limit	No limit	No limit*
* In the Trinity River below Lake Livingston in Polk and San Jacinto counties, the daily bag for shad is 500 and the possession limit is 1,000 fish in any combination.			
Shark: all species, their hybrids, and subspecies other than Atlantic sharpnose, blacktip, and bonnethead sharks.	1	64*	No limit
Atlantic sharpnose, blacktip, and bonnethead sharks.	1	24	No limit
*Special Regulation: The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time: Atlantic angel, Basking, Bigeye sand tiger, Bigeye sixgill, Bigeye thresher, Bignose, Caribbean reef, Caribbean sharpnose, Dusky, Galapagos, Longfin mako, Narrowtooth, Night, Sandbar, Sand tiger, Sevengill, Silky, Sixgill, Smalltail, Whale, and White.			
Sheepshead.	5*	15*	No limit
*Special Regulation: The bag and possession limits for black drum and sheepshead do not apply to the holder of a valid Commercial Finfish Fisherman's License.			
Snapper, lane.	No limit	8	No limit

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Snapper, red.	4*	15	No limit
*Special Regulation: Red snapper may be taken using pole and line, but it is unlawful to use any kind of hook other than a circle hook.			
Snapper, vermilion.	No limit	10	No limit
Triggerfish, gray	20	16	No limit
Tripletail.	3	17	No limit

Effective June 27, 2010

§57.993. Commercial Harvest Report.

(a) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(1) Applicable license--a general commercial fishermen's license, a commercial finfish fishermen's license, commercial shrimp boat captain's license, commercial crab fishermen's license, commercial oyster boat captain's license, individual bait dealer's license, or commercial vessel owner's license; and

(2) Reportable activity--means each instance in which an aquatic product taken under an applicable license is transferred to another person for purposes of sale or processing or holding for eventual sale.

(b) Except as provided in subsection (e) of this section, it is an offense for any person who takes an aquatic product under an applicable license to fail to submit a complete and accurate commercial harvest report to the department by the 10th day of each month following the month in which a reportable activity occurred.

(c) A commercial harvest report shall account for each reportable activity engaged in by the licensee during the reporting period and shall contain, at a minimum:

(1) the name and physical address of each person to whom an aquatic product was transferred by the licensee;

(2) the name, driver's license or state-issued identification number of the applicable licensee who sold or transferred the aquatic product;

(3) the amount of aquatic products sold, in pounds, by species;

(4) the date of the sale;

(5) the price per pound received, by species;

(6) the water body or bay system from which each aquatic product was taken;

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(7) the date that each reportable activity occurred; and
(8) the registration number and name of the vessel used to take the aquatic product.

(d) A person required to submit a commercial harvest report shall retain a copy of the report for a period of two years from the date the report is submitted to the department and shall furnish a copy of any report upon the request of a department employee acting within the scope of official duties.

(e) A report under this section is not required for aquatic products that are sold by the holder of an applicable licensee to a wholesale or retail fish dealer, bait dealer, or bait shrimp dealer.

Effective June 27, 2010

§57.994. Individual Fishing Quota (IFQ). The Texas Parks and Wildlife Department adopts by reference the provisions of 50 CFR §§622.16 and 622.20, which shall govern the take, possession, transportation, and landing of red snapper, grouper, and tilefish in Texas waters.

Effective 10/01/2010

§57.995. Menhaden.

(a) The commercial purse seine season for menhaden (*Brevoortia patronus*) is open beginning on the third Monday in April and will continue until whichever of the following first occurs:

(1) the annual landings limit for the season has been reached;
or

(2) the first day in November.

(b) The starting point (baseline) for calculating the annual landings limit for 2009 is 31,500,000 pounds. In 2010 and subsequent years, the baseline shall be adjusted upwards in the amount by which the actual catch in the previous season fell short of 31,500,000 pounds; however, the upward adjustment allowed under this subsection shall not exceed 3,150,000 pounds. In the event the actual catch in a season exceeds 31,500,000 pounds, a downward adjustment shall be made in the following season in the amount by which the baseline was exceeded in the previous season.

(c) Annual landings may exceed the amount established or calculated in subsection (b) of this section by up to 10%.

(d) Landings will be tracked using the Captain Daily Fishing Reports or another tracking mechanism specified by TPWD.

Effective June 27, 2010

§57.996. Crabs and Ghost Shrimp.

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(a) Bag, possession and size limits.

(1) It is unlawful while fishing on public waters to have in possession crabs or ghost shrimp in excess of the daily bag limit as established for those waters.

(2) There are no bag, possession, or size limits on crabs or ghost shrimp except as provided in this section.

(3) It is unlawful to:

(A) possess egg-bearing (sponge) crabs or stone crabs;

(B) possess blue crabs less than five inches in width (measured across the widest point of the body from tip of spine to tip of spine) except that not more than 5.0%, by number, of undersized crabs may be possessed for bait purposes only, if placed in a separate container at the time of taking;

(C) remove or possess the left claw from a stone crab (each retained claw must be at least 2-1/2 inches long as measured from the tip of the immovable claw to the first joint behind the claw);

(D) fail to return immediately a stone crab to the waters where caught;

(E) buy or sell a female crab that has its abdominal apron detached; or

(F) possess more than 20 ghost shrimp (*Callichiris islagrande*, formerly *Callianassa islagrande*) per person.

(b) It is unlawful to place, fish, or leave a crab trap or crab trap component in the coastal waters of the state from the third Friday in February for 10 consecutive days.

(c) There are no places closed for the taking of crabs, except as listed within this section.

Effective June 27, 2010

§57.997. Fishing Guide License Requirements.

(a) No person shall engage in business as a fishing guide in the coastal waters of this state unless that person possesses a fishing guide license and has paid the appropriate licensure fee for saltwater use.

(b) No person operating a vessel or boat as a fishing guide on or in the coastal waters of this state may be issued a Fishing Guide license unless

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the person presents documentation to the license deputy that the applicant possesses a valid and appropriate U.S. Coast Guard Operator's License.

(c) No person shall engage in business as a paddle craft fishing guide in the coastal waters of this state unless that person possesses a Paddle Craft All-Water Guide license or an All Water Guide license and has paid the appropriate license fee.

(d) No person may be issued a Paddle Craft All-Water Guide license unless the person possesses proof that the person has successfully completed:

(1) training in CPR and First Aid from a department-approved organization;

(2) a department-approved boater education course or equivalency examination; and

(3) the "Four Star Leader Sea Kayak" training from the British Canoe Union; or

(4) "Coastal Kayak Day Trip Leading" from the American Canoe Association.

Effective June 27, 2010

**CODE OF FEDERAL REGULATIONS (CFR)
TITLE 50. WILDLIFE AND FISHERIES
PART 622. FISHERIES OF THE CARIBBEAN,
GULF, AND SOUTH ATLANTIC**

**(The following provisions of 50 CFR are adopted by reference in 31 TAC
§65.994)**

SUBPART B. EFFORT LIMITATION

§ 622.16. Gulf red snapper individual fishing quota (IFQ) program.

(a) General This section establishes an IFQ program for the commercial fishery for Gulf red snapper. Under the IFQ program, the RA initially will assign eligible participants IFQ shares equivalent to a percentage of the annual commercial red snapper quota, based on their applicable historical landings. Shares determine the amount of Gulf red snapper IFQ allocation, in pounds gutted weight, a shareholder is initially authorized to possess, land, or sell in a given calendar year. Shares and annual IFQ allocation are transferable. See §622.4(a)(2)(ix) regarding a requirement for a vessel landing red snapper subject to this IFQ program to have a Gulf red snapper IFQ vessel account. See §622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ system are provided in the following paragraphs of this section.

(1) Scope. The provisions of this section apply to Gulf red snapper in or from the Gulf EEZ and, for a person aboard a vessel with a Gulf red snapper IFQ vessel account as required by §622.4(a)(2)(ix) or for a person with a Gulf IFQ dealer endorsement as required by §622.4(a)(4)(ii), these provisions apply to Gulf red snapper regardless of where harvested or possessed.

(2) Duration The IFQ program established by this section will remain in effect until it is modified or terminated; however, the program will be evaluated by the Gulf of Mexico Fishery Management Council every 5 years.

(3) Electronic system requirements (i) The administrative functions associated with this IFQ program, e.g. registration and account setup, landing transactions, and transfers, are designed to be accomplished online; therefore, a participant must have access to a computer and Internet access and must set up an appropriate IFQ online account to participate. Assistance with online functions is available from IFQ Customer Service by calling 1-

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866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(ii) The RA will mail initial shareholders and dealers with Gulf reef fish dealer permits information and instructions pertinent to setting up an IFQ online account. Other eligible persons who desire to become IFQ participants by purchasing IFQ shares or allocation or by obtaining a Gulf red snapper IFQ dealer endorsement must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to set up the required IFQ online account. Each IFQ participant must monitor his/her online account and all associated messages and comply with all IFQ online reporting requirements.

(iii) During catastrophic conditions only, the IFQ program provides for use of paper-based components for basic required functions as a backup. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS will provide each IFQ dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA. The paper forms will also be available from the RA. The program functions available to participants or geographic areas deemed affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via IFQ Customer Service 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(b) Procedures for initial implementation.

(1) Determination of eligibility for initial IFQ shares To be eligible as an initial IFQ shareholder a person must own a Class 1 or Class 2 Gulf red snapper license as of November 22, 2006. For the purposes of this paragraph, an owner of a license is defined as the person who controls transfer of the license and is listed as the qualifier on the face of the license. NMFS' permit records are the sole basis for determining eligibility based on Class 1 or Class 2 license history. No more than one initial eligibility will be granted based upon a given Class 1 or Class 2 license.

(2) Calculation of initial IFQ shares and allocation.

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(i) IFQ shares The RA will calculate initial IFQ shares based on the highest average annual landings of Gulf red snapper associated with each shareholder's current Class 1 or Class 2 license during the applicable landings history. The applicable landings history for a Class 1 license owner whose license was not issued based on historical captain status includes any 10 consecutive years of landings data from 1990 through 2004; for a Class 1 license owner whose license was issued on the basis of historical captain status, all years of landings data from 1998 through 2004; and for a Class 2 license holder, any 5 years of landings data from 1998 through 2004. All landings associated with a current Class 1 or Class 2 license for the applicable landings history, including those reported by a person who held the license prior to the current license owner, will be attributed to the current license owner. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted. Each shareholder's initial share is derived by dividing the shareholder's highest average annual landings during the applicable landings history by the sum of the highest average annual landings of all shareholders during the respective applicable landings histories. Initial IFQ shares will not be issued in denominations of less than 0.0001 percent.

(ii) Initial share set-aside to accommodate resolution of appeals During the first year of implementation of this IFQ program only, the RA will reserve a 3-percent IFQ share, prior to the initial distribution of shares, to accommodate resolution of appeals, if necessary. Any portion of the 3-percent share remaining after the appeals process is completed will be distributed as soon as possible among initial shareholders in direct proportion to the percentage share each was initially allocated. If resolution of appeals requires more than a 3-percent share, the shares of all initial shareholders would be reduced accordingly in direct proportion to the percentage share each was initially allocated.

(iii) IFQ allocation IFQ allocation is the amount of Gulf red snapper, in pounds gutted weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ allocation is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for Gulf red snapper.

(3) Shareholder notification regarding landings history, initial determination of IFQ shares and allocations, and IFQ account setup information

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(i) As soon as possible after November 22, 2006, the RA will mail each Class 1 or Class 2 red snapper license owner information pertinent to the IFQ program. This information will include:

(A) Gulf red snapper landings associated with the owner's license during each year of the applicable landings history;

(B) The highest average annual red snapper landings based on the owner's applicable landings history;

(C) The owner's initial IFQ share based on the highest average annual landings associated with the owner's applicable landings history;

(D) The initial IFQ allocation;

(E) Instructions for appeals;

(F) General instructions regarding procedures related to the IFQ online system, including how to set up an online account; and

(G) A user identification number--the personal identification number (PIN) will be provided in a subsequent letter.

(ii) The RA will provide this information, via certified mail return receipt requested, to the license owner's address of record as listed in NMFS' permit files. A license owner who does not receive such notification from the RA by December 22, 2006 must contact the RA to clarify eligibility status and landings and initial share information.

(iii) The initial share information provided by the RA is based on the highest average landings associated with the owner's applicable landings history; however, a license owner may select a different set of years of landings, consistent with the owner's applicable landings history, for the calculation of the initial IFQ share. The license owner must submit that information to the RA postmarked no later than December 22, 2006. If alternative years, consistent with the applicable landings history, are selected, revised information regarding shares and allocations will be posted on the online IFQ accounts no later than January 1, 2007. A license owner who disagrees with the landings or eligibility information provided by the RA may appeal the RA's initial determinations.

(4) Procedure for appealing IFQ eligibility and/or landings information The only items subject to appeal under this IFQ system are initial eligibility for IFQ shares based on ownership of a Class 1 or Class 2 license, the accuracy of the amount of landings, and correct assignment of landings to the license owner. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than April 1, 2007 and must contain documentation supporting the basis for the

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appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final decision.

(i) Eligibility appeals NMFS' records of Class 1 and Class 2 licenses are the sole basis for determining ownership of such licenses. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(ii) Landings appeals Landings data for 1990 through 1992 are not subject to appeal. Appeals regarding landings data for 1993 through 2004 will be based solely on NMFS' logbook records. If NMFS' logbooks are not available, state landings records or data that were submitted in compliance with applicable Federal and state regulations, on or before June 30, 2005, can be used.

(5) Dealer notification and IFQ account setup information. As soon as possible after November 22, 2006, the RA will mail each dealer with a valid Gulf reef fish dealer permit information pertinent to the IFQ program. Any such dealer is eligible to receive a red snapper IFQ dealer endorsement which can be downloaded from the IFQ website at ifq.sero.nmfs.noaa.gov once an IFQ account has been established. The information package will include general information about the IFQ program and instructions for accessing the IFQ website and establishing an IFQ dealer account.

(c) IFQ operations and requirements.

(1) IFQ Landing and transaction requirements.

(i) Gulf red snapper subject to this IFQ program can only be possessed or landed by a vessel with a Gulf red snapper IFQ vessel account with allocation at least equal to the pounds of red snapper on board, except as provided in paragraph (c)(1)(ii) of this section. Such red snapper can only be received by a dealer with a Gulf IFQ dealer endorsement.

(ii) A person on board a vessel with an IFQ vessel account landing the shareholder's only remaining allocation, can legally exceed, by up to 10 percent, the shareholder's allocation remaining on that last fishing trip of the fishing year, i.e., a one-time per fishing year overage. Any such overage will be deducted from the shareholder's applicable allocation for the subsequent fishing year. From the time of the overage until January 1 of the subsequent fishing year, the IFQ shareholder must retain sufficient shares to account for the allocation that will be deducted the subsequent fishing year. Share transfers that would violate this requirement will be prohibited.

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(iii) The dealer is responsible for completing a landing transaction report for each landing and sale of Gulf red snapper via the IFQ website at ifq.sero.nmfs.noaa.gov at the time of the transaction in accordance with reporting form and instructions provided on the website. This report includes, but is not limited to, date, time, and location of transaction; weight and actual ex-vessel value of red snapper landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman must validate the dealer transaction report by entering his unique PIN number when the transaction report is submitted. After the dealer submits the report and the information has been verified, the website will send a transaction approval code to the dealer and the allocation holder.

(iv) If there is a discrepancy regarding the landing transaction report after approval, the dealer or vessel account holder (or his or her authorized agent) may initiate a landing transaction correction form to correct the landing transaction. This form is available via the IFQ website at ifq.sero.nmfs.noaa.gov. Both parties must validate the landing correction form by entering their respective PIN numbers, i.e. vessel account PIN or dealer account PIN. The dealer must then print out the form, both parties must sign it, and the form must be mailed to NMFS. The form must be received by NMFS no later than 15 days after the date of the initial landing transaction.

(2) IFQ cost recovery fees. As required by section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the RA will collect a fee to recover the actual costs directly related to the management and enforcement of the Gulf red snapper IFQ program. The fee cannot exceed 3 percent of the ex-vessel value of Gulf red snapper landed under the IFQ program. Such fees will be deposited in the Limited Access System Administration Fund (LASAF). Initially, the fee will be 3 percent of the actual ex-vessel value of Gulf red snapper landed under the IFQ program, as documented in each landings transaction report. The RA will review the cost recovery fee annually to determine if adjustment is warranted. Factors considered in the review include the catch subject to the IFQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management and enforcement of the IFQ program, the projected IFQ balance in the LASAF, and expected non-payment of fee liabilities. If the RA determines that a fee adjustment is warranted, the RA will publish a notification of the fee adjustment in the Federal Register.

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(i) Payment responsibility. The IFQ allocation holder specified in the documented red snapper IFQ landing transaction report is responsible for payment of the applicable cost recovery fees.

(ii) Collection and submission responsibility. A dealer who receives Gulf red snapper subject to the IFQ program is responsible for collecting the applicable cost recovery fee for each IFQ landing from the IFQ allocation holder specified in the IFQ landing transaction report. Such dealer is responsible for submitting all applicable cost recovery fees to NMFS on a quarterly basis. The fees are due and must be submitted, using pay.gov via the IFQ system at the end of each calendar-year quarter, but no later than 30 days after the end of each calendar-year quarter. Fees not received by the deadline are delinquent.

(iii) Fee payment procedure. For each IFQ dealer, the IFQ system will post, on individual message boards, an end-of-quarter statement of cost recovery fees that are due. The dealer is responsible for submitting the cost recovery fee payments using pay.gov via the IFQ system. Authorized payments methods are credit card, debit card, or automated clearing house (ACH). Payment by check will be authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions.

(iv) Fee reconciliation process--delinquent fees. The following procedures apply to an IFQ dealer whose cost recovery fees are delinquent.

(A) On or about the 31st day after the end of each calendar-year quarter, the RA will send the dealer an electronic message via the IFQ website and official notice via mail indicating the applicable fees are delinquent, and the dealer's IFQ account has been suspended pending payment of the applicable fees.

(B) On or about the 91st day after the end of each calendar-year quarter, the RA will refer any delinquent IFQ dealer cost recovery fees to the appropriate authorities for collection of payment.

(3) Measures to enhance IFQ program enforceability.

(i) Advance notice of landing. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing IFQ red snapper is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated red snapper landings in pounds gutted weight, vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ dealer where the red snapper are to be received.

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The vessel landing red snapper must have sufficient IFQ allocation in the IFQ vessel account, at least equal to the pounds in gutted weight of red snapper on board (except for any overage up to the 10 percent allowed on the last fishing trip) from the time of the advance notice of landing through landing. Authorized methods for contacting NMFS and submitting the report include calling NMFS Office for Law Enforcement at 1-866-425-7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at ifq.sero.nmfs.noaa.gov. As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement, via appropriate rulemaking. Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

(ii) Time restriction on offloading. For the purpose of this paragraph, offloading means to remove IFQ red snapper from a vessel. IFQ red snapper may be offloaded only between 6 a.m. and 6 p.m. local time.

(iii) Restrictions on transfer of IFQ red snapper. At-sea or dockside transfer of IFQ red snapper from one vessel to another vessel is prohibited.

(iv) Requirement for transaction approval code. If IFQ red snapper are offloaded to a vehicle for transportation to a dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the fish and to connect electronically to the online IFQ system to complete the transaction and obtain the transaction approval code is required. After a landing transaction has been completed, a transaction approval code verifying a legal transaction of the amount of IFQ red snapper in possession and a copy of the dealer endorsement must accompany any IFQ red snapper from the landing location through possession by a dealer. This requirement also applies to IFQ red snapper possessed on a vessel that is trailered for transport to a dealer.

(v) Approved landing locations. Landing locations must be approved by NMFS Office for Law Enforcement prior to landing or offloading at these sites. Proposed landing locations may be submitted online via the IFQ website at ifq.sero.nmfs.noaa.gov or by calling IFQ Customer Service at 1-866-425-7627, at any time, however, new landing locations will be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it must be

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submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the following criteria:

(A) Landing locations must have a street address. If there is no street address on record for a particular landing location, global positioning system (GPS) coordinates for an identifiable geographic location must be provided.

(B) Landing locations must be publicly accessible by land and water, and must satisfy the following criteria:

(1) Vehicles must have access to the site via public roads;

(2) Vessels must have access to the site via navigable waters;

(3) No other condition may impede free and immediate access to the site by an authorized law enforcement officer. Examples of such conditions include, but are not limited to: A locked gate, fence, wall, or other barrier preventing 24-hour access to the site; a gated community entry point; a guard animal; a posted sign restricting access to the site; or any other physical deterrent.

(4) Transfer of IFQ shares and allocation. Until January 1, 2012, IFQ shares and allocations can be transferred only to a person who holds a valid commercial vessel permit for Gulf reef fish; thereafter, IFQ shares and allocations can be transferred to any U.S. citizen or permanent resident alien. However, a valid commercial permit for Gulf reef fish, a Gulf red snapper IFQ vessel account, and Gulf red snapper IFQ allocation are required to possess (at and after the time of the advance notice of landing), land or sell Gulf red snapper subject to this IFQ program.

(i) Share transfers. Share transfers are permanent, i.e. they remain in effect until subsequently transferred. Transfer of shares will result in the corresponding allocation being automatically transferred to the person receiving the transferred share beginning with the fishing year following the year the transfer occurred. However, within the fishing year the share transfer occurs, transfer of shares and associated allocation are independent—unless the associated allocation is transferred separately, it remains with the transferor for the duration of that fishing year. A share transfer transaction that remains in pending status, i.e. has not been completed and verified with a transaction approval code, after 30 days from the date the shareholder initiated the transfer will be cancelled, and the pending shares will be re-credited to the shareholder who initiated the transfer.

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(ii) Share transfer procedures. Share transfers must be accomplished online via the IFQ website. An IFQ shareholder must initiate a share transfer request by logging onto the IFQ website at ifq.sero.nmfs.noaa.gov. Following the instructions provided on the website, the shareholder must enter pertinent information regarding the transfer request including, but not limited to, amount of shares to be transferred, which must be a minimum of 0.0001 percent; name of the eligible transferee; and the value of the transferred shares. An IFQ shareholder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating a share transfer. An IFQ shareholder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. For the first 5 years this IFQ program is in effect, an eligible transferee is a person who has a valid commercial vessel permit for Gulf reef fish; is in compliance with all reporting requirements for the Gulf reef fish fishery and the red snapper IFQ program; is not subject to sanctions under 15 CFR part 904; and who would not be in violation of the share cap as specified in paragraph (c)(6) of this section. Thereafter, share transferee eligibility will be extended to include U.S. citizens and permanent resident aliens who are otherwise in compliance with the provisions of this section. The online system will verify the transfer information entered. If the information is not accepted, the online system will send the shareholder an electronic message explaining the reason(s) why the transfer request can not be completed. If the information is accepted, the online system will send the transferee an electronic message of the pending transfer. The transferee must approve the share transfer by electronic signature. If the transferee approves the share transfer, the online system will send a transaction approval code to both the transferor and transferee confirming the transaction. All share transfers must be completed and the transaction approval code received prior to December 31 at 6 p.m. eastern time each year.

(iii) Allocation transfers. An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void. Allocation may be transferred to a vessel account from any IFQ account. Allocation held in a vessel account, however, may only be transferred back to the IFQ account through which the vessel account was established.

(iv) Allocation transfer procedures. Allocation transfers must be accomplished online via the IFQ website. An IFQ account holder must

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initiate an allocation transfer by logging onto the IFQ website at ifq.sero.nmfs.noaa.gov entering the required information, including but not limited to, name of an eligible transferee and amount of IFQ allocation to be transferred and price, and submitting the transfer electronically. An IFQ allocation holder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating an allocation transfer. An IFQ allocation holder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. If the transfer is approved, the online system will provide a transaction approval code to the transferor and transferee confirming the transaction.

(5) Restricted transactions during the 12-hour online maintenance window. All electronic IFQ transactions must be completed by December 31 at 6 p.m. eastern time each year. Electronic IFQ functions will resume again on January 1 at 6 a.m. eastern time the following fishing year. The remaining 6 hours prior to the end of the fishing year, and the 6 hours at the beginning of the next fishing year, are necessary to provide NMFS time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial quotas for Gulf red snapper have changed, and update shares and allocations for the upcoming fishing year. No electronic IFQ transactions will be available during these 12 hours. An advance notice of landing may still be submitted during the 12-hour maintenance window by calling IFQ Customer Service at 1-866-425-7627.

(6) IFQ share cap. No person, including a corporation or other entity, may individually or collectively hold IFQ shares in excess of 6.0203 percent of the total shares. For the purposes of considering the share cap, a corporation's total IFQ share is determined by adding the applicable IFQ shares held by the corporation and any other IFQ shares held by a corporation(s) owned by the original corporation prorated based on the level of ownership. An individual's total IFQ share is determined by adding the applicable IFQ shares held by the individual and the applicable IFQ shares equivalent to the corporate share the individual holds in a corporation. Initially, a corporation must provide the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, and provide updated information to the RA within 30 days of when changes occur. This information must also be provided to the RA any time a commercial vessel permit for Gulf reef fish is renewed or transferred.

(7) Redistribution of shares resulting from permanent permit or endorsement revocation. If a shareholder's commercial vessel permit for Gulf

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reef fish has been permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares held by that shareholder proportionately among remaining shareholders (subject to cap restrictions) based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(8) Annual recalculation and notification of IFQ shares and allocation. On or about January 1 each year, IFQ shareholders will be notified, via the IFQ website at ifq.sero.nmfs.noaa.gov of their IFQ share and allocation for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares (subject to cap restrictions) resulting from permanent revocation of applicable permits under 15 CFR part 904. Allocation is calculated by multiplying IFQ share times the annual red snapper commercial quota. Updated allocation values will reflect any change in IFQ share, any change in the annual commercial quota for Gulf red snapper, and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ participants can monitor the status of their shares and allocation throughout the year via the IFQ website.

[71 FR 67459, Nov. 22, 2006, as amended at 72 FR 73274, Dec. 27, 2007; 73 FR 410, Jan. 3, 2008; 73 FR 68361, Nov. 18, 2008; 74 FR 44743, Aug. 31, 2009; 75 FR 9118, Mar. 1, 2010]

§622.20. Individual fishing quota (IFQ) program for Gulf groupers and tilefishes.

(a) General. This section establishes an IFQ program for the commercial components of the Gulf reef fish fishery for groupers (including DWG, red grouper, gag, and other SWG) and tilefishes (including goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and tilefish). For the purposes of this IFQ program, DWG includes yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind, and scamp, but only as specified in paragraph (b)(2)(vi) of this section. For the purposes of this IFQ program, other SWG includes black grouper, scamp, yellowfin grouper, rock hind, red hind, and yellowmouth grouper, and warsaw grouper and speckled hind, but only as specified in paragraph (b)(2)(v) of this section. Under the IFQ program, the RA initially will assign eligible participants IFQ shares, in five share categories. These IFQ shares are equivalent to a percentage of the annual commercial quotas for DWG, red grouper, gag, and

tilefishes, and the annual commercial catch allowance (meaning the SWG quota minus gag and red grouper) for other SWG species, based on their applicable historical landings. Shares determine the amount of IFQ allocation for Gulf groupers and tilefishes, in pounds gutted weight, a shareholder is initially authorized to possess, land, or sell in a given calendar year. Shares and annual IFQ allocation are transferable. See §622.4(a)(2)(ix) regarding a requirement for a vessel landing groupers or tilefishes subject to this IFQ program to have an IFQ vessel account for Gulf groupers and tilefishes. See §622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ system are provided in the following paragraphs of this section.

(1) Scope. The provisions of this section apply to Gulf groupers and tilefishes in or from the Gulf EEZ and, for a person aboard a vessel with an IFQ vessel account for Gulf groupers and tilefishes as required by §622.4(a)(2)(ix) or for a person with a Gulf IFQ dealer endorsement as required by §622.4(a)(4)(ii), these provisions apply to Gulf groupers and tilefishes regardless of where harvested or possessed.

(2) Duration. The IFQ program established by this section will remain in effect until it is modified or terminated; however, the program will be evaluated by the Gulf of Mexico Fishery Management Council every 5 years.

(3) Electronic system requirements.

(i) The administrative functions associated with this IFQ program, e.g. registration and account setup, landing transactions, and transfers, are designed to be accomplished online; therefore, a participant must have access to a computer and Internet access and must set up an appropriate IFQ online account to participate. The computer must have browser software installed, e.g. Internet Explorer, Netscape, Mozilla Firefox; as well as the software Adobe Flash Player version 9.0 or greater, which may be downloaded from the Internet for free. Assistance with online functions is available from IFQ Customer Service by calling 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(ii) The RA will mail initial shareholders and dealers with Gulf reef fish dealer permits information and instructions pertinent to setting up an IFQ online account. Other eligible persons who desire to become IFQ participants by purchasing IFQ shares or allocation or by obtaining a Gulf IFQ dealer endorsement must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to set up the required IFQ online

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account. Each IFQ participant must monitor his/her online account and all associated messages and comply with all IFQ online reporting requirements.

(iii) During catastrophic conditions only, the IFQ program provides for use of paper-based components for basic required functions as a backup. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS will provide each IFQ dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA. The paper forms will also be available from the RA. The program functions available to participants or geographic areas deemed affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via IFQ Customer Service 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(b) Procedures for initial implementation.

(1) Determination of eligibility for initial IFQ shares. To be eligible as an initial IFQ shareholder a person must possess a valid commercial Gulf reef fish permit as of October 1, 2009. NMFS' permit records are the sole basis for determining eligibility for the IFQ program for Gulf groupers and tilefishes based on permit history. No more than one initial eligibility will be granted based upon a given commercial vessel permit for Gulf reef fish.

(2) Calculation of initial IFQ shares and allocation.

(i) IFQ shares The RA will calculate initial IFQ shares based on the highest average annual landings of Gulf groupers and tilefishes, in each of five share categories, associated with each shareholder's current commercial vessel permit for Gulf reef fish during the applicable landings history. The five share categories are gag, red grouper, DWG, other SWG, and tilefishes. The applicable landings history for reef fish permit holders with grouper or tilefish landings includes landings data from 1999 through 2004 with the allowance for dropping one year. All grouper and tilefish landings associated with a current reef fish permit for the applicable landings history, including those reported by a person(s) who held the license prior to the current license owner, will be attributed to the current license owner.

Only legal landings reported in compliance with applicable state and Federal regulations will be accepted. For each share category, each shareholder's initial share is derived by dividing the shareholder's highest average annual landings during the applicable landings history by the sum of the highest average annual landings of all shareholders during the respective applicable landings histories. Initial shares distributed in the gag share category and the other SWG share category will be based on landings that have been adjusted for gag and/or black grouper misidentification. Initial IFQ shares will not be issued in units less than the percentage equivalent to 1.0 lb (0.45 kg) of the grouper or tilefish species, in each share category, based on that share category's quota or catch allowance.

(ii) Initial share set-aside to accommodate resolution of appeals. During the first year of implementation of this IFQ program only, for each share category, the RA will reserve a 3-percent IFQ share prior to the initial distribution of shares, to accommodate resolution of appeals, if necessary. Any portion of the 3-percent share set-aside for each share category remaining after the appeals process is completed will be distributed as soon as possible among initial shareholders in direct proportion to the percentage share each was initially allocated. If resolution of appeals requires more than a 3-percent share set-aside for a share category, the shares of all initial shareholders, for that share category, would be reduced accordingly in direct proportion to the percentage share each was initially allocated.

(iii) IFQ allocation. IFQ allocation is the amount of Gulf groupers and tilefishes, in pounds gutted weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ allocation for the five respective share categories is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for gag, red grouper, DWG, and tilefishes; and times the annual commercial catch allowance for other SWG.

(iv) Red grouper and gag multi-use allocation.

(A) Red grouper multi-use allocation. At the beginning of each fishing year, 4 percent of each shareholder's initial red grouper allocation will be converted to red grouper multi-use allocation. Red grouper multi-use allocation may be used to possess, land, or sell either red grouper or gag under certain conditions. Red grouper multi-use allocation may be used to possess, land, or sell red grouper only after an IFQ account holder's (shareholder or allocation holder's) red grouper allocation has been landed and sold, or transferred; and to possess, land, or sell gag, only after both gag and gag multi-use allocation have been landed and sold, or transferred.

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(B) Gag multi-use allocation. At the beginning of each fishing year, 8 percent of each shareholder's initial gag allocation will be converted to gag multi-use allocation. Gag multi-use allocation may be used to possess, land, or sell either gag or red grouper under certain conditions. Gag multi-use allocation may be used to possess, land, or sell gag only after an IFQ account holder's gag allocation has been landed and sold, or transferred; and possess, land or sell red grouper, only after both red grouper and red grouper multi-use allocation have been landed and sold, or transferred. Multi-use allocation transfer procedures and restrictions are specified in paragraph (c)(4)(iv) of this section.

(v) Warsaw grouper and speckled hind classification. Warsaw grouper and speckled hind are considered DWG species and under certain circumstances SWG species. For the purposes of the IFQ program for Gulf groupers and tilefishes, once all of an IFQ account holder's DWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no DWG allocation, then other SWG allocation may be used to land and sell warsaw grouper and speckled hind.

(vi) Scamp classification. Scamp is considered a SWG species and under certain circumstances a DWG. For the purposes of the IFQ program for Gulf groupers and tilefishes, once all of an IFQ account holder's other SWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no SWG allocation, then DWG allocation may be used to land and sell scamp.

(3) Shareholder notification regarding landings history, initial determination of IFQ shares and allocations, and IFQ account setup information.

(i) On or about October 1, 2009, the RA will mail each Gulf reef fish commercial vessel permittee with grouper and tilefish landings history during the qualifying years, information pertinent to the IFQ program. This information will include—

(A) Gulf grouper and tilefish landings associated with the Gulf reef fish commercial vessel permit during each year of the applicable landings history;

(B) The highest average annual grouper and tilefish landings, in each of the five share categories, based on the permittee's best 5 out of 6 years of applicable landings history;

(C) The permittee's initial IFQ share, in each of the five share categories, based on the highest average annual landings associated with the permittee's best 5 out of 6 years of applicable landings history;

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(D) The initial IFQ allocation, in each of the five share categories, as well as their total IFQ allocation;

(E) Instructions for appeals;

(F) General instructions regarding procedures related to the IFQ online system, including how to set up an online account; and

(G) A user identification number; and a personal identification number (PIN) that will be provided in a subsequent letter.

(ii) The RA will provide this information, via certified mail return receipt requested, to the permittee's address of record as listed in NMFS' permit files. A permittee who does not receive such notification from the RA, must contact the RA by November 1, 2009, to clarify eligibility status and landings and initial share information.

(iii) The initial share information provided by the RA is based on the highest average annual landings during the best 5 out of 6 years associated with the permittee's applicable landings history for each share category; however, a permittee may select to exclude a different year of landings history than was chosen, consistent with the permittee's applicable landings history, for the calculation of the initial IFQ share. The permittee must submit that information to the RA postmarked no later than December 1, 2009. If alternative years, consistent with the applicable landings history, are selected, revised information regarding shares and allocations will be posted on the online IFQ accounts no later than January 1, 2010. A permittee who disagrees with the landings or eligibility information provided by the RA may appeal the RA's initial determinations.

(4) Procedure for appealing IFQ eligibility and/or landings information. The only items subject to appeal under this IFQ system are initial eligibility for IFQ shares based on ownership of a reef fish permit, the accuracy of the amount of landings, correct assignment of landings to the permittee, and correct assignment of gag versus black grouper landings. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than April 1, 2010, and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final decision.

(i) Eligibility appeals. NMFS' records of reef fish permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has

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changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(ii) Landings appeals. Appeals regarding landings data for 1999 through 2004 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data that were submitted in compliance with applicable Federal and state regulations, on or before December 31, 2006.

(5) Dealer notification and IFQ account setup information. On or about October 1, 2009, the RA will mail each dealer with a valid Gulf reef fish dealer permit information pertinent to the IFQ program. Any such dealer is eligible to receive a Gulf IFQ dealer endorsement, which can be downloaded from the IFQ website at ifq.sero.nmfs.noaa.gov once an IFQ account has been established. The information package will include general information about the IFQ program and instructions for accessing the IFQ website and establishing an IFQ dealer account.

(c) IFQ operations and requirements.

(1) IFQ Landing and transaction requirements.

(i) Gulf groupers and tilefishes subject to this IFQ program can only be possessed or landed by a vessel with a IFQ vessel account for Gulf groupers and tilefishes. Such groupers and tilefishes can only be received by a dealer with a Gulf IFQ dealer endorsement. The vessel landing groupers or tilefishes must have sufficient IFQ allocation in the IFQ vessel account, at least equal to the pounds in gutted weight of grouper or tilefish species to be landed, from the time of advance notice of landing through landing, except as provided in paragraph (c)(1)(ii) of this section.

(ii) A person on board a vessel with an IFQ vessel account landing the shareholder's only remaining allocation from among any of the grouper or tilefish share categories, can legally exceed, by up to 10 percent, the shareholder's allocation remaining on that last fishing trip of the fishing year, i.e. a one-time per fishing year overage. Any such overage will be deducted from the shareholder's applicable allocation for the subsequent fishing year. From the time of the overage until January 1 of the subsequent fishing year, the IFQ shareholder must retain sufficient shares to account for the allocation that will be deducted the subsequent fishing year. Share transfers that would violate this requirement will be prohibited.

(iii) The dealer is responsible for completing a landing transaction report for each landing and sale of Gulf groupers and tilefishes via the IFQ website at ifq.sero.nmfs.noaa.gov at the time of the transaction in accordance with reporting form and instructions provided on the website.

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This report includes, but is not limited to, date, time, and location of transaction; weight and actual ex-vessel value of groupers and tilefishes landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman must validate the dealer transaction report by entering the unique PIN number for the vessel account when the transaction report is submitted. After the dealer submits the report and the information has been verified by NMFS, the online system will send a transaction approval code to the dealer and the allocation holder.

(iv) If there is a discrepancy regarding the landing transaction report after approval, the dealer or vessel account holder (or his or her authorized agent) may initiate a landing transaction correction form to correct the landing transaction. This form is available via the IFQ website at ifq.sero.nmfs.noaa.gov. Both parties must validate the landing correction form by entering their respective PIN numbers, i.e. vessel account PIN or dealer account PIN. The dealer must then print out the form, both parties must sign it, and the form must be mailed to NMFS. The form must be received by NMFS no later than 15 days after the date of the initial landing transaction.

(2) IFQ cost recovery fees. As required by section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the RA will collect a fee to recover the actual costs directly related to the management and enforcement of the IFQ program for Gulf groupers and tilefishes. The fee cannot exceed 3 percent of the ex-vessel value of Gulf groupers and tilefishes landed under the IFQ program. Such fees will be deposited in the Limited Access System Administration Fund (LASAF). Initially, the fee will be 3 percent of the actual ex-vessel value of Gulf groupers and tilefishes landed under the IFQ program, as documented in each landings transaction report. The RA will review the cost recovery fee annually to determine if adjustment is warranted. Factors considered in the review include the catch subject to the IFQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management and enforcement of the IFQ program, the projected IFQ balance in the LASAF, and expected non-payment of fee liabilities. If the RA determines that a fee adjustment is warranted, the RA will publish a notification of the fee adjustment in the Federal Register.

(i) Payment responsibility. The IFQ account holder specified in the documented IFQ landing transaction report for Gulf groupers and tilefishes is responsible for payment of the applicable cost recovery fees.

(ii) Collection and submission responsibility. A dealer who receives Gulf groupers or tilefishes subject to the IFQ program is responsible

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for collecting the applicable cost recovery fee for each IFQ landing from the IFQ account holder specified in the IFQ landing transaction report. Such dealer is responsible for submitting all applicable cost recovery fees to NMFS on a quarterly basis. The fees are due and must be submitted, using pay.gov via the IFQ system, at the end of each calendar-year quarter, but no later than 30 days after the end of each calendar-year quarter. Fees not received by the deadline are delinquent.

(iii) Fee payment procedure. For each IFQ dealer, the IFQ system will post, in individual IFQ dealer accounts, an end-of-quarter statement of cost recovery fees that are due. The dealer is responsible for submitting the cost recovery fee payments using pay.gov via the IFQ system. Authorized payment methods are credit card, debit card, or automated clearing house (ACH). Payment by check will be authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions.

(iv) Fee reconciliation process — delinquent fees. The following procedures apply to an IFQ dealer whose cost recovery fees are delinquent.

(A) On or about the 31st day after the end of each calendar-year quarter, the RA will send the dealer an electronic message via the IFQ website and official notice via mail indicating the applicable fees are delinquent, and the dealer's IFQ account has been suspended pending payment of the applicable fees.

(B) On or about the 91st day after the end of each calendar-year quarter, the RA will refer any delinquent IFQ dealer cost recovery fees to the appropriate authorities for collection of payment.

(3) Measures to enhance IFQ program enforceability.

(i) Advance notice of landing. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing IFQ groupers or tilefishes is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated grouper and tilefish landings in pounds gutted weight for each share category (gag, red grouper, DWG, other SWG, tilefishes), vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ dealer where the groupers or tilefishes are to be received. The vessel landing groupers or tilefishes must have sufficient IFQ allocation in the IFQ vessel account, and in the appropriate share category or categories, at least equal to the pounds in gutted weight of all groupers and tilefishes on board (except for any overage up to the 10 percent allowed on the

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last fishing trip) from the time of the advance notice of landing through landing. Authorized methods for contacting NMFS and submitting the report include calling NMFS at 1-866-425-7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at ifq.sero.nmfs.noaa.gov. As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement, via appropriate rulemaking. Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

(ii) Time restriction on offloading. For the purpose of this paragraph, offloading means to remove IFQ groupers and tilefishes from a vessel. IFQ groupers and tilefishes may be offloaded only between 6 a.m. and 6 p.m. local time.

(iii) Restrictions on transfer of IFQ groupers and tilefishes. At-sea or dockside transfer of IFQ groupers or tilefishes from one vessel to another vessel is prohibited.

(iv) Requirement for transaction approval code. If IFQ groupers or tilefishes are offloaded to a vehicle for transportation to a dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the fish and to connect electronically to the online IFQ system to complete the transaction and obtain the transaction approval code is required. After a landing transaction has been completed, a transaction approval code verifying a legal transaction of the amount of IFQ groupers and tilefishes in possession and a copy of the dealer endorsement must accompany any IFQ groupers and tilefishes from the landing location through possession by a dealer. This requirement also applies to IFQ groupers and tilefishes possessed on a vessel that is trailered for transport to a dealer.

(v) Approved landing locations. Landing locations must be approved by NMFS Office for Law Enforcement prior to landing or offloading at these sites. Proposed landing locations may be submitted online via the IFQ website at ifq.sero.nmfs.noaa.gov or by calling IFQ Customer Service at 1-866-425-7627, at any time, however, new landing locations will be approved only at the end of each calendar-year quarter. To have your landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS

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will evaluate the proposed sites based on, but not limited to, the following criteria:

(A) Landing locations must have a street address. If there is no street address on record for a particular landing location, global positioning system (GPS) coordinates for an identifiable geographic location must be provided.

(B) Landing locations must be publicly accessible by land and water, and must satisfy the following criteria:

(1) Vehicles must have access to the site via public roads;

(2) Vessels must have access to the site via navigable waters;

(3) No other condition may impede free and immediate access to the site by an authorized law enforcement officer. Examples of such conditions include, but are not limited to: A locked gate, fence, wall, or other barrier preventing 24-hour access to the site; a gated community entry point; a guard animal; a posted sign restricting access to the site; or any other physical deterrent.

(4) Transfer of IFQ shares and allocation. Until January 1, 2015, IFQ shares and allocations can be transferred only to a person who holds a valid commercial vessel permit for Gulf reef fish; thereafter, IFQ shares and allocations can be transferred to any U.S. citizen or permanent resident alien. However, a valid commercial permit for Gulf reef fish, an IFQ vessel account for Gulf groupers and tilefishes, and IFQ allocation for Gulf groupers or tilefishes are required to possess (at and after the time of the advance notice of landing), land or sell Gulf groupers or tilefishes subject to this IFQ program.

(i) Share transfers. Share transfers are permanent, i.e. they remain in effect until subsequently transferred. Transfer of shares will result in the corresponding allocation being automatically transferred to the person receiving the transferred share beginning with the fishing year following the year the transfer occurred. However, within the fishing year the share transfer occurs, transfer of shares and associated allocation are independent—unless the associated allocation is transferred separately, it remains with the transferor for the duration of that fishing year. A share transfer transaction that remains in pending status, i.e. has not been completed and verified with a transaction approval code, after 30 days from the date the shareholder initiated the transfer will be cancelled, and the pending shares will be re-credited to the shareholder who initiated the transfer.

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(ii) Share transfer procedures. Share transfers must be accomplished online via the IFQ website. An IFQ shareholder must initiate a share transfer request by logging onto the IFQ website at ifq.sero.nmfs.noaa.gov. An IFQ shareholder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating a share transfer. An IFQ shareholder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. Following the instructions provided on the website, the shareholder must enter pertinent information regarding the transfer request including, but not limited to: amount of shares to be transferred, which must be a minimum of 0.000001 percent; name of the eligible transferee; and the value of the transferred shares. For the first 5 years this IFQ program is in effect, an eligible transferee is a person who has a valid commercial vessel permit for Gulf reef fish; is in compliance with all reporting requirements for the Gulf reef fish fishery and the IFQ program for Gulf groupers and tilefishes; is not subject to sanctions under 15 CFR part 904; and who would not be in violation of the share or allocation caps as specified in paragraph (c)(6) of this section. Thereafter, share transferee eligibility will be extended to include U.S. citizens and permanent resident aliens who are otherwise in compliance with the provisions of this section. The online system will verify the information entered. If the information is not accepted, the online system will send the shareholder an electronic message explaining the reason(s). If the information is accepted, the online system will send the transferee an electronic message of the pending transfer. The transferee must approve the share transfer by electronic signature. If the transferee approves the share transfer, the online system will send a transfer approval code to both the shareholder and transferee confirming the transaction. All share transfers must be completed and the transaction approval code received prior to December 31 at 6 p.m. eastern time each year.

(iii) Allocation transfers. An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void. Allocation may be transferred to a vessel account from any IFQ account. Allocation held in a vessel account, however, may only be transferred back to the IFQ account through which the vessel account was established.

(iv) Allocation transfer procedures and restrictions.

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(A) Allocation transfer procedures. Allocation transfers must be accomplished online via the IFQ website. An IFQ account holder must initiate an allocation transfer by logging onto the IFQ website at ifq.seo.nmfs.noaa.gov entering the required information, including but not limited to, name of an eligible transferee and amount of IFQ allocation to be transferred and price, and submitting the transfer electronically. An IFQ allocation holder who is subject to a sanction under 15 CFR part 904 is prohibited from initiating an allocation transfer. An IFQ allocation holder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. If the transfer is approved, the website will provide a transfer approval code to the transferor and transferee confirming the transaction.

(B) Multi-use allocation transfer restrictions.

(1) Red grouper multi-use allocation. Red grouper multi-use allocation may only be transferred after all an IFQ account holder's red grouper allocation has been landed and sold, or transferred.

(2) Gag multi-use allocation. Gag multi-use allocation may only be transferred after all an IFQ account holder's gag allocation has been landed and sold, or transferred.

(5) Restricted transactions during the 12-hour online maintenance window. All electronic IFQ transactions must be completed by December 31 at 6 p.m. eastern time each year. Electronic IFQ functions will resume again on January 1 at 6 a.m. eastern time the following fishing year. The remaining 6 hours prior to the end of the fishing year, and the 6 hours at the beginning of the next fishing year, are necessary to provide NMFS time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial quotas or catch allowances for Gulf groupers or tilefishes have changed, and update shares and allocations for the upcoming fishing year. No electronic IFQ transactions will be available during these 12 hours. An advance notice of landing may still be submitted by calling IFQ Customer Service at 1-866-425-7627.

(6) IFQ share and allocation caps. A corporation's total IFQ share (or allocation) is determined by adding the applicable IFQ shares (or allocation) held by the corporation and any other IFQ shares (or allocation) held by a corporation(s) owned by the original corporation prorated based on the level of ownership. An individual's total IFQ share is determined by adding the applicable IFQ shares held by the individual and the applicable IFQ shares equivalent to the corporate share the individual holds in a corporation. An

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individual's total IFQ allocation is determined by adding the individual's total allocation to the allocation derived from the IFQ shares equivalent to the corporate share the individual holds in a corporation.

(i) IFQ share cap for each share category. No person, including a corporation or other entity, may individually or collectively hold IFQ shares in any share category (gag, red grouper, DWG, other SWG, or tilefishes) in excess of the maximum share initially issued for the applicable share category to any person at the beginning of the IFQ program, as of the date appeals are resolved and shares are adjusted accordingly. A corporation must provide to the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, by December 1, 2009, for initial issuance of IFQ shares and allocation, and provide updated information to the RA within 30 days of when changes occur. This information must also be provided to the RA any time a commercial vessel permit for Gulf reef fish is renewed or transferred.

(ii) Total allocation cap. No person, including a corporation or other entity, may individually or collectively hold, cumulatively during any fishing year, IFQ allocation in excess of the total allocation cap. The total allocation cap is the sum of the maximum allocations associated with the share caps for each individual share category and is calculated annually based on the applicable quotas or catch allowance associated with each share category.

(7) Redistribution of shares resulting from permanent permit revocation. If a shareholder's commercial vessel permit for Gulf reef fish has been permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares associated with the revoked permit proportionately among remaining shareholders (subject to cap restrictions) based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(8) Annual recalculation and notification of IFQ shares and allocation. On or about January 1 each year, IFQ shareholders will be notified, via the IFQ website at ifq.sero.nmfs.noaa.gov of their IFQ shares and allocations, for each of the five share categories, for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares (subject to cap restrictions) resulting from permanent revocation of applicable permits under 15 CFR part 904. Allocation, for each share category, is calculated by multiplying IFQ

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share for that category times the annual commercial quota or commercial catch allowance for that share category. Updated allocation values will reflect any change in IFQ share for each share category, any change in the annual commercial quota or commercial catch allowance for the applicable categories; and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ participants can monitor the status of their shares and allocation throughout the year via the IFQ website.

[74 FR 44745, Aug. 31, 2009, as amended at 75 FR 9118, Mar. 1, 2010]



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SHRIMP FISHERY PROCLAMATION

1. Introduction.

The Texas Parks and Wildlife Commission adopts an amendment to §58.160, concerning Taking or Attempting to Take Shrimp (Shrimping)--General Rules, without changes to the proposed text as published in the July 16, 2010, issue of the Texas Register (34 TexReg 6281).

2. Reasoned Justification.

The amendment updates the reference to federal regulations governing the dimensions and specifications of approved Bycatch Reduction Devices (BRDs) to accommodate changes to the federal rules.

Bycatch reduction devices (BRDs) reduce the mortality of non-target aquatic organisms that occurs during shrimping, especially among juvenile finfish and invertebrate populations. The use of BRDs reduces shrimp-trawl bycatch fishing mortality for recreationally important species such as red snapper, flounder, Atlantic croaker, sand seatrout, and blue crab. The use of BRDs also allows the escapement of other organisms, which enhances the overall viability of the ecosystem and has the potential to increase populations of finfish and invertebrates impacted by trawling.

The state rules requiring shrimp trawls to be equipped with BRDs have been in effect since 2000 and specify that only those BRDs classified by the National Marine Fisheries Service (NMFS) as "approved devices" are lawful for use in waters under state jurisdiction. From time to time NMFS engages in federal rulemaking to designate new or modified BRD types as "approved devices." In a final rule published in the Federal Register on May 24, 2010 (75 FR 28760), NMFS extended the effectiveness of provisional BRDs authorized by a previous rulemaking on February 13, 2008 (73 FR 8219), which added three new BRD types to the list of BRDs approved for use in the federal waters of the Gulf of Mexico. The extended approval is until May 24, 2012 and the effective date of the federal rule change is June 23, 2010.

The amendment to §58.160 allows the approved BRDs to continue to be used in state as well as federal waters. By creating regulatory consistency between state and federal rules, the department intends to enable shrimp vessels that fish in both federal and state waters to continue to do so without having to switch BRDs. The rule also permits an increased variety of BRDs to be lawfully used by shrimp vessels, giving fishermen more options in terms of what type of BRD to use. The rule also provides for greater economic efficiency in the fishery and eliminates potential confusion that could result from differential regulations enforced by state and federal authorities.

As required by Parks and Wildlife Code, §77.077, the department finds that the use of BRDs demonstrably reduces bycatch of fish species by shrimp trawls and that the approval of additional types of BRDs neither jeopardizes bycatch species nor causes hardship for shrimpers.

3. Additional Information.

The full text of this rulemaking (including complete justification for the rules, a detailed description of the changes, and responses to public comment) can be found online at the Texas Register (www.sos.state.tx.us).

4. Statutory Authority.

The amendment is adopted under Parks and Wildlife Code, §77.007, which authorizes the commission to regulate the catching, possession, purchase, and sale of shrimp, including the times, places, conditions, and means and manner of catching shrimp.

§58.101. Application.

(a) This subchapter applies to the taking, attempting to take, possession, purchase, and sale of shrimp resources in the salt waters of Texas. It carries out the Commission's rulemaking authority granted by the legislature in Parks and Wildlife Code, Chapter 77. The law covering the taking, attempting to take, possession, purchase, and sale of shrimp resources in the salt waters of Texas is set forth in both Parks and Wildlife Code, Chapter 77 and this subchapter whereby the provisions of this subchapter prevail over any conflicting provision of Parks and Wildlife Code, Chapter 77 to the extent of the conflict as set forth in Parks and Wildlife Code, §77.007.

(b) This subchapter also applies to shrimp caught in the Exclusive Economic Zone (EEZ) and landed in this state, under the authority of Parks and Wildlife Code, §47.019(b) (Federal Law also regulates species managed under Federal Fishery Management Plan).

(c) Foreign Shrimp. Provisions of this subchapter prohibiting possession, sale, purchase, unloading, or other handling of shrimp apply to shrimp caught in this state and shrimp coming from another state or country unless specifically provided otherwise.

Effective 10/03/1996

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

(1) Aquatic products--Any aquatic life, alive or dead, uncooked, fresh or frozen, which is intended to be used for human consumption or bait.

(2) Accelerator funnel--a device used to accelerate the flow of water through a shrimp trawl.

(3) Bait bays--Bait bays are: major bays, Chocolate Bay, West Bay south and west of Interstate Highway 45 Causeway bridge and the Gulf Intracoastal Waterway inclusive of the area south of a line extending westward from the Interstate Highway 45 Causeway bridge at Virginia Point, along the southern edge of Tiki Island to the northeastern tip of North Deer Island at Channel Marker 48, Trinity Bay northward from a line extending from the mouth of Double Bayou in Chambers County to Double Bayou Channel Marker 14, to Separator C-2, to Point Barrow, Chambers County, the Old Brazos River lying north of the Gulf Intracoastal Waterway in Brazoria County, Upper Laguna Madre, Baffin Bay, Alazan Bay, Baroom Bay, Lower Laguna Madre including the Brownsville ship channel, and the Gulf Intracoastal Waterway exclusive of all tributaries.

(4) Bait-shrimp dealer--A person who operates an established place of business in a coastal county of the state for compensation or profit for the purpose of handling shrimp caught for use as bait from the inside water of this state, but does not include a person holding a wholesale fish dealer's license under Parks and Wildlife Code, §47.009.

(5) Beam Trawl--A trawl, without wings, the mouth of which is held open

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by a rigid beam of wood or metal.

(6) Bycatch Reduction Device (BRD)--a device installed in the cod end (tail bag) of a shrimp trawl for the purpose of excluding finfish from the net.

(7) Centerline--the seam that runs along the top center of the trawl. In the absence of a seam, the centerline runs from the center point of the length of the head rope to the furthest distance on the top of the cod end of the trawl.

(8) Coastal waters--All the salt water of this state (as defined in §65.3 of this title (relating to Definitions)), including that portion of the Gulf of Mexico within the jurisdiction of the state extending nine nautical miles from the Gulf shoreline.

(9) Cod end (Tailbag)--the end of a trawl which acts as the receptacle for shrimp and other organisms caught in the net. It is closed and secured, at the extreme end, with a line.

(10) Commercial bait shrimp boat--A boat that is required to be numbered or registered under the laws of the United States or of this state and that is used for the purpose of taking or attempting to take shrimp for use as bait and other aquatic products from the inside water of the state for pay or for the purpose of sale, barter, or exchange.

(11) Commercial bay shrimp boat--A boat that is required to be numbered or registered under the laws of the United States or of this state and that is used for the purpose of taking or attempting to take shrimp and other aquatic products from the inside water of the state for pay or for the purpose of sale, barter, or exchange.

(12) Commercial gulf shrimp boat--Any boat that is required to be numbered or registered under the laws of the United States or of this state and that is used for the purpose of taking or attempting to take shrimp and other aquatic products from the outside water of the state for pay or for the purpose of sale, barter, or exchange, or from salt water outside the state for pay or for the purpose of sale, barter, or exchange, and that unloads at a port or other point in the state without having been previously unloaded in another state or foreign country.

(13) Contiguous zone--That area of the Gulf of Mexico lying adjacent to and offshore of the jurisdiction of the State of Texas and in which shrimp of the Family Penaeidae are found.

(14) Individual bait-shrimp trawl--An otter trawl used for the purpose of catching shrimp for personal use.

(15) Inside waters--All bays, inlets, outlets, passes, rivers, streams, and other bodies of water landward from the shoreline of the state along the Gulf of Mexico and contiguous to, or connected with, but not a part of, the Gulf of Mexico and within which the tide regularly rises and falls and in which saltwater shrimp are found or into which saltwater shrimp migrate.

(16) Major bays--Major bays include the deeper, major bay areas of the inside water, including Sabine Lake north of Cameron Causeway to south of a line marked by the Gulf Intracoastal Waterway (Sabine Neches Canal/Sabine river) between the eastern most tip of Goat Island to the western most tip of Stewts Island, Trinity Bay southward from a line extending from the mouth of Double Bayou in Chambers County to Double Bayou Channel Marker 14, to Separator C-2, to Point Barrow, Chambers County, Galveston Bay, East Bay westward from a line

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extending from Frozen Point to the Gulf Intracoastal Waterway Marker 12, Matagorda Bay (westward of a line extending from a location on the mainland (where a line running immediately northwest (bearing 330 degrees) from Shellfish Marker A intersects the mainland) thence southeasterly to Shellfish Marker A located near the mainland, thence to Shellfish Marker B located near the end of Shell Island Reef, thence to the tide gauge located near the Matagorda Peninsula, and thence southeasterly (bearing 153 degrees) to the Matagorda Peninsula. East Matagorda Bay, Tres Palacios Bay south of a line from Grassey Point to the mouth of Pinkerton Bayou, Espiritu Santo Bay, Lavaca Bay southward of State Highway 35, San Antonio Bay southward of a line from McDowell Point to Mosquito Point, Aransas Bay, and Corpus Christi Bay exclusive of the area bounded by a line extending from the Gulf Intracoastal Waterway at the southwest point of the Dagger Island chain, along Dagger Island to the southeast tip of South Ransom Island, then southeast to the westernmost point of land north of Marker 14 in the Corpus Christi Ship Channel . all exclusive of tributary bays, bayous, and inlets, lakes and rivers.

(17) Northern Shrimp Zone--That portion of outside waters north of the Corpus Christi Fish Pass Jetties from a line formed by Latitude 27° 40' 34" to the Texas Louisiana border.

(18) Nursery areas--Includes tributary bays, bayous, inlets, lakes, and rivers, which are proven to serve as significant growth and development environments for postlarval and juvenile shrimp not including the outside waters, major bays, or bait bays as defined in this section.

(19) Otter Trawl--A funnel-shaped trawl, with wings, the mouth of which is held open by floats and weights and spread by trawl doors fastened to the wings.

(20) Outside waters--All the salt water of the state contiguous to and seaward from the shoreline of the state along the Gulf of Mexico as the shoreline is projected and extended in a continuous and unbroken line, following the contours of the shoreline, across bays, inlets, outlets, passes, rivers, streams, and other bodies of water; and that portion of the Gulf of Mexico extending from the shoreline seaward and within the jurisdiction of the state.

(21) Permanent structure--A building designed, planned, and constructed so as to remain at one location.

(22) Place of business--A permanent structure on the mainland or a barrier island where aquatic products or orders for aquatic products are received, or where aquatic products are sold or purchased, but does not include a vehicle, a boat, or any type of floating device, a public cold storage vault, or the portion of a structure that is used as a residence.

(23) Possess--The act of having in possession or control, keeping, detaining, restraining or holding.

(24) Second offense and third and subsequent offenses--Offenses for which convictions have been obtained within three years prior to the date of the offense charged.

(25) Shrimping--The taking or attempting to take shrimp from the public waters of this state.

(26) Shrimp house operator--A person who operates a shrimp house, plant,

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or other establishment for compensation or profit for the purpose of unloading and handling, from commercial gulf shrimp boats or commercial bay shrimp boats, fresh shrimp and other edible aquatic products caught or taken from the coastal water of the state or from salt water outside the state and brought into the state without having been previously unloaded in another state or foreign country, but does not include a person holding a wholesale fish dealer's license under Parks and Wildlife Code, §47.009.

(27) Southern Shrimp Zone--That portion of outside waters south of the Corpus Christi Fish Pass Jetties from a line formed by Latitude 27° 40' 34" southward to the Texas Mexico border.

(28) Tailbag (Cod end)--the end of a trawl which acts as the receptacle for shrimp and other organisms caught in the net. It is closed and secured, at the extreme end, with a line.

(29) Trawl--A beam trawl or otter trawl with a bag-shaped net which is used to catch shrimp.

(30) Turtle Excluder Device (TED)--a device designed to be installed in a shrimp trawl forward of the cod end (tail bag) for the purpose of excluding sea turtles from the net and that meets the dimensions and specifications of an approved device as described in 50 CFR Part 223 §223.207 on May 15, 2005.
Effective 03/27/2006

§58.103. Shrimp Management Plan.

(a) The Shrimp Fishery Management Plan and the Economic Impact Analysis are adopted by reference.

(b) Copies may be obtained at the Texas Parks and Wildlife Department offices at 4200 Smith School Road, Austin, Texas 78744.
Effective 10/03/1996

§58.104. Penalty and Responsibility for Violation. A person who violates a provision of this subchapter is subject to penalties and provisions as authorized by Parks and Wildlife Code, Chapter 77.
Effective 10/03/1996

§58.130. Shrimp License Buyback Program.

(a) Delegation of Authority. The commission delegates power and authority to the executive director to administer the Shrimp License Buyback Program.

(b) License Buyback Bid Application Period.

(1) The department will open one or more license buyback bid offer application periods (hereafter referred to as application) per license year if available funds permit.

(2) The department shall establish during each application period a deadline for receipt of all applications.

(c) License Buyback Application Requirements.

(1) The department shall consider all applications to the Shrimp

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License Buyback Program provided the applicants meet the following requirements:

(A) A completed License Buyback Application form furnished by the department has been submitted to the department by the application deadline;

(B) The applicant is the owner of the license submitted for buyback; and

(C) The applicant has submitted to the department copies of all supplemental information as required in this subsection.

(2) A completed License Buyback Application shall contain:

(A) full name of the applicant;

(B) current address of applicant's residence;

(C) social security number of applicant;

(D) a copy of legal documentation that:

(i) documents applicant as the sole owner of the vessel and holds the sole rights and privileges to the license; or

(ii) documents that all members of a partnership or corporation are in agreement to apply to the license buyback program and the submitted bid offer for license buyback;

(E) USCG vessel documentation number or State of Texas registration number;

(F) a copy of current commercial bay and/or bait shrimp boat license; and

(G) the applicant's bid offer, in U.S. dollars.

(3) Department records will be used to verify all information supplied by or pertaining to the applicant's history in the shrimp fishery or will be used in cases where the applicant has not provided adequate information for proper consideration of the application.

(4) Applications received after the established application deadline shall be held for consideration during the next bid offer application period.

(d) Established Maximum Value Criteria.

(1) The department may establish each license year criteria which will be used as appropriate to assign an Established Maximum Value to each application.

(2) The department will assign an Established Maximum Value to each application according to criteria provided in this section.

(3) The Established Maximum Value for each application will be based on the following criteria:

(A) length of vessel;

(B) duration of license in fishery prior to enactment of Parks and Wildlife Code, §77.117 77.123;

(C) amount of funds accumulated in the Shrimp License Buyback Account;

(D) number of bay and bait licenses in the fishery issued in the license year of the specific bid offer application period;

(E) bid offers from previous application periods;

(F) established open market prices for licenses;

(G) number of licenses offered for sale by applicant; and

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(H) other relevant factors.

(4) Adjustments to Established Maximum Value: If an applicant offers both a commercial bay shrimp license and a commercial bait shrimp license issued for the same vessel, the department will add a premium of 7.5% to the Established Maximum Value of each license offered.

(e) Application Ranking Procedures.

(1) Ranking values will be assigned to all applications based on the greatest difference between the Established Maximum Value and the bid offers which are less than the Established Maximum Value.

(2) The department will purchase licenses beginning with the highest ranking to the lowest.

(3) Equally ranked bid offers:

(A) If bid offers are equally ranked and one vessel is larger in length, the department will rank the larger vessel ahead of the smaller;

(B) If bid offers are equally ranked and both vessels are the same length, the department will rank according to the ascending alphabetical order of the applicant's last name.

(4) The department may purchase licenses from applicants whose offers fall within 10% of the Established Market Value and are greater than the Established Market Value.

(f) Notification of Acceptance or Rejection of Application.

(1) Department will notify each applicant in writing within 45 days of receipt of application regarding acceptance or rejection of application bid offer.

(2) Applicants whose bids are accepted must then notify the department of their intent to accept or reject the offer from the department within 15 days of the postmark of the notification letter sent by the department.

(3) The department may retain unsuccessful applications and include them in the next application period.

(4) The unsuccessful applicant may withdraw, resubmit, or amend an application for consideration during any future application periods.

(5) The department will continue to purchase in rank order as the buyback fund permits.

(g) Delegation of purchasing authority.

(1) The department may designate other qualified agents to purchase licenses on behalf of the department provided all purchased licenses are surrendered to the department and retired.

(2) The designated qualified agents may utilize the Maximum Value Criteria established in subsection (d) this section to purchase licenses.

Effective 10/03/1996

§58.150. Sale, Purchase, and Handling of Shrimp--General Rules.

(a) Reporting by licensee. A licensee under this section who catches and then sells shrimp in the state to individuals other than shrimp house operator, wholesale fish dealer, retail fish dealer, wholesale truck dealer, retail truck dealer, bait dealer, bait-shrimp dealer shall submit to the department by the tenth day of each month, the report required under Parks and Wildlife Code, §66.019.

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(b) Possession after season: No person may retain saltwater shrimp in their fresh state legally taken in the coastal water of this state for more than five days after the end of an open season for the taking of shrimp unless he is a licensed bait dealer, bait-shrimp dealer, or sports fisherman.

(c) Handling of shrimp.

(1) No shrimp house operator, wholesale fish dealer, retail fish dealer, wholesale truck dealer, retail truck dealer, bait dealer, bait-shrimp dealer, or other person holding a license issued by the department may knowingly unload, buy, sell, transport, or handle in any way shrimp or bait shrimp:

(A) from an unlicensed gulf shrimp boat, an unlicensed commercial bay shrimp boat or an unlicensed commercial bait shrimp boat;

(B) of a prohibited size;

(C) caught in the inside water or outside water during respective closed seasons as provided in this subchapter; or

(D) in violation of a provision of this subchapter.

(2) No licensed commercial bait-shrimp boat captain may deliver or unload shrimp caught under authority of a commercial bait-shrimp boat license except directly to the established place of business of a licensed bait-shrimp dealer or a sports fisherman.

(3) No licensed bait-shrimp dealer may knowingly unload, buy, or handle in any way bait shrimp from an unlicensed commercial bait-shrimp boat.

Effective 10/03/1996

§58.160. Taking or Attempting To Take Shrimp (Shrimping)—General Rules.

(a) It is unlawful to:

(1) take or attempt to take shrimp within the boundaries of any natural or man-made pass leading from the inside waters to the outside waters (Gulf of Mexico) of the state;

(2) use a trawl at a time when shrimping is prohibited;

(3) possess a trawl of any type or mesh size in an area where the trawl or mesh size are prohibited. Such trawls may be possessed on vessels in port or in a marked channel going directly to or from an area where the use of the trawl is permitted; or

(4) head shrimp aboard a boat in inside water or dump or deposit shrimp heads in the inside water.

(b) A commercial shrimp boat license must be prominently displayed as to be clearly visible from both sides of the boat.

(c) All commercial shrimp boats are required to exhibit the vessel's documentation or registration number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck. The number in block numerals in contrasting color to the background must be at least 18 inches in height on vessels over 65 feet and ten inches in height for all other vessels and be permanently attached.

(d) Gear Measurements: Except as otherwise provided in this section, all gear measurements are made as follows:

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(1) Otter trawls (main net and try net)--Total net width is measured along an uninterrupted corkline from leading tip of door to leading tip of door including any and all add-on devices or attachments to the corkline.

(2) Beam Trawls (main net and try net)--measured along the beam of a beam trawl in its fully extended position.

(3) Doors--measured along the door centerline from the leading tip to the trailing edge of the door, excluding any add-on devices of any type.

(4) Mesh sizes--measured between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used, and applies to the trawl, bag and bag liner. Mesh size requirements do not apply to net material used in any approved excluder device.

(5) Functional tailbag length--that portion of the cod end forward of the tail rope tie off rings toward the mouth of the trawl.

(6) TED Length: if the webbing immediately surrounding a hard TED has a mesh size smaller than that allowed for the trawl for that area or season, such webbing may not be greater than 60 total stretched meshes in length, not including the escape flap.

(e) Bycatch Reduction Device (BRD) requirements.

(1) Except as otherwise provided in this section, all shrimp boats must have an approved BRD installed in each trawl that is rigged for fishing. A trawl is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp boat.

(2) Exemptions from the BRD requirement- A shrimp boat is exempt from the BRD requirements of subsection (e)(1) if it:

(A) Is fishing under the provisions of a commercial bait shrimp license as established in §58.164, of this title (relating to Non-commercial (recreational) Shrimping); or

(B) Is fishing under the provisions of an individual bait-shrimp trawl tag as established in §58.165, this chapter.

(C) Shrimp boats may substitute tow-time restrictions for the BRD requirement of subsection (e) of this section when the Assistant Administrator of the National Marine Fisheries Service (NMFS) has determined, under 50 CFR § 223.206(d)(3)(ii), that special environmental conditions in a particular area make trawling with TED-equipped nets impracticable. Compliance with tow-time restrictions in place of the BRD requirement shall be subject to the limitations established by NMFS in its notice under 50 CFR §23.206(d)(3)(iv), including time period, locations, and any other conditions or restrictions that NMFS establishes.

(3) A single try net that is 21 feet in total width or less is exempt from the BRD requirement.

(4) Approved BRDs:

(A) **In outside waters:** Any BRD that meets the dimensions and specifications of an approved device as described in 50 Code Federal Regulations (CFR) Part 622 §622.41 in effect as of June 23, 2010.

(B) **In inside waters:**

(i) Any BRD (other than an extended funnel devices similar

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to "Jones/Davis" and "large mesh" devices) that meets the dimensions and specifications of an approved device as described in 50 Code Federal Regulations (CFR) Part 622 §622.41 as of June 23, 2010; or

(ii) An extended funnel device similar to "Jones/Davis" "large mesh" constructed and installed as follows:

(I) Extension Material. The small-mesh sections used on both sides of the large-mesh escape section are constructed of No. 18 nylon webbing with a mesh size of 6-7/8 inches over 5 stretched meshes. The front section is 120 meshes around by 6-1/2 meshes deep. The back section is 120 meshes around by 23 meshes deep.

(II) Large-Mesh Escape Section. The large-mesh escape section is constructed of webbing with a mesh size of 40-50 inches over 5 stretched meshes. This section is cut on the bar to form a section that is 15 inches by 75 inches in circumference. The leading edge is attached to the 6-1/2-mesh extension section and the rear edge is attached to the 23-mesh extension section.

(III) Funnel. The funnel is constructed of with a mesh size of 6-7/8 inches over 5 stretched meshes, No. 18 depth-stretched and heat-set polyethylene webbing. The circumference of the leading edge is 120 meshes and the back edge is 78 meshes. The short side of the funnel is 30 to 32 inches long and the opposite side of the funnel extends an additional 20 to 22 inches. The circumference of the leading edge of the funnel is attached to the forward small-mesh section three meshes forward of the large-mesh escape section and is evenly sewn, mesh for mesh, to the small-mesh section. The after edge of the funnel is attached to the after small-mesh section at its top and bottom eight meshes back from the large-mesh escape panel. Seven meshes of the top and seven meshes of the bottom of the funnel are attached to eight meshes at the top and bottom of the small-mesh section, such eight meshes being located immediately adjacent to the top and bottom centers of the small-mesh section on the side of the funnel's extended side. The extended side of the funnel is sewn at its top and bottom to the top and bottom of the small-mesh section, extending at an angle toward the top and bottom centers of the small-mesh section.

(IV) Semi-Rigid Hoop. A 24-inch diameter hoop constructed of plastic-coated trawl cable, swaged together with a 3/8-inch micropress sleeve, is installed five meshes behind the trailing edge of the large mesh section. The extension webbing must be laced to the ring around the entire circumference and must be equally distributed on the hoop, that is, 30 meshes must be evenly attached to each quadrant.

(V) Installation. The extended funnel BRD is attached 8 inches behind the posterior edge of the TED. If it is attached behind a soft TED, a second semi-rigid hoop, as prescribed in subclause (IV) of this clause, must be installed in the front section of the BRD extension webbing at the leading edge of the funnel. The cod end of the trawl net is attached to the trailing edge of the BRD.

(iii) Expanded Mesh. The expanded mesh BRD is constructed and installed exactly the same as the standard size extended funnel BRD, except that one side of the funnel is not extended to form a lead panel.

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(f) Turtle Excluder Device (TED) requirements.

(1) Except as otherwise provided in this section, all shrimp boats fishing in Texas outside waters must have an approved TED installed in each trawl that is rigged for fishing. A trawl is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp boat.

(2) Exemptions from the TED requirement. A shrimp boat is exempt from the TED requirements if it:

(A) has on board no power or mechanical-advantage trawl retrieval system (i.e. any device used to haul any part of the trawl aboard); or

(B) has only a pusher-head trawl, skimmer trawl, or wing net rigged for fishing.

(C) Shrimp boats may substitute tow-time restrictions for the TED requirement of subsection (f) of this section when the Assistant Administrator of NMFS has determined, under 50 CFR §223.206(d)(3)(ii), that special environmental conditions in a particular area make trawling with TED-equipped nets impracticable. Compliance with tow-time restrictions in place of the TED requirement shall be subject to the limitations established by NMFS in its notice under 50 CFR §223.206(d)(3)(iv), including time period, locations, and any other conditions or restrictions that NMFS establishes.

(3) Exempted gear or activities. The following fishing gear or activities are exempted from the TED requirements:

(A) A single test net (try net) that is 21 feet in total width or less, if it is either pulled immediately in front of another trawl or is not connected to another trawl in any way, if no more than one test net is used at a time, and if it is not towed as a primary trawl;

(B) A beam or roller trawl, if the frame is outfitted with rigid vertical bars, and if none of the spaces between the bars, or between the bars and the frame, exceeds 4 inches.

(g) Other aquatic life taken incidental to legal shrimping operations.

(1) Licensed Commercial Shrimp Boats.

(A) Other aquatic life taken incidental to legal shrimping operations may not be retained except as provided in these rules.

(B) On board a licensed commercial shrimp boat a catch of finfish or other aquatic life, in any combination, may be retained in an amount not to exceed 50% by weight of the total trawl catch of shrimp by weight.

(i) Within the provision provided in subparagraph (B) of this paragraph, species regulated by bag and size limits by proclamation of the Parks and Wildlife Commission may not be retained in numbers in excess of the recreational daily bag limit established for those species, and may not be retained in protected length limits established for those species.

(ii) From May 1 through September 30 of each year, in addition to the provision of subparagraph (B) of this paragraph:

(I) up to 1,500 live non-game fish, not regulated by bag or size limits, may be retained on board a licensed commercial bait-shrimp boat for

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bait purposes only; and

(II) up to 3,600 (300 dozen) Atlantic cutlassfish (*Trichiurus lepturus*) (also known as ribbonfish) may be retained on board a licensed commercial bait-shrimp boat for bait purposes only.

(2) Non-commercial shrimping. A person using an individual bait shrimp trawl for non-commercial purposes may retain for bait purposes only up to 200 non-game fish, not regulated by bag or size limits.

Effective ???

§58.161. Shrimping in Outside Waters.

(a) Gulf net restrictions.

(1) Except as otherwise provided in this section, no trawls may have a mesh size smaller than 8-3/4 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used.

(2) Except as otherwise provided in this section, the presence of a shrimp trawl (excluding doors) not stored within the confines of the hull of a vessel in outside water during the closed periods provided by subsection (d) of this section is prima facie evidence of a violation of this section.

(3) Electro-trawls. In outside waters beyond 5 nautical miles, an electro-trawl having an applied voltage of no more than three volts may be used for taking shrimp.

(4) Number of trawls:

(A) There are no restrictions on the number of trawls that may be used in outside waters except as provided in this section;

(B) No more than two trawls may be used in the outside waters from shoreline out to three nautical miles except as provided in this section.

(5) Except as otherwise provided in this section, in the outside waters

from shoreline out to three nautical miles, the main trawl:

(A) must have doors at least 3 feet long as measured along the door centerline from leading tip to the trailing edge of the door; and

(B) must not exceed any of the following dimensions, as measured along an uninterrupted corkline from leading tip of door to leading tip of door including any and all add-on devices or attachments to the corkline:

Graphic:

(b) Bag and possession limits. During the gulf open season there are no bag and possession limits on shrimp.

(c) Size limits. Shrimp of any size may be retained when caught lawfully in the outside waters.

(d) Gulf shrimping seasons. The outside waters are open to shrimping except:

(1) The Southern Shrimp Zone from the shoreline out to 5 nautical miles is closed to shrimping from February 16 to the start date of the summer Gulf closure.

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(2) Night: The outside waters from the shoreline out to 5 nautical miles is closed to night shrimping (30 minutes after sunset to 30 minutes before sunrise).

(3) Summer closed season:

(A) The outside waters are closed from 30 minutes after sunset on May 15 to 30 minutes after sunset July 15.

(B) The commission may change the opening and closing dates to provide an earlier, later, or longer closed season not to exceed 75 days, and delegates to the executive director the authority to open and close the season as provided in Parks and Wildlife Code, §77.062, not to exceed 60 days.

(C) The department will provide 72 hours public notice prior to a change in the closing date, and 24 hours public notice prior to reopening the season.

(4) The outside waters from the shoreline out to 5 nautical miles are closed from December 1 through February 15 the following year unless taking seabobs in the Northern Zone.

(5) Seabob season:

(A) Seabobs may be taken:

(i) during daylight hours only (30 minutes before sunrise to 30 minutes after sunset);

(ii) during the gulf open season; and

(iii) during the winter closed season (in the North Zone only).

(B) No person catching seabobs may catch or have on board a boat any other species of shrimp which exceed 10%, in weight or number, of the entire catch.

(C) Not more than one trawl may be used for taking Seabobs, except a try net may also be used.

(D) Net restrictions.

(i) Try nets.

(I) A trawl used as a try net may not exceed 12 feet in width as measured from the trailing edge of one door to the trailing edge of the other door.

(II) Try net trawl doors may not exceed 450 square inches each.

(ii) Main trawl

(I) Trawl width may not exceed any of the following dimensions, as measured along an uninterrupted corkline from leading tip of door including any and all add-on devices or attachments to the corkline:

Door Length	Total Net Width
3' or more but less than 4'	48'
4' or more but less than 5'	50'
5' or more but less than 6'	52'

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6' or more but less than 7'	54'
7' or more but less than 8'	56'
8' or more but less than 9'	58'
9' or more but less than 10'	60'
10' or more	62'

(II) Mesh size: trawls used for seabobs must have a mesh size of 6 -1/2 inches in length between the two most widely separated knots in a consecutive series of five stretched meshes after the trawl has been used.

Effective 03/21/2007

58.162. Shrimping in Inside Waters - General Rules.

(a) It is unlawful:

(1) during the period April 1 through August 14, to take or attempt to take shrimp from the inside water except between the hours of 30 minutes before sunrise to 2:00 p.m.

(2) to use a trawl at a time when shrimping is prohibited;

(3) to fail to have the spreading devices:

(A) out of the water and on the deck of the vessel, and the trawl bag untied at a time when shrimping is prohibited; or

(B) out of the water and at the towing block, and the trawl bag untied at a time when shrimping is prohibited.

(4) to take or attempt to take shrimp from inside water from 30 minutes after sunset to 30 minutes before sunrise except as provided in this subchapter;

(5) to take or attempt to take shrimp with a trawl at any other time or in any other place in the Laguna Madre north of a line starting on the mainland at the most northeasterly point on the north side of the entrance to Whiteley Channel then proceeding in a straight line to the north end of Pita Island; then continuing on a line to the southernmost point on the westerly most spoil island bordering the north side of the New Humble Channel (commonly referred to as Hap's Channel); then continuing on a line along the north edge of the New Humble Channel (commonly referred to as Hap's Channel) to its junction with the gulf Intracoastal Waterway; then continuing on a straight line to the Nueces/Kleberg County line marker on Padre Island;

(6) to use or have on board more than one set of doors or spreading device for the main trawl;

(7) to use or have on board more than one set of doors or spreading device for the try net; or

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(8) use more than one trawl at a time, except a try net may also be used.

(b) Dual licensed boats. During the period May 15 through July 15, it is unlawful for the operator of a boat licensed both as a commercial bay shrimp boat and a commercial bait shrimp boat to:

(1) take more than 600 pounds of shrimp per boat per calendar day in major bays;

(2) possess or have on board a boat in the inside water or unload or attempt to unload at any point in this state more than 600 pounds of shrimp; or

(3) to take or attempt to take shrimp in both a major bay and any other water within the same calendar day.

Effective 01/02/2002

§58.163. Shrimping in Inside Waters - Commercial Bay Shrimping.

(a) General rules.

(1) Open waters - commercial bay shrimp boats may shrimp only in major bays.

(2) It is unlawful for any person:

(A) aboard a vessel licensed as a commercial bay shrimp boat to off-load, transfer, sell, or barter any amount of live or dead shrimp to a person aboard another vessel; or

(B) aboard a vessel to off-load, transfer, purchase or barter from a person aboard a vessel licensed as a commercial bay shrimp boat any amount of live or dead shrimp.

(b) Spring open season.

(1) The spring open season extends from May 15 through July 15 in major bays only.

(2) Legal shrimping hours: 30 minutes before sunrise to 2:00 p.m.

(3) Bag and possession limits: No more than 600 pounds of whole shrimp per day may be taken or possessed on board.

(4) Size limits: Shrimp of any size may be retained when caught lawfully during spring open season in inside waters

(5) Net restrictions.

(A) Try nets.

(i) A trawl used as a try net may not exceed 21 feet in total width.

(ii) Try net trawl doors or boards may not exceed 450 square inches each.

(iii) A beam trawl used as a try net may not exceed ten feet in width.

(B) Main trawl:

(i) must have doors at least three feet long as measured along the door centerline from leading tip to the trailing edge of the door; and

(ii) must not exceed any of the following dimensions, as measured along an uninterrupted corkline from leading tip of door to leading tip of door including any and all add-on devices or attachments to the corkline:

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Door Length	Total Net Width
3' or more but less than 4'	40'
4' or more but less than 5'	42'
5' or more but less than 6'	44'
6' or more but less than 7'	46'
7' or more but less than 8'	48'
8' or more but less than 9'	50'
9' or more but less than 10'	52'
10' or more	54'

(C) A beam trawl used as a main trawl may not exceed 25 feet in total width.

(D) Mesh size may not be less than 6 1/2 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used.

(c) Fall open season.

(1) The fall open season extends from August 15 through November 30 in major bays only.

(2) Legal shrimping hours: 30 minutes before sunrise to 30 minutes after sunset.

(3) Bag and possession limits are not restricted.

(4) Size limits:

(A) From August 15 through October 31, the legal shrimp count is 50 heads on per pound.

(B) From November 1 through November 30 there are no count or size requirements.

(5) Net restrictions.

(A) Try nets.

(i) A trawl used as a try net may not exceed 21 feet in total width.

(ii) Try net trawl doors or boards may not exceed 450 square inches each.

(iii) A beam trawl used as a try net may not exceed ten feet in width.

(B) Main trawl may not exceed 95 feet in total width.

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(C) Mesh size in the main trawl: mesh size may not be less than 8-3/4 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used, EXCEPT from November 1 through November 30, mesh size may not be less than 6-1/2 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been used.

(d) Winter open season.

(1) The winter open season extends from February 1 through April 15 in major bays only south of the Colorado River.

(2) Legal shrimping hours: 30 minutes after sunset to 30 minutes before sunrise;

(3) Bag and possession limits are not restricted.

(4) Size limits: Shrimp of any size may be retained when caught lawfully during winter open season in inside waters.

(5) Net restrictions.

(A) Try nets.

(i) A trawl used as a try net may not exceed 21 feet in total width.

(ii) Try net trawl doors or boards may not exceed 450 square inches each.

(iii) A beam trawl used as a try net may not exceed ten feet in width.

(B) Main trawl:

(i) must have doors at least three feet long as measured along the door centerline from leading tip to the trailing edge of the door; and

(ii) must not exceed any of the following dimensions, as measured along an uninterrupted corkline from leading tip of door to leading tip of door including any and all add-on devices or attachments to the corkline:

Door Length	Total Net Width
3' or more but less than 4'	40'
4' or more but less than 5'	42'
5' or more but less than 6'	44'
6' or more but less than 7'	46'
7' or more but less than 8'	48'
8' or more but less than 9'	50'

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9' or more but less than 10'	52'
10' or more	54'

(C) A beam trawl used as a main trawl may not exceed 25 feet in total width.

(D) Mesh size may not be less than 6 1/2 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been placed in use.

Effective 01/02/2002

§58.164. Shrimping in Inside Waters – Commercial Bait Shrimping.

(a) General rules.

(1) A person who has on board or displays a commercial bait-shrimp boat license must operate only under the bait-shrimp rules of this section.

(2) Open waters: commercial bait shrimp boats may shrimp only in bait bays and major bays, except as otherwise provided in this subchapter.

(3) It is unlawful for any person:

(A) aboard a vessel licensed as a commercial bait-shrimp boat to off-load, transfer, sell, or barter any amount of live or dead shrimp, except an amount of live or dead shrimp not to exceed two quarts per sport fisherman or one gallon (by volume) for two or more sport fishermen may be off-loaded, transferred, sold or bartered to a person aboard a sport fishing vessel; or

(B) aboard a vessel to off-load, transfer, purchase, or barter from a person aboard a vessel licensed as a commercial bait-shrimp boat any amount of live or dead shrimp, except a person aboard a sport fishing vessel may off-load, transfer, purchase, or barter an amount of live or dead shrimp not to exceed two quarts per sport fisherman or one gallon (by volume) for two or more sport fishermen.

(b) Commercial bait-shrimp season.

(1) Commercial bait-shrimp season is open year-round.

(2) Legal shrimping hours.

(A) From August 15 through March 31 legal shrimping hours are 30 minutes before sunrise 30 minutes after sunset.

(B) From April 1 through August 14 legal shrimping hours are 30 minutes before sunrise to 2:00 p.m.

(C) In the Gulf Intracoastal Waterway between markers 17 and 57 in the Laguna Madre in Nueces County, bait-shrimp may be taken only from 1:00 a.m. to 30 minutes before sunrise each day.

(c) Bag and possession limits.

(1) No more than 200 pounds of whole shrimp per day may be taken or possessed on board.

(2) At least 50% of the on-board catch must be kept in a live condition, except during the period August 16 through November 14.

(3) All shrimp on board must have heads attached.

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(d) Size limits Size limits: Shrimp of any size may be retained when caught lawfully during commercial bait-shrimp operations in inside waters.

(e) Net restrictions.

(1) Try nets.

(A) A trawl used as a try net may not exceed 12 feet in total width.

(B) Try net trawl doors or boards may not exceed 450 square inches each.

(C) A beam trawl used as a try net may not exceed five feet in width.

(2) Main trawl:

(A) must have doors at least three feet long as measured along the door centerline from leading tip to the trailing edge of the door; and

(B) must not exceed any of the following dimensions, as measured along an uninterrupted corkline from leading tip of door to leading tip of door including any and all add-on devices or attachments to the corkline:

Door Length	Total Net Width
3' or more but less than 4'	40'
4' or more but less than 5'	42'
5' or more but less than 6'	44'
6' or more but less than 7'	46'
7' or more but less than 8'	48'
8' or more but less than 9'	50'
9' or more but less than 10'	52'
10' or more	54'

(C) A beam trawl used as a main trawl may not exceed 25 feet in total width.

(3) Mesh size may not be less than 6 1/2 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been placed in use.

(4) In the Gulf Intracoastal Waterway between markers 17 and 57 (as indicated on the most current United States Coastal Survey Charts on the effective

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date of these rules) in the Laguna Madre in Nueces County, bait-shrimp may be taken with a legal beam trawl only.

Effective 10/10/2000

§58.165. Non-commercial (recreational) Shrimping.

(a) General rules.

(1) It is unlawful for any person:

(A) to take or attempt to take non-commercial shrimp in coastal waters by any means except an individual bait-shrimp trawl, cast net, or minnow seine not larger than 20 feet in length that is manually operated without the use of any mechanical means or devices;

(B) to buy, sell, offer for sale, or handle in any way for profit non-commercial shrimp caught with an individual bait-shrimp trawl, cast net, or minnow seine not larger than 20 feet; or

(C) to possess or have on board more than one individual bait-shrimp trawl.

(2) Net restrictions Individual bait-shrimp trawls.

(A) Trawls may not exceed 20 feet in width as measured between the doors and along the uninterrupted corkline, including any and all add-on devices or attachments to the corkline.

(B) Trawl doors or boards may not exceed 450 square inches each.

(C) Mesh size may not be less than 8 3/4 inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been placed in use.

(b) Shrimping for personal use and bait--Outside waters.

(1) Open waters--the outside waters are open to shrimping except:

(A) Night: In the outside waters from the shoreline out to 5 nautical miles is closed to night shrimping (30 minutes after sunset to 30 minutes before sunrise).

(B) That portion of the Southern Shrimp Zone from the shoreline out to 5 nautical miles is closed to shrimping from February 16 to the start date of the summer Gulf closure.

(C) Summer closed season.

(i) The outside waters are closed from 30 minutes after sunset on May 15 to 30 minutes after sunset July 15.

(ii) The commission may change the opening and closing dates to provide an earlier, later, or longer season not to exceed 75 days.

(iii) The department will provide 72 hours public notice prior to a change in the closing date, and 24 hours public notice prior to reopening the season.

(D) Winter closed season: The outside waters from the shoreline out to 5 nautical miles are closed from December 1 through February 15 the following year.

(2) Bag and possession limits.

(A) Personal use: No more than 100 pounds of shrimp (in their natural state with heads attached) per day may be taken or possessed on board.

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(B) Bait: No more than two quarts of shrimp (in their natural state with heads attached) per person or four quarts of shrimp per boat may be on board or possessed.

(3) Size limits: shrimp of any size may be retained when caught lawfully in the outside waters.

(c) Shrimping for personal use Inside waters.

(1) Open waters. Major bays only are open to taking of shrimp for food for personal use.

(2) Spring open season.

(A) The spring open season extends from May 15 through July 15.

(B) Legal shrimping hours: 30 minutes before sunrise to 2:00 p.m.

(C) Bag and possession limits: No more than 15 pounds of shrimp (in their natural state with heads attached) per person per day may be taken or possessed on board.

(D) Size limits: Shrimp of any size may be retained when caught lawfully during spring open season in inside waters.

(3) Fall open season.

(A) The fall open season extends from August 15 through November 30.

(B) Legal shrimping hours: 30 minutes before sunrise to 30 minutes after sunset.

(C) Bag and possession limits: No more than 15 pounds of shrimp (in their natural state with heads attached) per person per day may be taken or possessed on board.

(D) Size limits:

(i) From August 15 through October 31, the legal shrimp count is 50 heads on per pound.

(ii) From November 1 through December 15 there are no count or size requirements.

(d) Shrimping for bait Inside waters.

(1) Open waters: Bait bays and major bays only are open to taking of shrimp for bait.

(2) Non-commercial bait-shrimp season. Bait bays and major bays are open year-round for non-commercial bait shrimping.

(3) Legal shrimping hours.

(A) From August 15 through March 31 legal shrimping hours are 30 minutes before sunrise to 30 minutes after sunset.

(B) From April 1 through August 14 legal shrimping hours are 30 minutes before sunrise to 2:00 p.m.

(4) Bag and possession limits: No more than two quarts of shrimp (in their natural state with heads attached) per person or four quarts of shrimp per boat may be on board or possessed.

(5) Size limits: Shrimp of any size may be retained when caught lawfully for bait in the inside waters.

Effective 01/02/2002

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Appendix D to Part 622—Specifications for Certified BRDs

(NOTE TO USERS: The use of extended funnel devices similar to "Jones/Davis" and "large mesh" devices is unlawful in inside waters unless the BRD is constructed as described in §58.160(a)(4)(B)(ii) of these rules.)

A. *Extended Funnel.*

1. *Description.* The extended funnel BRD consists of an extension with large-mesh webbing in the center (the large-mesh escape section) and small-mesh webbing on each end held open by a semi-rigid hoop. A funnel of small-mesh webbing is placed inside the extension to form a passage for shrimp to the codend. It also creates an area of reduced water flow to allow for fish escapement through the large mesh. One side of the funnel is extended vertically to form a lead panel and area of reduced water flow. There are two sizes of extended funnel BRDs, a standard size and an inshore size for small trawls.

2. *Minimum Construction and Installation Requirements for Standard Size.*

(a) *Extension Material.* The small-mesh sections used on both sides of the large-mesh escape section are constructed of 15/8inch (4.13 cm), No. 30 stretched mesh, nylon webbing. The front section is 120 meshes around by 61/2meshes deep. The back section is 120 meshes around by 23 meshes deep.

(b) *Large-Mesh Escape Section.* The large-mesh escape section is constructed of 8 to 10 inch (20.3 to 25.4 cm), stretched mesh, webbing. This section is cut on the bar to form a section that is 15 inches (38.1 cm) in length by 95 inches (241.3 cm) in circumference. The leading edge is attached to the 61/2-mesh extension section and the rear edge is attached to the 23-mesh extension section.

(c) *Funnel.* The funnel is constructed of 11/2inch (3.81 cm), stretched mesh, No. 30 depth-stretched and heat-set polyethylene webbing. The circumference of the leading edge is 120 meshes and the back edge is 78 meshes. The short side of the funnel is 34 to 36 inches (86.4 to 91.4 cm) long and the opposite side of the funnel extends an additional 22 to 24 inches (55.9 to 61.0 cm). The circumference of the leading edge of the funnel is attached to the forward small-mesh section three meshes forward of the large-mesh escape section and is evenly sewn, mesh for mesh, to the small-mesh section. The after edge of the funnel is attached to the after small-mesh section at its top and bottom eight meshes back from the large-mesh escape panel. Seven meshes of the top and seven meshes of the bottom of the funnel are attached to eight meshes at the top and bottom of the small-mesh section, such eight meshes being located immediately adjacent to the top and bottom centers of the small-mesh section on the side of the funnel's extended side. The extended side of the funnel is sewn at its top and bottom to the top and bottom of the small-mesh

section, extending at an angle toward the top and bottom centers of the small-mesh section.

(d) *Semi-Rigid Hoop.* A 30-inch (76.2-cm) diameter hoop constructed of plastic-coated trawl cable, swaged together with a 3/8-inch (9.53-mm) micropress sleeve, is installed five meshes behind the trailing edge of the large-mesh escape section. The extension webbing must be laced to the ring around the entire circumference and must be equally distributed on the hoop, that is, 30 meshes must be evenly attached to each quadrant.

(e) *Installation.* The extended funnel BRD is attached 8 inches (20.3 cm) behind the posterior edge of the TED. If it is attached behind a soft TED, a second semi-rigid hoop, as prescribed in paragraph A.2.(d), must be installed in the front section of the BRD extension webbing at the leading edge of the funnel. The codend of the trawl net is attached to the trailing edge of the BRD.

3. *Minimum Construction and Installation Requirements for Inshore Size.*

(a) *Extension Material.* The small-mesh sections used on both sides of the large-mesh escape section are constructed of 13/8inch (3.5 cm), No. 18 stretched mesh, nylon webbing. The front section is 120 meshes around by 61/2meshes deep. The back section is 120 meshes around by 23 meshes deep.

(b) *Large-Mesh Escape Section.* The large-mesh escape section is constructed of 8 to 10 inch (20.3 to 25.4 cm), stretched mesh, webbing. This section is cut on the bar to form a section that is 15 inches (38.1 cm) by 75 inches (190.5 cm) in circumference. The leading edge is attached to the 61/2-mesh extension section and the rear edge is attached to the 23-mesh extension section.

(c) *Funnel.* The funnel is constructed of 13/8inch (3.5 cm), stretched mesh, No. 18 depth-stretched and heat-set polyethylene webbing. The circumference of the leading edge is 120 meshes and the back edge is 78 meshes. The short side of the funnel is 30 to 32 inches (76.2 to 81.3 cm) long and the opposite side of the funnel extends an additional 20 to 22 inches (50.8 to 55.9 cm). The circumference of the leading edge of the funnel is attached to the forward small-mesh section three meshes forward of the large-mesh escape section and is evenly sewn, mesh for mesh, to the small-mesh section. The after edge of the funnel is attached to the after small-mesh section at its top and bottom eight meshes back from the large-mesh escape panel. Seven meshes of the top and seven meshes of the bottom of the funnel are attached to eight meshes at the top and bottom of the small-mesh section, such eight meshes being located immediately adjacent to the top and bottom centers of the small-mesh section on the side of the funnel's extended side. The extended side of the funnel is sewn at its top and bottom to the top and bottom of the small-mesh section, extending at an angle toward the top and bottom centers of the small-mesh section.

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(d) *Semi-Rigid Hoop.* A 24-inch (61.0-cm) diameter hoop constructed of plastic-coated trawl cable, swaged together with a 3/8-inch (9.53-mm) micropress sleeve, is installed five meshes behind the trailing edge of the large mesh section. The extension webbing must be laced to the ring around the entire circumference and must be equally distributed on the hoop, that is, 30 meshes must be evenly attached to each quadrant.

(e) *Installation.* The extended funnel BRD is attached 8 inches (20.3 cm) behind the posterior edge of the TED. If it is attached behind a soft TED, a second semi-rigid hoop, as prescribed in paragraph A.3.(d), must be installed in the front section of the BRD extension webbing at the leading edge of the funnel. The codend of the trawl net is attached to the trailing edge of the BRD.

B. *Expanded Mesh.* The expanded mesh BRD is constructed and installed exactly the same as the standard size extended funnel BRD, except that one side of the funnel is not extended to form a lead panel.

C. *Fisheye.*

1. *Description.* The fisheye BRD is a cone-shaped rigid frame constructed from aluminum or steel rod of at least 1/4 inch (6.35-mm) diameter, which is inserted into the cod end to form an escape opening.

2. *Minimum Construction and Installation Requirements.* The fisheye has a minimum escape opening dimension of 5 inches (12.7 cm) and a minimum total escape opening area of 36 in² (91.4 cm²). When the fisheye BRD is installed, no part of the lazy line attachment system (i.e., any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the cod end) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the cod end retrieval system.

(a) In the Gulf EEZ, the fisheye BRD must be installed at the top center of the cod end of the trawl to create an opening in the trawl facing in the direction of the mouth of the trawl no further forward than 9 ft (2.7 m) from the cod end drawstring (tie-off rings).

(b) In the South Atlantic EEZ, the fisheye BRD must be installed at the top center of the cod end of the trawl to create an escape opening in the trawl facing the direction of the mouth of the trawl no further forward than 11 ft (3.4 m) from the cod end tie-off rings.

D. *Gulf fisheye.*

1. *Description.* The Gulf fisheye is a cone-shaped rigid frame constructed from aluminum or steel rod of at least 1/4 inch (6.35-mm) diameter, which is inserted into the top center of the cod end, and is offset not more than 15 meshes perpendicular to the top center of the cod end to form an escape opening.

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2. Minimum Construction and Installation Requirements. The Gulf fisheye has a minimum escape opening dimension of 5 inches (12.7 cm) and a minimum total escape opening area of 36 in² (91.4 cm²). To be used in the South Atlantic EEZ, the Gulf fisheye BRD must be installed in the cod end of the trawl to create an escape opening in the trawl, facing in the direction of the mouth of the trawl, no less than 8.5 ft (2.59 m) and no further forward than 12.5 ft (3.81 m) from the cod end tie-off rings, and may be offset no more than 15 meshes perpendicular to the top center of the cod end. When the Gulf fisheye BRD is installed, no part of the lazy line attachment system (i.e. any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the cod end) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the cod end retrieval system.

E. Jones-Davis.

1. Description. The Jones-Davis BRD is similar to the expanded mesh and the extended funnel BRDs except that the fish escape openings are windows cut around the funnel rather than large-mesh sections. In addition, a webbing cone fish deflector is installed behind the funnel.

2. Minimum Construction and Installation Requirements. The Jones-Davis BRD must contain all of the following.

(a) *Webbing extension.* The webbing extension must be constructed from a single piece of 15/8-inch (3.5-cm) stretch mesh number 30 nylon 42 meshes by 120 meshes. A tube is formed from the extension webbing by sewing the 42-mesh side together.

(b) *28-inch (71.1-cm) cable hoop.* A single hoop must be constructed of 1/2-inch (1.3-cm) steel cable 88 inches (223.5 cm) in length. The cable must be joined at its ends by a 3-inch (7.6-cm) piece of 1/2-inch (1.3-cm) aluminum pipe and pressed with a 3/8-inch (0.95-cm) die to form a hoop. The inside diameter of this hoop must be between 27 and 29 inches (68.6 and 73.7 cm). The hoop must be attached to the extension webbing 17 1/2 meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with 3/8-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(c) *24-inch (61.0-cm) hoop.* A single hoop must be constructed of either number 60 twine 80 inches (203.2 cm) in length or 3/8-inch (0.95-cm) steel cable 75 1/2 inches (191.8 cm) in length. If twine is used, the twine must be laced in and out of the extension webbing 39 meshes behind the leading edge, and the ends must be tied together. If cable is used, the cable must be joined at its ends by a 3-inch (7.6-cm) piece of 3/8-inch (0.95-cm) aluminum pipe and pressed together with a 1/4-inch (0.64-cm) die to form a hoop. The inside diameter of this hoop must be between 23 and 25 inches (58.4 and 63.4 cm). The hoop must be attached to the extension webbing 39 meshes behind the leading edge. The extension webbing must be quartered and

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attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with 3/8-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(d) *Funnel*. The funnel must be constructed from four sections of 11/2-inch (3.8-cm) heat-set and depth-stretched polypropylene or polyethylene webbing. The two side sections must be rectangular in shape, 291/2meshes on the leading edge by 23 meshes deep. The top and bottom sections are 291/2meshes on the leading edge by 23 meshes deep and tapered 1 point 2 bars on both sides down to 8 meshes across the back. The four sections must be sewn together down the 23-mesh edge to form the funnel.

(e) *Attachment of the funnel in the webbing extension*. The funnel must be installed two meshes behind the leading edge of the extension starting at the center seam of the extension and the center mesh of the funnel's top section leading edge. On the same row of meshes, the funnel must be sewn evenly all the way around the inside of the extension. The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop). Starting at the top center seam, the back edge of the top funnel section must be attached four meshes each side of the center. Counting around 60 meshes from the top center, the back edge of the bottom section must be attached 4 meshes on each side of the bottom center. Clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position.

(f) *Cutting the escape openings*. The leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid. The area of the escape opening must total at least 864 in² (5,574.2 cm²). Two escape openings 10 meshes wide by 13 meshes deep must be cut 6 meshes apart in the extension webbing, starting at the top center extension seam, 3 meshes back from the leading edge and 16 meshes to the left and to the right (total of four openings). The four escape openings must be double selvaged for strength.

(g) *Alternative Method for Constructing the Funnel and Escape Openings*. The following method for constructing the funnel and escape openings may be used instead of the method described in paragraphs F.2.d., F.2.e. and F.2.f. of this section. With this alternative method, the funnel and escape openings are formed by cutting a flap in each side of the extension webbing; pushing the flaps inward; and attaching the top and bottom edges along the bars of the extension webbing to form the v-shape of the funnel. Minimum requirements applicable to this method include: (1) The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop); (2) clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position; (3) the leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid; and, (4) the area of the escape opening must

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total at least 864 in² (5,574.2 cm²). To construct the funnel and escape openings using this method, begin 3 1/2 meshes from the leading edge of the extension, at the top center seam, count over 18 meshes on each side, and cut 13 meshes toward the back of the extension. Turn parallel to the leading edge, and cut 26 meshes toward the bottom center of the extension. Next, turn parallel to the top center seam, and cut 13 meshes forward toward the leading edge, creating a flap of webbing 13 meshes by 26 meshes by 13 meshes. Lengthen the flap to 18 meshes by adding a 4 1/2-mesh by 26-mesh rectangular section of webbing to the 26-mesh edge. Attach the 18-mesh edges to the top and bottom of the extension by sewing 2 bars of the extension to 1 mesh on the flap in toward the top center and bottom center of the extension, forming the exit opening and the funnel. Connect the two flaps together in the center with a 7-inch piece of number 42 twine to allow adequate clearance for fish escapement between the flaps and the side openings. On each side, sew a 6-mesh by 10 1/2-mesh section of webbing to 6 meshes of the center of the 26-mesh cut on the extension and 6 meshes centered between the 13-mesh cuts 3 1/2 meshes from the leading edge. This forms two 10-mesh by 13-mesh openings on each side.

(h) *Cone fish deflector.* The cone fish deflector is constructed of 2 pieces of 15/8-inch (4.13-cm) polypropylene or polyethylene webbing, 40 meshes wide by 20 meshes in length and cut on the bar on each side forming a triangle. Starting at the apex of the two triangles, the two pieces must be sewn together to form a cone of webbing. The apex of the cone fish deflector must be positioned within 10-14 inches (25.4-35.6 cm) of the posterior edge of the funnel.

(i) *11-inch (27.9-cm) cable hoop for cone deflector.* A single hoop must be constructed of 5/16-inch (0.79-cm) or 3/8-inch (0.95-cm) cable 34 1/2 inches (87.6 cm) in length. The ends must be joined by a 3-inch (7.6-cm) piece of 3/8-inch (0.95-cm) aluminum pipe pressed together with a 1/4-inch (0.64-cm) die. The hoop must be inserted in the webbing cone, attached 10 meshes from the apex and laced all the way around with heavy twine.

(j) *Installation of the cone in the extension.* The cone must be installed in the extension 12 inches (30.5 cm) behind the back edge of the funnel and attached in four places. The midpoint of a piece of number 60 twine 4 ft (1.22 m) in length must be attached to the apex of the cone. This piece of twine must be attached to the 28-inch (71.1-cm) cable hoop at the center of each of its sides; the points of attachment for the two pieces of twine must be measured 20 inches (50.8 cm) from the midpoint attachment. Two 8-inch (20.3-cm) pieces of number 60 twine must be attached to the top and bottom of the 11-inch (27.9-cm) cone hoop. The opposite ends of these two pieces of twine must be attached to the top and bottom center of the 24-inch (61-cm) cable hoop; the points of attachment for the two pieces of twine must be measured 4 inches (10.2 cm) from the points where they are tied to the 11-inch (27.9-cm) cone hoop.

F. Modified Jones-Davis.

1. *Description* The Modified Jones-Davis BRD is a variation to the alternative

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funnel construction method of the Jones-Davis BRD except the funnel is assembled by using depth-stretched and heat-set polyethylene webbing instead of the flaps formed from the extension webbing. In addition, no hoops are used to hold the BRD open.

2. Minimum Construction and Installation Requirements The Modified Jones-Davis BRD must contain all of the following.

(a) *Webbing extension* The webbing extension must be constructed from a single rectangular piece of 1 5/8-inch (4.1-cm) stretch mesh number 30 nylon with dimensions of 391/2meshes by 150 meshes. A tube is formed from the extension webbing by sewing the 391/2-mesh-sides together.

(b) *Funnel* The funnel must be constructed from two sections of 1 5/8-inch (4.1-cm) heat-set and depth-stretched polypropylene or polyethylene webbing. The two side sections must be rectangular in shape, 25 meshes on the leading edge by 21 meshes deep. The 25-mesh leading edge of each polyethylene webbing section must be sewn evenly two meshes in from the front of the extension webbing starting 25 meshes back from the top center on each side. The 21-mesh edge must be sewn to the extension webbing on a 9-bar and 1-mesh angle in the top and bottom, forming a V-shape funnel.

(c) *Cutting the escape opening* . The leading edge of the escape openings must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid. The area of the escape opening must total at least 635 in² (4,097 cm²). Two escape openings, 6 meshes wide by 12 meshes deep, must be cut 4 meshes apart in the extension webbing, starting at the top center extension seam, 7 meshes back from the leading edge, and 30 meshes to the left and to the right (total of four openings). The four escape openings must be double selvaged for strength.

(d) *Cone fish deflector* . The cone fish deflector is constructed of 2 pieces of 1 5/8-inch (4.1-cm) polypropylene or polyethylene webbing, 40 meshes wide by 20 meshes in length and cut on the bar on each side forming a triangle. Starting at the apex of the two triangles, the two pieces must be sewn together to form a cone of webbing. The apex of the cone fish deflector must be positioned within 12 inches (30.5 cm) of the posterior edge of the funnel.

(e) *11-inch (27.9-cm) cable hoop for cone deflector* . A single hoop must be constructed of 5/16-inch (0.79-cm) or 3/8-inch (0.95-cm) cable 341/2inches (87.6 cm) in length. The ends must be joined by a 3-inch (7.6-cm) piece of 3/8-inch (0.95-cm) aluminum pipe pressed together with a 1/4-inch (0.64-cm) die. The hoop must be inserted in the webbing cone, attached 10 meshes from the apex and laced all the way around with heavy twine.

(f) *Installation of the cone in the extension* The apex of the cone must be installed in the extension within 12 inches (30.5 cm) behind the back edge of the funnel and attached in four places. The midpoint of a piece of number 60 twine (or at least 4-mesh wide strip of number 21 or heavier webbing) 3 ft (1.22 m) in length must be

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attached to the apex of the cone. This piece of twine or webbing must be attached within 5 meshes of the aft edge of the funnel at the center of each of its sides. Two 12-inch (30.5-cm) pieces of number 60 (or heavier) twine must be attached to the top and bottom of the 11-inch (27.9-cm) cone hoop. The opposite ends of these two pieces of twine must be attached to the top and bottom center of the extension webbing to keep the cone from inverting into the funnel.

G. Composite Panel.

1. *Description* The Composite Panel BRD is a variation to the alternative funnel construction method of the Jones-Davis BRD except the funnel is assembled by using depth-stretched and heat-set polyethylene webbing with square mesh panels on the inside instead of the flaps formed from the extension webbing. In addition, no hoops are used to hold the BRD open.

2. *Minimum Construction and Installation Requirements* The Composite Panel BRD must contain all of the following:

(a) *Webbing extension* The webbing extension must be constructed from a single rectangular piece of 11/2-inch to 13/4-inch (3.8-cm to 4.5-cm) stretch mesh with dimensions of 241/2meshes by 150 to 160 meshes. A tube is formed from the extension webbing piece by sewing the 241/2-mesh sides together. The leading edge of the webbing extension must be attached no more than 4 meshes from the posterior edge of the TED grid.

(b) *Funnel* The V-shaped funnel consists of two webbing panels attached to the extension along the leading edge of the panels. The top and bottom edges of the panels are sewn diagonally across the extension toward the center to form the funnel. The panels are 2-ply in design, each with an inner layer of 11/2-inch to 15/8-inch (3.8-cm to 4.1-cm) heat-set and depth-stretched polyethylene webbing and an outer layer constructed of no larger than 2-inch (5.1-cm) square mesh webbing (1-inch bar). The inner webbing layer must be rectangular in shape, 36 meshes on the leading edge by 20 meshes deep. The 36-mesh leading edges of the polyethylene webbing should be sewn evenly to 24 meshes of the extension webbing 11/2meshes from and parallel to the leading edge of the extension starting 12 meshes up from the bottom center on each side. Alternately sew 2 meshes of the polyethylene webbing to 1 mesh of the extension webbing then 1 mesh of the polyethylene webbing to 1 mesh of the extension webbing toward the top. The bottom 20-mesh edges of the polyethylene layers are sewn evenly to the extension webbing on a 2 bar 1 mesh angle toward the bottom back center forming a v-shape in the bottom of the extension webbing. The top 20-mesh edges of the polyethylene layers are sewn evenly along the bars of the extension webbing toward the top back center. The square mesh layers must be rectangular in shape and constructed of no larger than 2-inch (5.1-cm) webbing that is 18 inches (45.7 cm) in length on the leading edge. The depth of the square mesh layer must be no more than 2 inches (5.1 cm) less than the 20 mesh side of the inner polyethylene layer when stretched taught. The 18-inch (45.7-cm) leading edge of each square mesh layer must be

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sewn evenly to the 36-mesh leading edge of the polyethylene section and the sides are sewn evenly (in length) to the 20-mesh edges of the polyethylene webbing. This will form a v-shape funnel using the top of the extension webbing as the top of the funnel and the bottom of the extension webbing as the bottom of the funnel.

(c) *Cutting the escape opening* . There are two escape openings on each side of the funnel. The leading edge of the escape openings must be located on the same row of meshes in the extension webbing as the leading edge of the composite panels. The lower openings are formed by starting at the first attachment point of the composite panels and cutting 9 meshes in the extension webbing on an even row of meshes toward the top of the extension. Next, turn 90 degrees and cut 15 points on an even row toward the back of the extension webbing. At this point turn and cut 18 bars toward the bottom front of the extension webbing. Finish the escape opening by cutting 6 points toward the original starting point. The top escape openings start 5 meshes above and mirror the lower openings. Starting at the leading edge of the composite panel and 5 meshes above the lower escape opening, cut 9 meshes in the extension on an even row of meshes toward the top of the extension. Next, turn 90 degrees, and cut 6 points on an even row toward the back of the extension webbing. Then cut 18 bars toward the bottom back of the extension. To complete the escape opening, cut 15 points forward toward the original starting point. The area of each escape opening must total at least 212 in² (1,368 cm²). The four escape openings must be double selvaged for strength.



STATE PARKS

The regulations are adopted under Parks and Wildlife Code, §13.101 and §13.102, which authorize the commission to promulgate regulations governing the health, safety, and protection of persons and property in state parks, historic sites, scientific areas, or forts under the control of the department, including public water within state parks, historic sites, scientific areas, and forts; §13.0145, which authorizes the commission to enforce speed limits;

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

(1) **Arms and firearms**--Any device from which shot, a projectile, arrow, or bolt is fired by the force of an explosion, compressed air, gas, or mechanical device. To include, but not limited to, rifle, shotgun, handgun, air rifle, pellet gun, longbow, cross bow, sling shot, blow gun, or dart gun.

(2) **Bicycle**--A device that a person may ride, that is propelled by human power, and has two tandem wheels at least one of which is more than 14 inches in diameter.

(3) **Artifacts**--Objects used or modified by humans, including, but not limited to, arrow points, dart points, stone, bone, or shell implements or any other prehistoric or historic objects.

(4) **Boat**--A vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer, and manufactured or used primarily for noncommercial use.

(5) **Camping**—The act of:

(A) occupying a designated camping facility;

(B) erecting a tent, or arranging bedding, or both, for the purpose of, or in such a manner as will permit, remaining overnight; and/or

(C) using a trailer, camper, or other vehicle for the purpose of sleeping during nighttime hours.

(6) **Cultural features**--Include, but are not limited to, state archeological landmarks, archeological sites, historic sites and structures, pictographs and petroglyphs.

(7) **Department**--The Texas Parks and Wildlife Department.

(8) **Director**--The executive director of the Texas Parks and Wildlife Department or his or her designee.

(9) **Equine**—A species of animal belonging to the family equidae, including horses, ponies, donkeys, and mules.

(10) **Garbage**--Trash, refuse, rubbish, household waste, medical waste, rubble, spoil, construction debris, yard clippings, offal, or any other similarly

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useless, noxious, or offensive material.

(11) Motor Vehicle--For purposes of this subchapter, a motor vehicle does not include a wheelchair, a motorized wheelchair or a motorized mobility device. A motor vehicle is a motor powered vehicle, including, but not limited to:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) an all-terrain vehicle as defined in Transportation Code, §502.001;

(C) a motorcycle as defined in Transportation Code, §501.002 and §541.201;

(D) a golf cart, as defined in Transportation Code, §502.001;

(E) a moped as defined in Transportation Code, §541.201;

(F) a neighborhood electric vehicle as defined in Transportation Code, §551.301;

(G) a pocket bike or mini-motorbike, as defined in Transportation Code, §551.301;

(H) an electric bicycle; or

(I) a motor assisted scooter, as defined in Transportation Code, §551.301.

(12) Motorized mobility device--A device designed for transportation of persons with physical disabilities that:

(A) has three or more wheels;

(B) is propelled by a battery-powered motor;

(C) has not more than one forward gear; and

(D) is not capable of speeds exceeding eight miles per hour.

(13) Night--Any time from 1/2 hour after sunset to 1/2 hour before sunrise.

(14) Person--Natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons acting individually, or by an agent, servant, or employee.

(15) Pet--A domesticated companion animal accompanying a person who enters or uses a state park. In no event shall a pet under this subchapter include the following:

(A) a dangerous wild animal, as defined in Health and Safety Code, §822.101;

(B) wildlife;

(C) livestock and exotic livestock as defined in Agriculture Code, §§1.003, 142.001, and 161.001;

(D) any species of animal that is not ordinarily domesticated; or

(E) any species of animal that a person may not legally possess.

(16) Plant life--All plants including trees, dead or downed wood, shrubs, vines, wildflowers, grass, sedge, fern, moss, lichen, fungus, or any other member of the plant family.

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(17) Public place--Any place to which the public or a substantial group of the public has access. The interior spaces of the following are not considered public places:

(A) department cabins, screened shelters, recreation halls, group barracks, and lodges; and

(B) tents, campers, trailers, motor homes, or any enclosed vehicle(s) that are used as camping equipment.

(18) State park-- A state park, state historic site, or state natural that is administered, operated, or managed by the department.

(19) Unattended pet--A pet that is unaccompanied or not under immediate control of the person responsible for the pet. Pets tied or secured outside of camping equipment or buildings are not considered under immediate control.

(20) Wildlife--A species, including each individual of a species, that normally lives in state of nature is not ordinarily domesticated.

Effective 09/01/2009

§59.132. General Rules.

(a) Upon finding a need for public safety or welfare, or preservation of park resources, the director may impose restriction on public activity and conduct and may limit the use of any area or facility in a state park or a portion thereof. It is an offense for a person to enter or remain in an area or participate in an activity so restricted by the director.

(b) An employee of the department, peace officers, and emergency personnel are exempt from this subchapter when this subchapter conflicts with the discharge of his or her official duties to the extent of that conflict.

(c) The director by written order may waive any provision of this subchapter in response to a natural disaster or other similar emergency.

(d) Any vehicle, boat, trailer, or other property found parked, stored, or left in a state park in violation of any law or rule may be removed and stored at the owner's expense.

(e) No person may enter a state park with an equine or equines, or cause the entry of an equine or equines to a state park, unless that person has in his or her immediate possession, for each equine in the person's custody or equine that the person allowed to enter the state park, a completed VS Form 10-11 (Texas Animal Health Commission) showing that the equine has tested negative to an official Equine Infectious Anemia test within the previous 12 months. The documentation required by this subsection shall be made available for inspection upon the request of any department employee acting within the scope of official duties.

Effective 09/01/2009

§59.133. Closing Hours and Overnight Use.

(a) The director by written order may establish closing hours and opening hours for a state park or a portion of a state park. Closing hours or opening hours shall be posted.

(b) Except for persons authorized by the department to use a camping facility, trailer space, shelter, cabin or lodge facilities, or boat ramp, or for persons who have paid the overnight activity use fee, it is an offense for a person to enter into or remain within a state park between the closing hour and the opening hour.

Effective 09/01/2009

§59.134. Rules of Conduct in Parks.

(a) Abandoned and unattended property. It is an offense for any person to:

(1) abandon a vehicle or other personal property;

(2) leave a vehicle, boat, barge, or other property unattended in a unit of the state park system in such a manner as to create a hazardous or unsafe condition; or

(3) leave property unattended in a state park without having received prior permission from the director or to leave a vehicle unattended after the closing hour, unless such person is legally in the park after closing, and unless he has parked the vehicle in a place designated by the director or he has prior permission from the director.

(b) Alcoholic beverages. It is an offense for any person to:

(1) consume or display an alcoholic beverage in a public place; or

(2) sell alcoholic beverages within a state park.

(c) Animals. Except as provided in this subsection, it is an offense for any person to bring into a state park, possess while in a state park, or release into a state park any species of animal. A pet or equine may be brought into and possessed within a state park as provided in this subsection.

(1) Equine. It is an offense for any person to:

(A) ride, drive, lead, or keep equines, except in designated areas;

(B) ride equines in a manner that is dangerous to a person or

animal;

(C) allow equines to stand unattended or insecurely tied; or

(D) hitch equines to a tree, shrub, or structure in any manner

that may cause damage.

(2) Pets. It is an offense for any person to:

(A) bring into, possess, or permit to roam within a state park a pet, unless the pet is secured by a leash not exceeding six feet in length, confined in a vehicle, or confined in a suitable cage;

(B) bring into or possess within a state park an unattended pet;

(C) fail to immediately collect and properly dispose of fecal

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material deposited by a pet for which a person is responsible. For purposes of this paragraph, "properly dispose" means to deposit fecal material in an appropriate solid waste collection container;

(D) bring a pet into an area where pets are prohibited;

(E) permit a pet (except a trained assistance animal accompanying a person with a disability) to enter into or remain in any building or enclosure designated for public use including, but not limited to, a restaurant, snack bar, cabin, lodge room, restroom, park store, shelter, refectory building, amphitheater, administration building, or railroad coach;

(F) permit a pet in the water of a designated swimming area or to permit a pet animal (except a trained assistance animal accompanying a person with a disability) within the land or beach area adjacent to the water of a designated swimming area; or

(G) possess a noisy, vicious, or dangerous pet, or a pet which creates a disturbance to or hazard within a state park;

(3) Wildlife. It is an offense for any person to:

(A) harm, harass, disturb, trap, confine, catch, possess, or remove any wildlife, or portions of wildlife from a unit of the state park system, except by a permit issued by the director or as provided by the Parks and Wildlife Code, Chapter 62, Subchapter D;

(B) release any fish into the waters of any state park, except as authorized by the Parks and Wildlife Code; or

(C) feed or offer food to any wildlife or exotic wildlife, or to leave food unsecured in a manner that makes the food available to wildlife or exotic wildlife, unless specifically authorized by the department. The feeding of birds may be permitted on a park-by-park basis as prescribed by the department.

(d) Arms and Firearms. It is an offense for any person to display or discharge an arm or firearm in a state park, unless:

(1) the person is participating in a public hunting activity within the state park that has been authorized by written order of the director so long as the person is in compliance with the applicable public hunting rules and regulations; or

(2) the person has been authorized by written order of the director.

(e) Closed Area. It is an offense for any person to:

(1) prevent or interfere with development, construction, or management of a state park; or

(2) enter or remain in an area of a state park that has been closed by the director for any reason, including security, safety, preservation, or restoration.

(f) Entrance and User Fees: It is an offense for any person to enter, use, or occupy a facility in any portion of a state park for which a fee has been established, unless the person has first paid the fee or satisfied the requirements of the fee, has received an entrance/use permit issued by the department, and has attached the

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permit to their vehicle as and when required by the permit. If the office is closed, payment must be made according to posted instructions or signage.

(g) Facilities Use. It is an offense for any person to:

(1) use an area or facility for any purpose contrary to its designated purpose; or

(2) keep, use, or arrange a motor vehicle, trailer, camping, or other equipment except as specified by the director. All vehicles and trailers are restricted to designated roads and parking areas, unless otherwise specified by permit;

(3) enter into, or remain in, an area or facility for which a public use limit has been established when such action will have the effect of exceeding the established limitations;

(4) exceed the public use limit establishing a maximum number of persons and, if appropriate, the number and type of motor vehicles, trailers, and equipment permitted to enter into, or remain in, a designated area or facility at any time;

(5) continue to occupy a facility past check-out time when a check-out time has been established by the director; or

(6) engage in camping except as authorized by permit in areas designated or marked for that purpose.

(h) Fires, Firewood, Smoking and Fireworks. Portable gas-fueled camp stoves may be used in designated campsites or picnic areas; however, it is an offense for any person to:

(1) light, build, or maintain a fire within a state park except in a facility or device provided, maintained, or designated for such purposes or to smoke or build fires when an extreme fire hazard has been posted by the department or a burn ban has been instituted by local government ordinance;

(2) gather firewood except when authorized by permit;

(3) leave a fire unattended; or

(4) possess within a state park any fireworks, explosives, or similar devices capable of explosion, or to discharge, set off, or cause to be discharged in or into a state park any such device or substance, except with written authorization from the director.

(i) Metal detector. It is an offense for any person to operate or use a metal detector, except as authorized by permit.

(j) Minors and children.

(1) A person younger than 15 years who enters a state park, must be supervised by a parent, legal guardian, or other responsible adult over the age of 17 years at all times.

(2) A person 15 years or older, but younger than 17 years may not enter or remain in a state park during overnight hours unless:

(A) the person is supervised by a parent, legal guardian or other

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responsible person over the age of 17 years;

(B) the person furnishes written consent of a parent or legal guardian to park personnel at the state park headquarters. For purposes of this subsection, written consent consists of a statement from a parent or legal guardian authorizing the person to enter the park and stating the full name, residence address, and telephone number of the parent or legal guardian; or

(C) the person is legally married.

(3) For purposes of this subsection, a person who is required by this subsection to be supervised and is part of a group will be considered supervised by a parent, legal guardian or other responsible person if there is at least one supervising adult over the age of 17 years for every 15 persons for whom supervision is required by this subsection.

(4) For purposes of this subsection, "overnight hours" is the time between a state park's closing time and opening time.

(5) It is an offense for a parent, legal guardian or other responsible person charged with supervision of a person under 17 years of age to permit the person under 17 years of age to violate a regulation contained in this subchapter.

(k) Motor Vehicle Use, Possession and Operation.

(1) Operation. It is an offense for any person to:

(A) operate a motor vehicle in a state park except on roads, driveways, parking areas, and areas designated as open for motor vehicle use;

(B) operate a motor vehicle in a state park if the motor vehicle is not licensed and inspected as required by the Texas Transportation Code or other law regarding the operation of motor vehicles, except as specifically authorized by permit; or

(C) operate a motor vehicle in a state park in a manner not authorized by the Texas Transportation Code or other laws regarding the operation of motor vehicles.

(2) Parking. It is an offense for any person to:

(A) park a motor vehicle or trailer in a state park except in areas designed, constructed, or designated for that purpose; or

(B) park, store, or leave a motor vehicle or trailer in violation of this section when signs have been posted in the affected areas.

(3) Speed Limit. It is an offense for any person to drive a motor vehicle within a state park at a speed:

(A) greater than is reasonable or prudent, having due regard for the traffic and the road conditions then existing;

(B) that endangers the safety of persons or property; or

(C) that exceeds the posted speed limit in any portion of the state park system.

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(4) Traffic. It is an offense for any person to:

(A) operate a motor vehicle in a state park between the park closing hour and 6 a.m. opening hour, except for emergency or necessary purposes; or

(B) operate a motor vehicle in an indiscriminate or unnecessary manner (cruising).

(5) Trail use. It is an offense for any person to operate or use a motor vehicle or a bicycle on an unpaved road, trail, or path not designated and posted for use by such a motor vehicle or bicycle or use the trail in a manner that is dangerous to a person or animal.

(l) Natural and Cultural Resources.

(1) Plant life. It is an offense for any person to willfully mutilate, injure, destroy, pick, cut, remove, or introduce any plant life except by permit issued by the director.

(2) Geological features. It is an offense for any person to take, remove, destroy, deface, tamper with, or disturb any rock, earth, soil, gem, mineral, fossil, or other geological deposit except by permit issued by the director.

(3) Cultural resources. It is an offense for any person to take, remove, destroy, deface, tamper with, disturb, or otherwise adversely impact any prehistoric or historic resource, including but not limited to, buildings, structures, cultural features, rock art, or artifacts, except by written order of the director.

(m) Peace and quiet. It is an offense for any person to:

(1) disturb other persons in sleeping quarters or in campgrounds between the hours of 10 p.m. and 6 a.m.

(2) cause, create, or contribute to any noise which is broadcast, or caused to be broadcast, into sleeping quarters or campgrounds, or which emits sound beyond the person's immediate campsite, between the hours of 10 p.m. and 6 a.m. whether by shouting or singing, by using a radio, phonograph, television, or musical instrument, or by operating mechanical or electronic equipment;

(3) use electronic equipment, including electrical speakers, at a volume which emits sound beyond the immediate individual camp or picnic site at any time without specific permission of the director; or

(4) create a disturbance capable of negatively affecting other park users by causing excessive noise by any means. Specific allowable noise levels for specific parks or parts of parks may be established by written order of the director.

(n) Public Nudity. It is an offense for any person to disrobe or appear nude in public. Females are considered to be disrobed when their breasts below the top of the areola are exposed except when nursing a baby.

(o) Soliciting. It is an offense for any person to solicit funds or donation of any item, or offer to sell any goods, wares, merchandise, liquid, or edibles, or render any service for hire, or distribute written material, in a state park, except by

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authority of a concession agreement approved by the director.

(p) **Water Recreation.** It is an offense for any person to:

(1) engage in water skiing, surf boarding while being towed, towing a person or a similar device, or operate a motorized ski device on lakes of less than 650 surface acres located in a state park;

(2) enter water or swim in an area closed for that activity;

(3) swim at night unless otherwise posted;

(4) introduce, carry into, or possess, use, break, dispose of, throw, or abandon any glass container in the water of a swimming area, swimming pool, or in the beach area adjacent to the water of a swimming area;

(5) moor, dock, or berth a boat or any other object between the hours of 10 p.m. and 6 a.m. except in mooring areas designated by the director; or

(6) moor, dock, or berth a commercial vessel at any part of a state park except by permit from the director.

(q) **Water, Wastewater, Sewage, and Garbage.** It is an offense for any person to:

(1) deposit waste water, sewage, or effluent from sinks, toilets, or other plumbing fixtures directly on the ground or into the water;

(2) use any water fountain, drinking fountain, pool, sprinkler, reservoir, lake or any other water body contained in the park for bathing, laundering, and washing dishes, pets, or vehicles (including trailers);

(3) deposit fish parts at any location except park fish cleaning facilities;

(4) discard, deposit, or dump garbage in a state park, except for:

(A) garbage generated inside the park during the course of park visitation; or

(B) an amount of garbage consistent with what ordinarily would accumulate in a vehicle in the course of a day's travel;

(5) dispose of garbage except in a receptacle provided for that use or as may otherwise be specifically authorized by department personnel; or

(6) use water provided by the state park for purposes other than drinking, washing or culinary uses.

Effective 09/01/2009

§59.135. Vehicles, Trailers, Motor Homes, Camping Equipment, or Personal Belongings. All vehicles, trailers, motor homes, camping equipment, or personal belonging may be removed at the owner's expense when exceeding the check-out time limitation of a facility.

Effective 09/09/1996

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§59.136. Penalties. Penalties for violations of §§59.132-59.134 of this title (relating to General Rules, Closing Hours and Overnight Use, and Rules of Conduct) are Class C Misdemeanors, Parks and Wildlife Code, Chapter 13.112.
Effective 09/09/1996

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TEXAS PARKS AND WILDLIFE DEPARTMENT

EXECUTIVE DIRECTOR ORDER NO. 010-007

Under the provisions of 31 TAC §65.313(d), the Executive Director of the Texas Parks and Wildlife Department, after notifying the Chairman of the Texas Parks and Wildlife Commission, adopts amendments to §65.315 and §65.319, concerning the Migratory Game Bird Proclamation, without changes to the proposed text as published in the May 21, 2010, issue of the Texas Register (35 TexReg 3957). The Executive Director hereby authorizes publication of the Notice of Adoption in the *Texas Register*.

This order is issued pursuant to §64.022 of the Texas Parks and Wildlife Code and is effective immediately.

Signed this the 26th day of July, 2010.



Carter Smith
Executive Director
Texas Parks and Wildlife Department

**MIGRATORY GAME BIRD PROCLAMATION
(Early Season 2010 - 2011)**

1. Introduction.

The Texas Parks and Wildlife Department (the department) adopts amendments to §65.315 and §65.319, concerning the Migratory Game Bird Proclamation without changes to the proposed text as published in the May 21, 2010, issue of the Texas Register (35 TexReg 3957). The proposed text as published in the May 21, 2010 issue of the Texas Register also included amendments to §§65.318, 65.320, 65.321. The proposed amendments to §§65.318, 65.320, 65.321 will be considered for adoption by the Texas Parks and Wildlife Commission (commission) on August 26, 2010. After consideration of the remaining sections by the commission, a separate notice of adoption will be published. Because of the timing of the seasons and bag limits established in §65.315 and §65.319, these amendments have been adopted by order of the department's executive director as authorized by Parks and Wildlife Code, §64.022 and 31 TAC §65.313(d).

2. Justification for the Rules.

The amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible under the federal frameworks established by the Service, consistent with the tenets of sound biological management, and with hunter and landowner preference for starting dates and segment lengths, under annual frameworks issued by the Service. In accordance with federal law, the department's rules may be more conservative, but not more liberal than the federal frameworks

The amendment to §65.315, concerning Open Seasons and Bag and Possession Limits Early Season, retain the season structure and bag limits from 2009 for rails, dove, gallinules, woodcock, and snipe, but adjust the season dates to account for calendar shift (i.e. to ensure that seasons open on the desired day of the week, since dates from a previous year do not fall on the same days in following years).

The amendment to §65.315 also implements a 16-day statewide teal season to run from September 11-26, 2010. The change to the September teal-only season is being adjusted only for calendar shift. By federal law, the number of days in the September teal season count against the 107 days of total hunting opportunity allowed for ducks, coots, and mergansers.

The proposed amendment to §65.319, concerning Extended Falconry Season-Early Season Species, adjusts season dates for the take of early-season species of migratory game birds by means of falconry to reflect calendar shift.

3. Additional Information.

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The full text of this rulemaking (including complete justification for the rules, a detailed description of the changes, and responses to public comment) can be found online at the *Texas Register* (www.sos.state.tx.us).

5. Statutory Authority.

The amendments are adopted under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

MIGRATORY GAME BIRD PROCLAMATION
(Late Season 2010 – 2011)

1. Introduction.

The Texas Parks and Wildlife Commission adopts amendments to §§65.318, 65.320, and 65.321, concerning the Migratory Game Bird Proclamation. Section 65.318, concerning Open Seasons and Bag and Possession Limits—Late Season Species, with changes to the proposed text as published in the May 21, 2010, issue of the Texas Register (35 TexReg 3957). Sections 65.320 and 65.321 are adopted without changes and will not be republished.

The proposed text as published in the May 21, 2010 issue of the Texas Register also included amendments to §65.315 and §65.319. Because of the timing of the seasons and bag limits established in §65.315 and §65.319, these amendments were previously adopted in the August 13, 2010, issue of the Texas Register (34 TexReg 7075). The change to §65.318, concerning Open Seasons and Bag and Possession Limits--Late Season Species, increases the bag limit for pintail ducks from one to two. As proposed, the rule would have imposed a daily bag limit of one pintail per hunter, but the U.S. Fish and Wildlife Service (Service) frameworks, issued in August 2010, authorize Texas to implement a two-bird daily bag limit. In keeping with commission policy to provide the maximum hunting opportunity possible under the federal frameworks, the department adopts the higher bag limit.

The change to §65.318 also alters the bag composition for dark geese in the Western Goose Zone. As proposed, the daily bag limit would have been five geese, no more than four Canada geese and no more than one white-fronted goose. The Service frameworks authorize Texas to allow all five birds in the bag to be Canada geese. In keeping with commission policy to provide the maximum hunting opportunity possible under the federal frameworks, the department adopts the new bag composition.

2. Justification for the Rules.

The amendment to 65.318, concerning Open Seasons and Bag and Possession Limits--Late Season Species, retains the basic season structure and bag limits from last year and adjusts the season dates for late-season species of migratory game birds (ducks, coots, mergansers, geese, and sandhill cranes) to account for calendar shift. The amendment also changes the references to mottled ducks with a reference to "dusky ducks." The Service is concerned about perceived instability in mottled duck populations in Texas and last year directed Texas to reduce mottled duck harvest by at least 20 per cent. Although the concern is for mottled ducks, the department believes that it is best to include all ducks that are similar in appearance to dusky ducks (mottled duck, Mexican-like duck, black duck and their hybrids), in order to prevent accidental harvest of mottled ducks.

The amendment to §65.320, concerning Extended Falconry Season--Late Season Species, adjusts season dates for the take of early-season species of

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migratory game birds by means of falconry to reflect calendar shift.

The amendment to §65.321, concerning Special Management Provisions, adjusts the dates for the conservation season on light geese to account for calendar shift.

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds. The states may be more restrictive than the federal frameworks allow, but may not be less restrictive.

The amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible, consistent with hunter and landowner preference for starting dates and segment lengths, under frameworks issued by the Service.

3. Additional Information.

The full text of this rulemaking (including complete justification for the rules, a detailed description of the changes, and responses to public comment) can be found online at the *Texas Register* (www.sos.state.tx.us).

4. Statutory Authority.

The amendments are adopted under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

MIGRATORY GAME BIRD PROCLAMATION

§65.301. Applicability.

(a) No person shall at any time, by any means, or in any manner hunt, possess, transport, or transfer any migratory game bird except as provided in this subchapter.

(b) No provision of this subchapter shall be construed to relieve a person from the restrictions, conditions, and requirements of federal regulations contained in 50 Code of Federal Regulations (CFR) Part 20.

Effective 08/13/2007

§65.309. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings assigned in Subchapter A of this chapter (relating to Statewide Hunting and Fishing Proclamation).

(1) **Baited area**--Any area where salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

(2) **Baiting**--The direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take them.

(3) **Daily bag limit** -- The quantity of a species of migratory game bird that may be lawfully taken in one day

(4) **Day** -- A 24-hour period of time that begins at midnight and ends at midnight.

(5) **Dark geese** -- Canada, white-fronted, and all other geese except light geese.

(6) **Harvest Information Program (HIP)** -- A mandatory certification process for all persons who hunt or intend to hunt migratory game birds. To be certified, a person must answer a series of questions about their migratory game-bird hunting habits.

(7) **Legal shotgun** -- A shotgun not larger than 10 gauge, fired from the shoulder, and incapable of holding more than three shells. (Guns capable of holding more than three shells must be plugged with a one-piece filler which is incapable of

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removal without disassembling the gun, so the gun's total capacity does not exceed three shells.)

(8) Light geese - Snow, blue, and Ross' geese.

(9) Livestock - Cattle, horses, mules, sheep, goats, and hogs.

(10) Manipulation - The alteration of natural vegetation or agricultural crops, including but not limited to mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, and herbicide treatments. Manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

(11) Migratory bird preservation facility - A stationary facility designed and constructed to store or process game animals and game birds.

(12) Natural vegetation - Any non-agricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or propagule. Natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the planting is considered natural vegetation.

(13) Nontoxic shot--Any shot approved by the director, U.S. Fish and Wildlife Service.

(14) Normal agricultural practice - A normal agricultural planting, harvesting, or post-harvest manipulation, or livestock feeding conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

(15) Normal soil stabilization practice - a planting for agricultural soil erosion control or post-mining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

(16) Paraplegic - An individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

(17) Possession limit--The maximum number of a species of migratory game bird that may be lawfully possessed at one time.

(18) Personal residence (personal abode) - One's principal or ordinary home or dwelling place. The term does not include a temporary or transient place of residence or dwelling such as a hunting club, or any club house, cabin, tent, or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(19) Sinkbox--Any type of low floating device having a depression which affords the hunter a means of concealing himself below the surface of water.

(20) Waterfowl - ducks (including teal), geese, mergansers, and coots.

Effective 08/13/2007

§65.310. Means and Methods. Migratory birds may be taken by any method except those prohibited in this section. Except as provided in this subchapter, no person shall take migratory game birds:

(1) with a trap, snare, net, any type of rifle or pistol (including airguns), swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machinegun, fish hook, poison, drug, explosive, or stupefying substance;

(2) with a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(3) from or by means, aid, or use of a sinkbox or any other type of low-floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(4) from or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(5) from or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased. A craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;

(6) by the use or aid of live birds as decoys;

(7) where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(8) by the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(9) by means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(10) by the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited. No person may place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area. However, provided a land or area is not otherwise baited, nothing in this paragraph prohibits:

(A) the taking of any migratory game bird, including waterfowl, coots, and cranes on or over:

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- (i) standing crops or flooded standing crops (including aquatics);
- (ii) standing, flooded, or manipulated natural vegetation;
- (iii) flooded harvested croplands; or
- (iv) lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;
- (v) from a blind or other place of concealment camouflaged with natural vegetation;
- (vi) from a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or
- (vii) on or over standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds; or

(B) the taking of any migratory game bird, except waterfowl, coots and cranes, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation; or

(11) while possessing loose shot that is not non-toxic shot or shotshells containing any shot other than non-toxic shot. The provisions of this paragraph apply only to the hunting of waterfowl.

Effective 08/20/2008

§65.311. Importation of Migratory Game Birds.

(a) No person may import into this state or possess a migratory game bird taken outside this state, unless the person possessing the bird produces upon demand by a game warden a valid driver's license or personal identification certificate, and one of the following documents:

(1) a valid hunting license, stamp, tag, permit, or document for the state or country in which the migratory game birds were lawfully taken; or

(2) a statement from the United States Customs Officer, obtained at the port of entry, showing that the migratory game birds were brought from Mexico.

(b) One fully feathered wing or the head must remain attached on all migratory game birds while being transported by any means from Mexico into Texas and must remain attached to the birds until reaching a cold storage or processing facility, or reaching the personal residence of the possessor.

Effective 08/26/1997

§65.312. Possession of Migratory Game Birds.

(a) For all migratory birds taken for which there is a possession limit, the possession limit shall apply until the birds have reached the personal residence of the possessor and are finally processed.

(b) A person may give, leave, receive, or possess any species of legally taken migratory game birds, or parts of birds, that are protected by a bag or possession limit, if the birds are accompanied by a wildlife resource document (WRD) from the person who killed the birds. For example, a WRD is required if the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services. The WRD is not required of a person who lawfully killed the birds to possess the birds, or if the birds are transferred at the personal residence of the donor or donee. If the birds have been finally processed at a cold storage or processing facility and a person transports more than a legal possession limit, then a WRD must accompany the birds in excess of the possession limit until they reach the permanent residence of the possessor. A properly executed WRD satisfies the tagging requirements of 50 CFR Part 20. Except as provided in this subsection, a WRD shall accompany the birds until the birds reach their final destination and must contain the following information:

- (1) the name, signature, address, and hunting license number of the person who killed the birds;
- (2) the name of the person receiving the birds;
- (3) the number and species of birds or parts;
- (4) the date the birds were killed; and
- (5) the location where the birds were killed (e.g. name of ranch; area; lake, bay, or stream; county).

(c) No person may:

- (1) take or have in possession more than the bag and possession limits of each species of migratory game birds except as provided in this section;
- (2) possess migratory game birds on the opening day of the season in excess of the applicable daily bag limit;
- (3) possess more than one daily bag limit of freshly killed migratory game birds while in the field or while returning from the field to one's hunting camp, automobile or other motor driven land conveyance, aircraft, temporary lodging facility, personal residence, or cold storage or processing facility; or
- (4) possess freshly killed migratory game birds during the closed season.

Effective 08/13/2007

§65.313. General Rules.

(a) No person shall hunt migratory game birds except during the open season as provided herein, or at any time except during the hours as provided herein. All dates are inclusive.

(b) Shooting hours for migratory game birds are from one-half hour before sunrise to sunset, except during the special white-winged dove season. In the special white-winged dove zone during the special white-winged dove season, shooting hours are from noon to sunset.

(c) No person shall hunt migratory game birds in this state unless that person is certified in the Harvest Information Program.

(d) Every migratory game bird wounded by hunting and reduced to possession by a hunter shall be immediately killed and become a part of the daily bag limit.

(e) The provisions of 50 CFR Part 20, Subparts E, F, G, and H in effect on September 1, 2007 are adopted by reference.

(f) The executive director may, after notifying the Chairman of the Commission, authorize any rulemaking necessary to modify the provisions of this subchapter.

Effective 08/13/2007

§65.314. Zones and Boundaries for Early Season Species.

(a) Rails: statewide.

(b) Mourning and white-winged doves.

(1) North Zone: That portion of the state north of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to Interstate Highway 10 at Fort Hancock; thence east along Interstate Highway 10 to Interstate Highway 20; thence northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; thence northeast along Interstate Highway 30 to the Texas-Arkansas state line.

(2) Central Zone: That portion of the state between the North Zone and the South Zone.

(3) South Zone: That portion of the state south of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to State Loop 1604; thence following Loop 1604 south and east to Interstate Highway 10; thence east along Interstate Highway 10 to the Texas-Louisiana State Line.

(4) Special white-winged dove area: That portion of the state south and west of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east

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along U.S. Highway 90 to State Loop 1604; thence along Loop 1604 south and east to Interstate Highway 35, thence south along Interstate Highway 35 to State Highway 44; thence east along State Highway 44 to State Highway 16 at Freer; thence south along State Highway 16 to State Highway 285 at Hebronville; thence east along State Highway 285 to FM 1017; thence southeast along FM 1017 to State Highway 186 at Linn; thence east along State Highway 186 to the Mansfield Channel at Port Mansfield; thence east along the Mansfield Channel to the Gulf of Mexico.

- (c) Gallinules (Moorhen or common gallinule and purple gallinule): statewide.
- (d) Teal ducks (blue-winged, green-winged, and cinnamon): statewide.
- (e) Woodcock: statewide.
- (f) Wilson's (Common) snipe: statewide.

Effective 07/22/2009

§65.315. Open Seasons and Bag and Possession Limits—Early Season.

(a) Rails.

(1) Dates: September 11–26, 2010 and October 30 – December 22, 2010.

(2) Daily bag and possession limits:

(A) king and clapper rails: 15 in the aggregate per day; 30 in the aggregate in possession.

(B) sora and Virginia rails: 25 in the aggregate per day; 25 in the aggregate in possession.

(b) Dove seasons.

(1) North Zone.

(A) Dates: September 1 – October 24, 2010 and December 25, 2010 – January 9, 2011.

(B) Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day;

(C) Possession limit: 30 mourning doves, white-winged doves, and white-tipped doves in the aggregate, including no more than four white-tipped doves in possession.

(2) Central Zone.

(A) Dates: September 1 – October 24, 2010 and December 25, 2010 – January 9, 2011.

(B) Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day;

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(C) Possession limit: 30 mourning doves, white-winged doves, and white-tipped doves in the aggregate, including no more than four white-tipped doves in possession.

(3) South Zone.

(A) Dates: Except in the special white-winged dove area as defined in §65.314 of this title (relating to Zones and Boundaries for Early Season Species), September 17 – October 31, 2010 and December 25 – January 18, 2011.

(B) Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day;

(C) Possession limit: 30 mourning doves, white-winged doves, and white-tipped doves in the aggregate, including no more than four white-tipped doves in possession.

(4) Special white-winged dove area.

(A) Dates: September 4, 5, 11, and 12, 2010.

(i) Daily bag limit: 15 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than four mourning doves and two white-tipped doves per day;

(ii) Possession limit: 30 white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than eight mourning doves and four white-tipped doves in possession.

(B) Dates: September 17 – October 31, 2010 and December 25, 2010 – January 14, 2011.

(i) Daily bag limit: 15 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than two white-tipped doves per day;

(ii) Possession limit: 30 white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than four white-tipped doves in possession.

(c) Gallinules.

(1) Dates: September 11– 26, 2010 and October 30 – December 22, 2010.

(2) Daily bag and possession limits: 15 in the aggregate per day; 30 in the aggregate in possession.

(d) September teal-only season.

(1) Dates: September 11-26, 2010.

(2) Daily bag and possession limits: four in the aggregate per day; eight in the aggregate in possession.

(e) Red-billed pigeons, and band-tailed pigeons. No open season.

(f) Shorebirds. No open season.

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(g) Woodcock: December 18, 2010 - January 31, 2011. The daily bag limit is three. The possession limit is six.

(h) Wilson's snipe (Common snipe): October 30, 2010 - February 13, 2011. The daily bag limit is eight. The possession limit is 16.

Effective 08/16/2010

§65.316. Closed Areas. The season is closed on migratory game birds on public roads and highways, the rights-of-way of public roads and highways, and state wildlife preserves and sanctuaries unless an open season is otherwise provided. The open season for the taking of migratory game birds on any federal wildlife refuge shall be in accordance with the special hunting regulations duly adopted and published by the U.S. Fish and Wildlife Service.

Effective 06/30/2002

§65.318. Open Seasons and Bag and Possession Limits—Late Season.

Except as specifically provided in this section, the possession limit for all species listed in this section shall be twice the daily bag limit.

(1) Ducks, mergansers, and coots. The daily bag limit for ducks is six, which may include no more than five mallards (only two of which may be hens); three wood ducks; two scaup (lesser scaup and greater scaup in the aggregate); two redheads; two pintail; one canvasback; and one “dusky” duck (mottled duck, Mexican like duck, black duck and their hybrids). For all other species not listed, the bag limit shall be six. The daily bag limit for coots is 15. The daily bag limit for mergansers is five, which may include no more than two hooded mergansers.

(A) High Plains Mallard Management Unit:

(i) all species other than “dusky ducks” October 23-24, 2010 and October 29, 2010 – January 23, 2011.

(ii) “dusky ducks” November 1, 2010 – January 23, 2011.

(B) North Zone:

(i) all species other than “dusky ducks” October 30 – November 28, 2010 and December 11, 2010 – January 23, 2011.

(ii) “dusky ducks” November 4, 2010 – November 28, 2010 and December 11, 2010 – January 23, 2011.

(C) South Zone:

(i) all species other than “dusky ducks” October 30 – November 28, 2010 and December 11, 2010 – January 23, 2011.

(ii) “dusky ducks” November 4, 2010 – November 28, 2010 and December 11, 2010 – January 23, 2011.

(2) Geese:

(A) Western Zone.

(i) Light geese: November 6, 2010 – February 6, 2011. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese: November 6, 2010 – February 6, 2011. The daily bag limit for dark geese is five, to include not more than one white-fronted goose.

(B) Eastern Zone.

(i) Light geese: October 30, 2010 – January 23, 2011. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese:

(I) White-fronted geese: October 30, 2010 – January 9, 2011. The daily bag limit for white-fronted geese is two.

(II) Canada geese: October 30, 2010 – January 23, 2011. The daily bag limit for Canada geese is three.

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(3) Sandhill cranes. A free permit is required of any person to hunt sandhill cranes in areas where an open season is provided under this proclamation. Permits will be issued on an impartial basis with no limitation on the number of permits that may be issued.

(A) Zone A: November 6, 2010 February 6, 2011. The daily bag limit is three. The possession limit is six.

(B) Zone B: November 26, 2010 February 6, 2011. The daily bag limit is three. The possession limit is six.

(C) Zone C: December 18, 2010 January 23, 2011. The daily bag limit is two. The possession limit is four.

(4) Special Youth-Only Season. There shall be a special youth-only waterfowl season during which the hunting, taking, and possession of geese, ducks, mergansers, and coots is restricted to licensed hunters 15 years of age and younger accompanied by a person 18 years of age or older, except for persons hunting by means of falconry under the provisions of §65.320 of this chapter (relating to Extended Falconry Season--Late Season Species). Bag and possession limits in any given zone during the season established by this paragraph shall be as provided for that zone by paragraph (1) of this section. Season dates are as follows:

(A) High Plains Mallard Management Unit: October 16-17, 2010;

(B) North Zone: October 23-24, 2010; and

(C) South Zone: October 23-24, 2010.

Effective 10/16/2010

§65.319. Extended Falconry Season—Early Season Species.

(a) It is lawful to take the species of migratory birds listed in this section by means of falconry during the following Extended Falconry Seasons:

(1) mourning doves and white-winged doves: November 18 – December 24, 2010.

(2) rails and gallinules: December 25, 2010 January 30, 2011.

(3) woodcock: November 23 December 16, 2010.

(b) The daily bag and possession limits for migratory game birds under this section shall not exceed three and six birds respectively, singly or in the aggregate.

Effective 08/20/2010

§65.320. Extended Falconry Season - Late Season Species. It is lawful to take the species of migratory birds listed in this section by means of falconry during the following Extended Falconry Seasons.

(1) Ducks, coots, and mergansers:

(A) High Plains Mallard Management Unit: no extended season;

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(B) North Duck Zone: January 24 February 7, 2011;

(C) South Duck Zone: January 24 February 7, 2011.

(2) The daily bag and possession limits for migratory game birds under this section shall not exceed three and six birds, respectively, singly or in the aggregate.

Effective 10/16/2010

§65.321. Special Management Provisions. The provisions of paragraphs (1) (3) of this section apply only to the hunting of light geese. All provisions of this subchapter continue in effect unless specifically provided otherwise in this section; however, where this section conflicts with the provisions of this subchapter, this section prevails.

(1) Means and methods. The following means and methods are lawful during the time periods set forth in paragraph (4) of this section:

(A) shotguns capable of holding more than three shells; and

(B) electronic calling devices.

(2) Possession. During the time periods set forth in paragraph (4) of this section:

(A) there shall be no bag or possession limits; and

(B) the provisions of §65.312 of this title (relating to Possession of Migratory Game Birds) do not apply; and

(C) a person may give, leave, receive, or possess legally taken light geese or their parts, provided the birds are accompanied by a wildlife resource document (WRD) from the person who killed the birds. A properly executed WRD satisfies the tagging requirements of 50 CFR Part 20. The WRD is not required if the possessor lawfully killed the birds; the birds are transferred at the personal residence of the donor or donee; or the possessor also possesses a valid hunting license, a valid waterfowl stamp, and is HIP certified. The WRD shall accompany the birds until the birds reach their final destination, and must contain the following information:

(i) the name, signature, address, and hunting license number of the person who killed the birds;

(ii) the name of the person receiving the birds;

(iii) the number and species of birds or parts;

(iv) the date the birds were killed; and

(v) the location where the birds were killed (e.g. name of ranch; area; lake, bay, or stream; county).

(3) Shooting hours. During the time periods set forth in paragraph (4) of this section, shooting hours are from one half-hour before sunrise until one half-hour after sunset.

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(4) Special Light Goose Conservation Period.

(A) From January 24 to March 27, 2011, the take of light geese is lawful in Eastern Zone as defined in §65.317 of this title (relating to Zones and Boundaries for Late Season Species).

(B) From February 7 to March 27, 2011, the take of light geese is lawful in the Western Zone as defined in §65.317 of this title.

Effective 10/16/2010

§65.322. Penalties. The penalty provided by law for violation of these sections is prescribed by the Texas Parks and Wildlife Code, §64.027.

Effective 01/31/99

CODE OF FEDERAL REGULATIONS
TITLE 50. WILDLIFE AND FISHERIES
PART 20. MIGRATORY BIRD HUNTING

(The following provisions of 50 CFR are adopted by reference in 31 TAC §65.313(e))

Subpart E—Transportation Within the United States

§ 20.41 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, transport any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.42 Transportation of birds of another.

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by §20.36.

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.44 Marking package or container.

No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart F—Exportation

§ 20.51 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, export or cause to be exported, any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.52 Species identification requirement.

No person shall export migratory game birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

§ 20.53 Marking package or container.

No person shall export migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart G—Importations

§ 20.61 Importation limits.

No person shall import migratory game birds in excess of the following importation limits:

(a) *Doves and pigeons.* (1) From any foreign country except Mexico, during any one calendar week beginning on Sunday, not to exceed 25 doves, singly or in the aggregate of all species, and 10 pigeons, singly or in the aggregate of all species.

(2) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

(b) *Waterfowl.* (1) From any foreign country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species.

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(2) From Canada, not to exceed the maximum number permitted to be exported by Canadian authorities.

(3) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

[40 FR 36346, Aug. 20, 1975]

§ 20.62 Importation of birds of another.

No person shall import migratory game birds belonging to another person.

§ 20.63 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.64 Foreign export permits.

No person shall import, possess or transport, any migratory game birds killed in a foreign country unless such birds are accompanied by export permits, tags, or other documentation required by applicable foreign laws or regulations.

§ 20.65 Processing requirement.

No person shall import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in §20.63), drawn, and the head and feet are removed: *Provided*, That this shall not prohibit the importation of legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to §21.24 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds.

§ 20.66 Marking of package or container.

No person shall import migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper

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and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart H—Federal, State, and Foreign Law

§ 20.71 Violation of Federal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

§ 20.72 Violation of State law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

§ 20.73 Violation of foreign law.

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.





