

Texas Administrative Code

TITLE 31	NATURAL RESOURCES AND CONSERVATION
PART 2	TEXAS PARKS AND WILDLIFE DEPARTMENT
CHAPTER 65	WILDLIFE
SUBCHAPTER A	STATEWIDE HUNTING AND FISHING PROCLAMATION
DIVISION 3	SEASONS AND BAG LIMITS--FISHING PROVISIONS
RULE §65.72	Fish

(a) General rules.

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

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

(3) The bag and possession limits of 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).

(4) It is unlawful:

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

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

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

(D) to use game fish or any part thereof as bait, 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 subparagraph 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.

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

(F) to use any vessel to harass fish; or

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

(5) Finfish tags: Prohibited Acts.

(A) No person may 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) It is unlawful to:

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

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

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

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

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

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

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

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

(6) Commercial fishing seasons.

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

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

(i) red snapper under guidelines established by the Fishery Management Plan for Reef Fish Resources for the Gulf of Mexico. No person may land red snapper in Texas for commercial purposes unless that person is in compliance with the provisions of this clause.

(I) Requirement for Individual Fishing Quota (IFQ) vessel endorsement and allocation. No person aboard any vessel shall sell, barter, trade, or exchange red snapper; land or attempt to land red snapper for the purpose of sale, barter, trade, or exchange; or possess red snapper for the purpose of sale, barter, trade, or exchange unless the person possesses a valid federal permit for the harvest of Gulf of Mexico Reef Fish and a valid federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

(-a-) No person shall harvest or land red snapper for the purpose of sale, barter, trade, or exchange, without holding or being assigned federal IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location.

(-b-) At-sea or dockside transfer of red snapper from one vessel to another vessel for the purpose of sale, barter, trade, or exchange, is prohibited.

(-c-) Except as provided in this subparagraph, no person shall purchase, sell, exchange, barter, or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which federal commercial license, permit, and appropriate allocation were issued.

(-d-) On the last fishing trip of the year, a vessel may exceed by 10% the remaining IFQ allocation.

(II) Offloading and transfer. During the hours from 6:00 p.m. until 6:00 a.m. (local time), no person shall offload from a vessel or receive from a vessel red snapper harvested for the purpose of sale, barter, trade, or exchange. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to National Oceanographic and Atmospheric Administration (NOAA) Fisheries.

(III) Recreational limits. Persons aboard a vessel for which permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may retain reef fish under the recreational take and possession limits specified in subsection (b) of this section, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

(IV) VMS requirement. No person shall harvest red snapper for the purpose of sale, barter, trade or exchange, from a vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by NOAA Fisheries and operating under the requirements mandated by NOAA Fisheries.

(V) Requirement for IFQ dealer endorsement. In addition to the requirement for a federal dealer permit for Gulf reef fish, a dealer must have a federal Gulf red snapper IFQ dealer endorsement in order to receive Gulf red snapper from a commercial fishing vessel. A person aboard a vessel with a federal Gulf red snapper IFQ vessel endorsement must also have a federal Gulf red snapper IFQ dealer endorsement to sell to anyone other than a permitted dealer.

(VI) Requirement for transaction approval code. The owner or operator of a vessel landing red snapper for the purpose of sale, barter, trade, or exchange is responsible for calling National Marine

Fisheries Service (NMFS) Office of Law Enforcement at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of red snapper for the purpose of sale, barter, trade, or exchange, from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

(VII) Wholesale dealers. Wholesale dealers are required to comply with the provisions of Parks and Wildlife Code, §66.019, when acquiring, purchasing, possessing, and selling red snapper. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper on purchases and sales on records.

(VIII) Recreational limit. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit specified in subsection (b) of this section for red snapper, and such fish may not be bartered or sold.

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

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

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

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

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

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

(7) 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:

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

(ii) 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 subparagraph 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 subparagraph (B) of this paragraph by up to 10%.

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

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

(b) Bag, possession, and length limits.

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

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

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

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

(C) Except as provided in subparagraph (D) of this paragraph, the statewide daily bag and length limits shall be as follows.

Attached Graphic

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

(i) Freshwater species.

Attached Graphic

(ii) Saltwater species.

Attached Graphic

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

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

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

(c) Devices, means and methods.

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

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

(A) community fishing lakes; 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;

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

(C) Lake Pflugerville (Travis County);