

TITLE 31 NATURAL RESOURCES AND CONSERVATION
PART 2 TEXAS PARKS AND WILDLIFE DEPARTMENT
CHAPTER 65 WILDLIFE
SUBCHAPTER O COMMERCIAL NONGAME PERMITS
RULE §65.325 **Applicability**

(a) General Applicability. In this subchapter, nongame wildlife means those species of vertebrate wildlife, living or dead, that are indigenous to this state and are not classified as game animals, birds, fish, furbearing animals, endangered species, alligators, marine penaeid shrimp, or oysters. Nongame wildlife includes captive-bred nongame wildlife, parts of nongame wildlife, and the eggs of nongame wildlife.

(b) Exceptions. This subchapter does not apply to the following nongame wildlife:

(1) coyotes;

(2) mountain lions;

(3) bobcats;

(4) rabbits;

(5) American bison;

(6) diamondback terrapin (*Malaclemys terrapin*), which are addressed under the provisions of §65.82 of this title (relating to Other Aquatic Life); or

(7) threatened species listed in Subchapter G of this chapter (relating to Threatened and Endangered Nongame Species).

(c) Transitional Provisions for Possession of Certain Nongame Wildlife.

(1) The holder of a permit issued under this subchapter who is in lawful possession of nongame wildlife prior to the effective date of this section who would be in violation of this subchapter after the effective date of this section by continuing to possess the nongame wildlife for commercial activity must sell, donate, or otherwise dispose of the nongame wildlife by May 1, 2008.

(2) A person in lawful possession of nongame wildlife prior to the effective date of this section who would be in violation after the effective date of this section and who possesses the nongame wildlife for personal, noncommercial use may continue to possess the nongame wildlife and any increase, provided:

(A) the person contacts the department by no later than November 1, 2008 and reports the person's name and address, and the species and number of the nongame wildlife in possession; and

(B) the person does not engage in any commercial activity involving the nongame wildlife possessed under this section.

Source Note: The provisions of this §65.325 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041; amended to be effective October 21, 2007, 32 TexReg 7472

Texas Administrative Code

<u>TITLE 31</u>	NATURAL RESOURCES AND CONSERVATION
<u>PART 2</u>	TEXAS PARKS AND WILDLIFE DEPARTMENT
<u>CHAPTER 65</u>	WILDLIFE
<u>SUBCHAPTER O</u>	COMMERCIAL NONGAME PERMITS
RULE §65.326	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 by the Parks and Wildlife Code or regulatory definitions adopted under the authority of Parks and Wildlife Code.

- (1) Captive-bred--Any wildlife born in captivity from parents held in captivity.
- (2) Commercial activity--The sale, offer for sale, exchange, or barter of nongame wildlife.
- (3) Export--The transport of nongame wildlife from Texas across a state or international boundary.
- (4) Possession--actual care, custody, or control of nongame wildlife.
- (5) Resale--Any transaction or activity in which a person purchases nongame wildlife or otherwise acquires nongame wildlife for a consideration and subsequently transfers or delivers the same nongame wildlife to any person in exchange for compensation or remuneration of any kind.
- (6) Processed product--
 - (A) nongame wildlife or parts of nongame wildlife that have been treated or prepared, by means other than refrigeration or freezing, to prevent decomposition; or
 - (B) parts of nongame wildlife that do not require treatment or preparation to prevent decomposition.

Source Note: The provisions of this §65.326 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041

TITLE 31 NATURAL RESOURCES AND CONSERVATION
PART 2 TEXAS PARKS AND WILDLIFE DEPARTMENT
CHAPTER 65 WILDLIFE
SUBCHAPTER O COMMERCIAL NONGAME PERMITS
RULE §65.327 **Permit Required**

(a) General Requirement. Except as provided in this subchapter, no person may collect, acquire, possess, import, export, cause the import or export of, or engage in a commercial activity involving nongame wildlife.

(b) Permit Privileges and Restrictions.

(1) The holder of a valid nongame dealer permit may:

(A) collect nongame wildlife listed in §65.331(d) of this title (relating to Commercial Activity) from the wild;

(B) sell nongame wildlife to anyone;

(C) acquire nongame wildlife by or for a commercial activity only from a person permitted under this subchapter or a lawful out-of-state source; and

(D) may import nongame wildlife into Texas for sale or resale, including for purposes of export, provided the person:

(i) does not release the nongame wildlife in Texas or allow the nongame wildlife to commingle with native nongame wildlife in Texas;

(ii) possesses an invoice, bill of sale, or receipt establishing that the nongame wildlife was lawfully obtained in and transported from another state;

(iii) completes and mails to the department a department-supplied Notice of Import/Export within 24 hours of each instance of shipping such wildlife out-of-state or receiving such nongame wildlife from out-of-state; and

(iv) maintains all documentation required by this paragraph for a period of two years following the importation of the nongame wildlife. The documentation required by this paragraph includes the dealer's copy of each Notice of Import/Export. All documentation shall be provided at the request of any department employee acting within the scope of official duties.

(2) The holder of a valid nongame permit:

(A) may collect nongame wildlife listed in §65.331(d) of this title from the wild; and

(B) may purchase or acquire nongame wildlife listed in §65.331(d) of this title from the holder of a valid nongame dealer permit or lawful out-of-state source; but

(C) may sell only to the holder of a valid nongame dealer permit.

(3) A person without a nongame or nongame dealer's permit may:

(A) possess six or fewer specimens of a species of nongame wildlife listed in §65.331(e) of this title, provided the person does not engage in commercial activity involving the nongame wildlife; and

(B) possess 25 or fewer specimens of a species of nongame wildlife listed in §65.331(d) of this title, provided the person does not engage in commercial activity

involving the nongame wildlife.

(4) A permit is not required for any person to sell nongame wildlife listed in §65.331(d) of this title for and ready for immediate consumption in individual portion servings, and which are subject to limited sales or use tax, provided the person maintains a receipt identifying the source of the nongame wildlife.

(5) Notwithstanding any other requirement of this subchapter, no permit under this subchapter is required to purchase, possess, or sell processed products made from nongame wildlife.

(6) No person in this state may take nongame wildlife and subsequently treat it to create a processed product for sale, offer for sale, exchange, or barter unless that person possesses a valid nongame dealer's permit.

(c) Possession of Permit.

(1) This subchapter does not relieve any person of the obligation to possess an appropriate hunting license for any activity involving the take of nongame wildlife.

(2) Except as provided in this section, a permit required by this subchapter shall be possessed on the person of the permittee during any activity governed by this subchapter. A separate permit is required for each permanent place of business. An employee of a nongame dealer may engage in commercial activity or the resale of nongame wildlife only at a permanent place of business operated by the permittee, provided that:

(A) the employer's permit or a legible photocopy of the permit is maintained at the place of business during all activities governed by this subchapter; and

(B) the place of business has been identified on the application required by §65.329 of this title (relating to Permit Application).

(3) In the event that a nongame dealer conducts a commercial activity at a place in addition to the permittee's permanent place of business, that person shall possess on their person the original or a legible photocopy of a valid nongame dealer's permit.

(d) Period of Permit Validity. A permit issued under this subchapter is valid through the August 31 immediately following the date of issuance.

(e) Exception. No permit is required for nongame wildlife not taken or originating in Texas that are shipped by common carrier or accompanied by documentation of lawful possession from outside of this state to a destination within this state for immediate shipment outside the state.

Source Note: The provisions of this §65.327 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041; amended to be effective October 21, 2007, 32 TexReg 7472

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RULE §65.328 **Means and Methods**

- (a) Any device employed or emplaced to take or attempt to take nongame wildlife shall be marked with a gear tag. The gear tag must bear the name and address of the person using the device and the date the device was set out. The information on the gear tag must be legible. The gear tag is valid for 30 days following the date indicated on the tag.
- (b) Any device used to take turtles shall be set such that:
- (1) the opening or entrance to the device remains above water at all times; and
 - (2) the holding area of trap provides a sufficient area above water to prevent trapped turtles from drowning.
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Source Note: The provisions of this §65.328 adopted to be effective October 28, 2002, 27 TexReg 10041

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SUBCHAPTER O COMMERCIAL NONGAME PERMITS
RULE §65.329 **Permit Application**

- (a) An applicant for a dealer's nongame permit under this subchapter shall submit to the department a completed application on a form supplied by the department, accompanied by the nonrefundable fee specified in Chapter 53 of this title (relating to Finance).
- (b) The department reserves the right to refuse permit issuance to any person finally convicted of any violation of Parks and Wildlife Code during the five-year period immediately prior to an application for a permit under this subchapter. This paragraph does not apply to convictions under Parks and Wildlife Code, Chapter 31.
- (c) The department shall not issue a permit to any person who has not complied with the applicable requirements of §65.330 of this title (relating to Reporting Requirements).
- (d) Permits shall be issued to named individuals only, resident or nonresident as applicable, and shall not be issued in the name of any firm, organization, or institution.
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Source Note: The provisions of this §65.329 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041

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CHAPTER 65 WILDLIFE
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RULE §65.330 **Record and Reporting Requirements**

- (a) A person possessing a nongame permit issued under this subchapter shall, during the period of validity of the permit:
- (1) continuously maintain and possess upon their person during any permitted activity a daily log indicating the date, location, and number of specimens of each species collected and/or possessed; and
 - (2) maintain a current daily record of all sales, to include the permit number of all nongame dealers purchasing nongame wildlife from the permittee.
- (b) A person possessing a nongame dealer permit shall:
- (1) maintain a current daily record of all purchases and sales;
 - (2) maintain a collection log, invoice, or receipt identifying the source or origin of each specimen of nongame wildlife in possession (to include the nongame permit number of all persons from whom nongame specimens are purchased or acquired); and
 - (3) complete and submit to the department, on a form supplied or approved by the department, an annual report for the period of August 1 through the following July 31. The report is due no later than August 15 of each year.
- (c) All records required by this section shall be retained and kept available for inspection upon request of a department employee acting within the official scope of duty for a period of two years following the period of validity of the permit under which they are required to be kept.
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Source Note: The provisions of this §65.330 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041

TITLE 31 NATURAL RESOURCES AND CONSERVATION
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SUBCHAPTER O COMMERCIAL NONGAME PERMITS
RULE §65.331 **Commercial Activity**

(a) Policy. The department shall develop a policy for periodic evaluation of pertinent information or evidence to determine if a species should be added to or removed from the lists of species in this section.

(b) Turtles.

(1) The holder of a nongame permit may possess, transport, sell, import, or export common snapping turtle (*Chelydra serpentina*), red-eared slider (*Trachemys scripta*), or softshell turtle (*Apalone spinifera*, *A. muticus*) in accordance with the provisions of this subchapter, provided that take occurs on private land or private water.

(2) The holder of a nongame dealer's permit may possess, transport, sell, resell, import, or export common snapping turtle (*Chelydra serpentina*), red-eared slider (*Trachemys scripta*), or softshell turtle (*Apalone spinifera*, *A. muticus*) in accordance with the provisions of this subchapter, provided that take occurs on private land or private water.

(3) No person while on or in public water may possess or use a net or trap capable of catching a turtle. This section does not apply to:

(A) dip nets; or

(B) minnow traps, provided the minnow trap is less than 24 inches in length or has a throat smaller than one by three inches.

(c) It is an offense for any person to take or attempt to take nongame wildlife for purposes of commercial activity from public land or water.

(d) The species of nongame wildlife listed in this paragraph may be possessed, purchased, sold, offered for sale, imported, or exported as provided under this subchapter.

Attached Graphic (White List)

(e) No person shall engage in commercial activity involving any nongame species not listed in subsection (d) of this section, except as provided in §65.327(e) of this title (relating to Permit Required) and subsection (b) of this section. This prohibition on commercial activity includes, but is not limited to, the following species:

Attached Graphic (Black List)

Source Note: The provisions of this §65.331 adopted to be effective January 1, 1999, 23 TexReg 10034; amended to be effective October 28, 2002, 27 TexReg 10041; amended

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[<<Prev Rule](#)

Texas Administrative Code

[Next Rule>>](#)

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<u>PART 2</u>	TEXAS PARKS AND WILDLIFE DEPARTMENT
<u>CHAPTER 65</u>	WILDLIFE
<u>SUBCHAPTER O</u>	COMMERCIAL NONGAME PERMITS
RULE §65.332	Violations and Penalties

A person who violates any provision of this subchapter commits an offense and is subject to the penalties provided by Parks and Wildlife Code, §67.005.

Source Note: The provisions of this §65.332 adopted to be effective January 1, 1999, 23 TexReg 10034