



March 19, 2019

Chairman Ralph H. Duggins
Texas Parks and Wildlife Commission
4200 Smith School Road
Austin, TX 78744

Dear Chairman Duggins,

On behalf of the Texas Deer Association, please let this letter serve as formal comment regarding the proposed rules amendments to the deer breeder regulation testing provisions and release provisions.

The Texas Deer Association supports the amendments to §65.610, concerning Transfer of Breeder Deer, which would extend the period of time that breeder deer may be confined in a “soft release” enclosure at a release site prior to complete liberation. We believe that amending the soft-release provisions from 30 days to 6 months will greatly enhance a release site owner’s ability to properly care for animals that have been liberated out of a breeder facility. While supportive of the proposed amendments, our association remains concerned with the staff’s interpretation of 31 TAC 65.95(c)(1)(A&B) regarding fence restrictions within a privately owned property. We strongly believe TPWD staff does not have the authority to approve or deny a landowner’s ability to construct or remove interior fences within privately owned land in Texas.

The Texas Deer Association stands in opposition to the amendments to §65.94, concerning Breeding Facility Minimum Movement Qualification, which would require two whole-herd live tests for permittees who possess an insufficient number of eligible-aged deer to potentially obtain movement qualification status. Our association strongly believes the department should postpone passage of the proposed rule change in order to work alongside the Texas Animal Health Commission veterinarians and epidemiologists to find a better way to regulate facilities with insufficient animals to live test to regain movement qualification. A one-size-fits-all approach to regulating these circumstances is simply insufficient for our industry.

The proposed rules changes do not account for the different circumstances that may cause a facility to have insufficient animals to live test. For instances, anthrax, massive flooding, hurricanes, and other acts of God may have been the cause of a facility’s insufficient animal numbers for live testing. In the case of anthrax, a producer may be prohibited by TPWD staff or TAHC staff from testing their animals for fear of disease transmission to humans. In cases of hurricanes or acts of God, a producer may actually be prohibited by authorities from entering his or her land to actually test the animals lying dead in their pens. Should the proposed amendments pass, those facility owners would now be punished by being put out of business for two full years, required to spend tens of thousands of dollars on live testing, and made to feed animals without any course of revenue before being allowed to be “movement qualified”. This is not the way Texas should operate. We always find a way to be “open for business” in times of natural disaster.

Imagine if a gas station or restaurant was hit by a hurricane and the regulating agency told the owner that they could not open the business for at least two full years and that they would be required to pay thousands of dollars over the course of those two years in penalties for a circumstance that was simply unforeseeable. Unfortunately, this is exactly how breeding facilities will be treated should this amendment pass. The Texas Deer Association respectfully asks the commission to send the proposed rules amendment back to TPWD staff to find an alternative solution to insufficient animals in a facility in circumstances such as disease outbreak or acts of God.

Should you have any questions or concerns regarding formal comment, please do not hesitate to contact our association.

Respectfully,

A handwritten signature in black ink that reads "Patrick Tarlton". The signature is written in a cursive, flowing style.

Patrick Tarlton
Texas Deer Association

CC: The Honorable S. Reed Morian, Vice-Chairman
The Honorable Anna B. Galo
The Honorable Jeanne Latimer
The Honorable Oliver Bell
The Honorable James H. Lee
The Honorable Margaret Martin
The Honorable Arch H. Aplin
The Honorable Dick Scott
The Honorable Kelcy Warren