

Criteria for 1-d-1w (Wildlife Management Use)

In 1995, Texas voters approved Proposition 11, which amended Article VIII, Section 1-d-1 of the Texas Constitution to permit agricultural appraisal for land used to manage wildlife. H.B. 1358 implemented the constitutional amendment by making wildlife management an agricultural use that qualifies the land for agricultural appraisal.

In 2001, the legislature passed H.B. 3123, requiring the Texas Parks and Wildlife Department to develop and the Comptroller to adopt rules for the qualification of agricultural land in wildlife management use. These guidelines and Chapter 9, subchapter F of the Texas Administrative Code constitute the rules, as required by Section 23.52(g) Tax Code. The Texas Administrative Code language specifically addresses qualification of land partitioned from a previously qualified tract of real property qualified for 1-d-1 appraisal as wildlife management land.

Tax Code Chapter 23 (d) addressed the requirements for landowners to qualify their land for agricultural appraisal and also instructs county appraisal districts how to appraise qualified agricultural land. Land used for wildlife management must meet all the legal requirements of land qualified for agricultural appraisal. Those requirements, however, are outside the scope of these guidelines. The comptroller published a Manual for the Appraisal of Agricultural Land that discusses in detail the qualification for land for agricultural appraisal, the rollback tax penalty for change of used and the appraisal of agricultural land.

Land on which the owner engages in wildlife management and that previously met other requirements to qualify as agricultural appraisal is qualified for agricultural appraisal and is technically agricultural use.

Texas Property Tax Code, Subchapter D Appraisal of Agricultural Land Section 23.51

(1) Qualified open-space land” means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year.

(2) “Agricultural use” includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts

for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. The chief appraiser shall determine the categories into which land in the appraisal district is classified. In classifying land according to categories, the chief appraiser shall distinguish between irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste. The chief appraiser may establish additional categories. The chief appraiser shall further divide each category according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, the Natural Resources Conservation Service of the United States Department of Agriculture, and other recognized agricultural sources for the purposes of determining the categories of land existing in the appraisal district.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation. For land that qualifies under Subdivision (7) for appraisal under this subchapter, the chief appraiser may not consider in the calculation of net to land the income that would be due to the owner under a hunting or recreational lease of the land.

(5) "Income capitalization" means the process of dividing net to land by the capitalization rate to determine the appraised value.

(6) "Exotic animal" means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, other cloven-hoofed ruminant mammals, or exotic fowl as defined by Section 142.001, Agriculture Code.

(7) "Wildlife management" means: actively using land that at the time the wildlife-management use began was appraised as qualified open-space land under this subchapter or as qualified timber land under Subchapter E in at least three of the following ways to propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation:

- (i) habitat control;
- (ii) erosion control;
- (iii) predator control;
- (iv) providing supplemental supplies of water;
- (v) providing supplemental supplies of food;
- (vi) providing shelters; and
- (vii) making of census counts to determine population;

Tax Valuation for Wildlife Management FAQ

How do I apply for a wildlife management appraisal? What forms are required, and where do I get them?

To apply for property tax appraisal of open spaced lands as authorized by Section 1-d-1 of the Texas Constitution, including appraisal of agricultural lands, timber lands, or land used for wildlife management,, a landowner must request a 1-d-1 Open Space Appraisal Application from the County Appraisal District. Only properties that are currently being appraised as agricultural lands or timber lands may convert to appraisal based on wildlife management. Landowners wishing to apply for wildlife management appraisal must include with their application a wildlife management plan. An approved wildlife management plan form may be obtained on the TPWD website at: http://www.tpwd.state.tx.us/landwater/land/private/agricultural_land/. By law, all applications must be submitted to the appraisal district by May 1 of each year. TPWD has no role in deciding whether or not a property owner is approved, so no forms should be returned to TPWD.

How many years does it take to get an agricultural appraisal? Can I use wildlife management to qualify?

Land is qualified for agricultural appraisal based on a 7 year rotation cycle. This cycle applies only to the land, not the landowner. It does not start over with a new landowner. Out of every 7 years, the land may be deferred (i.e. rested, lie fallow, or "do nothing") for 2 years. In order to qualify for agriculture appraisal, the landowner must be doing an active agricultural practice for 5 years and then apply for the appraisal.

Is there a minimum acreage requirement? What if I own several adjacent tracts?

Tracts of land that are adjacent and under the same ownership qualify as one tract of land. For properties that have been reduced in acreage since the previous tax year, there are minimum acreage requirements. Please check with your county appraisal district for those minimum acreages as they depend on the appraisal region in which the property is located. For all other properties, there is no minimum acreage requirement.

Can landowners in wildlife management property association submit just one wildlife management plan?

Landowners in a wildlife management property association can submit one wildlife management plan for the group, but every landowner is required to sign it. The same is true of the annual report - all landowners must sign it if only one report is submitted.

Does everyone in a wildlife management property association have to be doing three practices on their property or can one practice cover several landowners?

These types of property owner associations qualify with lower acreages because landowners are legally obligated to do wildlife management. There will be two levels of management in the association: large-scale, neighborhood-wide practices (such as deer management) and smaller-scale, individual landowner practices (such as supplemental feeding of songbirds). Landowners need to be actively doing 3 practices on their own property while participating at some other level of intensity as determined by the neighborhood in the overall management.

May I write my own wildlife management plan or do I have to consult with TPWD and have them write a plan? Do I need to get TPWD approval on my plan?

The law does not require consultation with TPWD, nor does it require TPWD to approve your plan. As a landowner you are able to write your own wildlife management plan as long as it is completed on the TPWD wildlife management plan form. TPWD biologists are available to work with all landowners, but it is not required.

Can the appraisal districts require the use their own forms for a wildlife management plan? What about requiring additional information such as maps and aerial photos?

No. The law allows the appraisal districts to accept plans on forms other than the TPWD form if they contain all the information required on the TPWD wildlife management form. Appraisal districts may require the use of the TPWD wildlife management plan form but they cannot require the use of any other form. The law allows the Chief Appraiser to request additional information if necessary to determine qualification, but if a landowner has properly filled in the 1-d-1 Open Space Appraisal Application, and the TPWD form for a wildlife management plan, no additional information should be required. This is also true of the Annual Report form. Appraisal Districts can request an annual report, and when they do it must be submitted on the TPWD annual report form which is available on the TPWD website at: http://www.tpwd.state.tx.us/landwater/land/private/agricultural_land/.

What happens after I turn in all my paperwork? Is there anything in particular that the county is looking for? How do I know if I was accepted?

This varies from county to county. In general, a landowner is accepted unless they hear otherwise. The county will be primarily looking to see if the landowner meets the criteri

That is, that the land is already appraised for agricultural or timber use; the wildlife management plan states the landowner's goals and the native species that are being managed and identifies the specific wildlife management practices and activities to be implemented that are consistent with the Comprehensive Wildlife Management Planning Guidelines for the ecoregion in which the tract of land is located; and if the property has had a reduction in acreage since the previous tax year that the land meets minimum size requirements.

What happens if I'm rejected?

If you receive notification from you Appraisal District that your application has been denied, you should call and schedule a meeting with the appraiser to find out what the specific problem is and what needs to be done to correct it. You should take all your documentation and paperwork with you to the meeting. If you are not able to resolve the problem, then you have the opportunity to schedule a formal hearing in front of the Appraisal Review Board (ARB). Whether or not you employ legal counsel is a personal decision.

Does the county have to notify me before they come out and inspect my property?

Yes. Typically this is done via a "blanket" letter to all landowners stating only that properties will be inspected sometime during the year. As a landowner, you do have the right to refuse the county access, although this is not generally recommended. If you are concerned about the appraiser's presence on your property, the best course of action is to request that you be notified prior to their visit in order for you to be present. That is a reasonable request that most appraisal offices are happy to accommodate.

What is the appraiser going to be looking for when they come out to inspect my property and how often do they come out?

How often the appraiser comes out to inspect your property depends entirely upon the county. Typically, the appraiser is merely there to verify that the landowner is making a good faith effort to fulfill the wildlife management plan they submitted to the county with their application. As in all agricultural endeavors, success is not guaranteed or required. The law does not require landowners to be successful; it requires them to make the effort. It is always a good idea to have a record of expenses incurred, and photos of the various practices implemented in order to document this good faith effort.

Can I go back to the Ag Valuation if I no longer want to continue with my wildlife valuation?

Since you are still in agriculture, all you will be doing is changing your agricultural practice from wildlife management back to something else. You will need to fill in a new 1-d-1 Open Space Appraisal Application (obtained from your appraisal office, not TPWD) and fill it in between January 1 and May 1 of any year.

If I have cows on my place should I bother with the wildlife valuation?

That is a personal decision since the tax rate will stay the same. One advantage is that the landowner may adjust the stocking rate and grazing rotation to achieve their individual goals rather than having to meet the minimum grazing intensity standards for the county. Properly managed grazing is often used to enhance wildlife habitat for a diversity of species.

Can I still have livestock if I use wildlife management to maintain my land's agricultural valuation?

Yes. Well managed grazing is often beneficial to maintaining productive wildlife habitat. Livestock grazing can be a useful tool in managing food and cover for wildlife.

Can I plant and harvest pine trees and still be considered to be under a wildlife management Ag appraisal for tax purposes?

Yes. Management of timber resources is certainly compatible with wildlife management.

What sort of tax savings is involved in converting to the wildlife management appraisal?

There is no tax advantage since being appraised for agriculture or timber is required before conversion to wildlife management is possible. The law is designed to be revenue neutral, meaning that whatever the tax rate was before (i.e. improved pasture, grazing, row crops, timber etc.) that is the rate that will stay with the land.

Is conducting a census a required practice for my wildlife management plan?

No. The rules clearly state that the landowner selects at least 3 of the 7 wildlife management practices - it is the landowner's choice of which practices to choose and which activities are implemented to achieve the goals identified in the wildlife management plan. The choice of wildlife management practices does not have to include conducting census. However, many landowners do choose to conduct census counts to gauge their management success, and TPWD biologists can instruct and mentor landowners in proper census techniques to develop data on population trends. But due to limited staff time, TPWD biologists are not available to conduct census counts for landowners on an annual basis.

What about non-game species or fish? Can I manage for them? What are the practices and intensity levels required?

Yes, landowners may manage for non-game wildlife such as songbirds, small mammals (rabbits, squirrels, etc.). Brush piles, supplemental shelter (birdhouses) supplemental feeding, supplemental water, predator control (cowbird trapping) for instance, are all very good practices that can make a significant difference particularly on smaller properties. Check the Guidelines for Qualification for Wildlife Management on the TPWD website for the discussions on beneficial practices and activities. Managing for fish does not qualify for wildlife management, but may qualify as aquaculture. Check with your county appraisal district office for the aquaculture requirements.