

WILDLIFE MANAGEMENT AS AGRICULTURE USE FOR PROPERTY TAX VALUATION IN TEXAS

Larry A. Redmon¹ and James C. Cathey²

Texas is known for its natural resources ranging from grasslands in the north, brushlands in the south, piney woods in the east and the Chihuahuan desert in the west. These open space lands provide aesthetic and economic benefits through ecosystem services like recreation, water supply, carbon sequestration, and nutrient cycling. In order to preserve open space lands and their value to all Texans, qualifying properties may be taxed at a lower rate than other properties, provided rural lands qualify for one of two types of special appraisal methods.

The first type of appraisal is called "Assessments of Lands Designated for Agricultural Use" authorized by Texas Constitution Article VIII, Section 1-d and described in Sections 23.41 through 23.47 of the Texas Tax Code. This type of appraisal is often referred to as 1-d appraisal. The other type of appraisal is called "Taxation of Certain Open Space Land" (OSL) authorized by Texas Constitution Article VIII, Section 1-d-1 and further described in Sections 23.51 through 23.59 of the code, also known as 1-d-1 appraisal. When most people speak in terms of the agricultural use tax valuation for ranches in Texas, they are generally referring to the OSL appraisal method (1-d-1). The Agricultural Use appraisal method (1-d) is appropriate only for lands devoted to full time agricultural operations wherein the owner's primary occupation and source of income is derived from the agricultural enterprise. The landowner's occupation and income is as important to the qualification as is the land's use. Open-space appraisal (1-d-1) is based solely on the primary use of the land with no consideration for the landowner's income or occupation. Lands approved for wildlife use and/or agricultural use pay the same amount of taxes, which are based on the productive value of the land rather than the land's market value.

Prior to 1995, lands managed solely for wildlife did not qualify for the property tax valuation as did lands designated for agricultural use or open-space use. A bill

originating in the Texas House of Representatives, HB 1358, called for an amendment to the Texas constitution that added wildlife management to the list of qualifying agricultural practices. The bill would allow these properties managed for wildlife to also have property taxes based on land productivity rather than market value. House Joint Resolution 72 put the amendment to the Texas Constitution known as "Proposition 11" on the general election ballot and Texas voters passed it by a margin of nearly 2 to 1. Currently the state of Texas Tax Code contains the following language:

"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 bees for pollination or for the production of human food or other commercial products; 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.**" (Texas Tax Code, Subchapter D, Sec. 23.51 (2).

When a landowner changes from a more traditional agriculture use, such as cattle production, to wildlife management agricultural use, the landowner must make application to the chief appraiser between January 1 and April 30 of the year in which the owner wants to implement the change to wildlife management

¹ Associate Department Head Soil and Crop Sciences

² Associate Director Texas A&M Natural Resources Institute



agricultural use. The chief appraiser will determine if the land qualifies for wildlife management agricultural use. Once a property has been qualified for the OSL special tax appraisal, an owner who changes to the wildlife management agricultural use does not have to re-apply each year for open-space appraisal. The chief appraiser may require an annual report on a form prescribed by the Texas Parks and Wildlife Department (TPWD) describing how the wildlife management plan was implemented during the year. The law, however, does require an owner who changes the category of agricultural use to notify the chief appraiser. Likewise, an owner must notify the chief appraiser if land switched from wildlife management agricultural use back to another qualifying traditional agricultural use.

Many landowners who currently own property in Texas, or are considering the purchase of property in Texas, are not aware that managing for wildlife can qualify lands as OSL. This publication discusses some of the requirements associated with receiving the OSL special tax appraisal for lands managed for wildlife in Texas.

THE REQUIREMENTS

Land Qualification:

The first requirement for OSL special tax appraisal based on wildlife management use is that the land must have been qualified and appraised as open-space agricultural land in the year prior to conversion to wildlife management use. In other words, to qualify for open-space appraisal under the wildlife management use, the property must have already been qualified for OSL agricultural appraisal under Chapter 23, Subchapter D, or as timberland under Chapter 23, Subchapter E of the Texas Tax Code. Land that qualifies for the agricultural special appraisal under Section 1-d is not eligible for wildlife management use without first acquiring open-space appraisal based on Section 1-d-1. If the property does not currently qualify for



the open-space agricultural appraisal, a five-out-of-seven-years qualification period is required to establish traditional agricultural operations and then submit for agricultural tax valuation before converting to a wildlife management agricultural use.

With passage in 2001 of House Bill 3123, the Legislature directed TPWD to develop standards for the qualification of OSL used for wildlife management and the comptroller to adopt these standards by administrative rule. Under the rule, the state initially was divided into four wildlife use appraisal regions based on ambient moisture available and assigned a range of ratios for required wildlife management use for lands in each specific region. Effective December 11, 2008, revised rules divided the state into 12 new regions (Fig. 1). The new appraisal regions were reorganized to more closely track the defined ecological regions as specified in the TPWD Wildlife Management Guidelines. If a county is in more than one ecological region, the region that comprises the majority of the county is selected. Other changes in the rules state that wildlife use requirements (also known as minimum acreage requirements) now apply both when the property has had a reduction in acreage in the year immediately preceding the application for wildlife management use or has subsequently had a reduction in acreage.

The chief appraiser in each county, with the advice and consent of the Appraisal District Board of Directors, now selects the wildlife use requirement from the allowable range of ratios based on the appropriate appraisal region. Minimum acreage ranges (Figure 1; Table 1), when applicable, are the same as before except for Terrell, Clay, and McCulloch counties which increased and Bee county that decreased. Changes result from the reorganization of appraisal regions. Existing properties in wildlife management were grandfathered and were not affected by these changes.

Ratios among regions are used by the chief appraiser in each county to determine the minimum acreage

Wildlife Use Requirement Ranges for Appraisal Districts (when applicable*)				
Appraisal Region	Standard Acreage		WMPA/ES Mgmt.	
	Min	Max	Min	Max
Blackland Prairie	12.5	16.7	10	11.1
Cross Timbers and Prairies	14.3	20	11.1	12.5
Edwards Plateau (Eastern)	14.3	20	11.1	12.5
Edwards Plateau (Western)	25	50	16.7	20
Gulf Prairies and Marshes (Lower Coast)	25	50	16.7	20
Gulf Prairies and Marshes (Upper Coast)	12.5	16.7	10	11.1
High Plains	25	50	16.7	25
Pineywoods	12.5	16.7	10	11.1
Post Oak Savannah	12.5	16.7	10	11.1
Rolling Plains	25	50	16.7	20
South Texas Plains	25	50	16.7	20
Trans Pecos	33.3	100	20	25

*If the number of acres in the tract of land is equal to or greater than the number of acres in the tract of land on January 1 of the preceding tax year, the tract of land is not subject to the wildlife use requirement.

34 Tex. Admin. Code §9.2005 (2009)

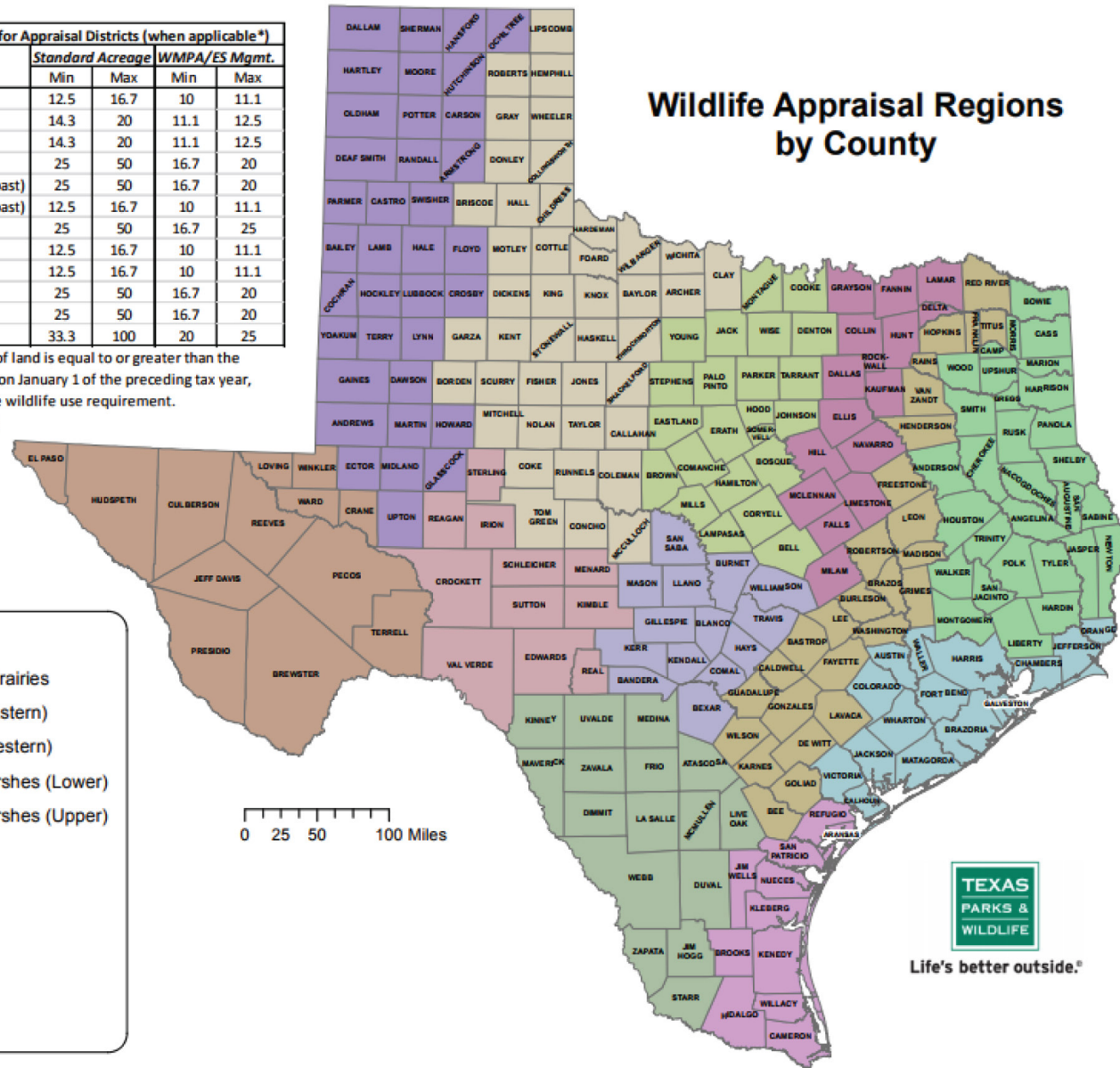
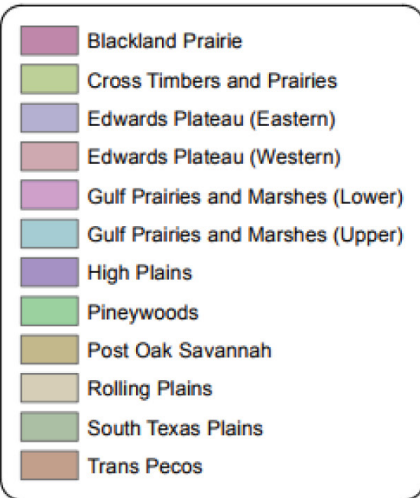


Figure 1. Standard acreages and wildlife management property owners associations (WMPA) / endangered species management minimum acreage by ecoregion and county for wildlife tax valuation in Texas.

Table 1. Ratios and minimum acreage for properties under standard acreages wildlife tax valuation in Texas.

	Lower Ratio	Acreage	Upper Ratio	Acreage
Trans Pecos	97%	33.3	99%	100
High Plains	96%	25	98%	50
Lower Gulf Prairies and Marshes	96%	25	98%	50
Rolling Plains	96%	25	98%	50
South Texas Plains	96%	25	98%	50
Western Edwards Plateau	96%	25	98%	50
Eastern Edwards Plateau	93%	14.3	95%	20
Cross Timbers and Prairies	93%	14.3	95%	20
Blackland Prairie	92%	12.5	94%	16.7
Post Oak Savannah	92%	12.5	94%	16.7
Pineywoods	92%	12.5	94%	16.7
Upper Gulf Prairies and Marshes	92%	12.5	94%	16.7

size for a property to qualify for wildlife management use if the property has been reduced in size in the year immediately preceding the application for wildlife management use or has subsequently had a reduction in acreage. Ratios are calculated using the formula, $(A-1)/A = R$, wherein A is the total property size in acres and R is the ratio. For the purposes of determining the total property size (defined as a “tract” in the Texas Administrative Code), the property owner should consider the entire area of all contiguous parcels of land under common ownership. The presence of public roads and bodies of water does not affect the contiguity of the parcels of land.

As an example of how the ratios would work, a chief appraiser within the Upper Gulf Prairies and Marshes could select 94 percent as the ratio of a tract that is subject to the Wildlife Use Requirement. If a property owner had a 12.5-acre tract that is subject to the wildlife use requirement and applied for the valuation, the appraiser takes the 12.5, subtracts 1 and then divides by 12.5, which equals 92 percent – the lower ratio. To calculate the upper ratio in this scenario, the appraiser would take 16.7, minus 1, and then divides by 16.7, which equals 94%. Usually, the higher ratio and its corresponding acreage serves as the minimum acreage requirement among counties (Table 1).

The qualifying minimum acreage size is likely the most confusing item when switching from traditional agricultural use to wildlife management agricultural use. The following scenarios will help landowners determine if their lands are eligible.

Scenario 1:

- ▶ Question 1: Does the land currently have agricultural use valuation?
 - ◊ Answer: Yes
- ▶ Question 2: Has the size of the property having agricultural use valuation been reduced since the last tax year?
 - ◊ Answer: No
- ▶ Next step: There is no minimum acreage required; apply for conversion to wildlife management agricultural use between January 1 – April 30.

Scenario 2:

- ▶ Question 1: Does the land currently have agricultural use valuation?
 - ◊ Answer: Yes
- ▶ Question 2: Has the size of the property having agricultural use valuation been reduced since the last tax year?
 - ◊ Answer: Yes
- ▶ Question 3: Does the land meet the minimum qualifying acreage set by the county chief appraiser? (refer to Table 1).
 - ◊ Answer: Yes
- ▶ Next step: Apply for conversion to wildlife management agricultural use between January 1 – April 30

Table 2. Ratios and Minimum Acreages for properties under wildlife tax valuation in Texas, having property owners associations, and threatened and endangered species considerations.

	Lower Ratio	Acreage	Upper Ratio	Acreage
Trans Pecos	95%	20	96%	25
High Plains	94%	16.7	96%	25
Lower Gulf Prairies and Marshes	94%	16.7	95%	25
Rolling Plains	94%	16.7	95%	20
South Texas Plains	94%	16.7	95%	20
Western Edwards Plateau	94%	16.7	94%	20
Eastern Edwards Plateau	91%	11.1	95%	20
Cross Timbers and Prairies	91%	11.1	92%	12.5
Blackland Prairie	90%	10	91%	11.1
Post Oak Savannah	90%	10	91%	11.1
Pineywoods	90%	10	91%	11.1
Upper Gulf Prairies and Marshes	90%	10	91%	11.1

Scenario 3:

- ▶ Question 1: Does the land currently have agricultural use valuation?
 - ◊ Answer: Yes
- ▶ Question 2: Has the size of the property having agricultural use valuation been reduced since the last tax year?
 - ◊ Answer: Yes
- ▶ Question 3: Does the land meet the minimum qualifying acreage set by the county chief appraiser? (refer to Table 1).
 - ◊ Answer: No
- ▶ Next step: Stop the process as the land cannot qualify as wildlife management agricultural use.
- ▶ Exception: Some lands that are part of wildlife property associations or have threatened or endangered species habitats and meet acreage standards for a different set of Lower and Upper Ratios. These are used to create benefits for species of concern through sound wildlife management on smaller properties. As before, appraisers generally adopt the acreage limits associated with the Upper Ratio (Table 2). Here landowners should apply between January 1 – April 30.

Lands qualified for the wildlife management special tax appraisal prior to January 1, 2001 were grandfathered under existing OSL requirements provided they continued to meet all other requirements except size. After January 1, 2001 lands were subject to the new standards and regulations regarding sizes of recently subdivided land tracts that are eligible for qualification

for the OSL wildlife management special tax appraisal. New standards for determining the appropriate size of property for wildlife management tax appraisal took effect on December 11, 2008 also grandfathered previously qualified tracts provided they continued to meet all other requirements. If a tract of land becomes reduced in size and no longer meets the minimum size requirement, the landowner could have the agricultural appraisal removed and may be subjected to a 5-year tax rollback for changing the primary use of the property.

Land use:

The second requirement for the property to be considered qualified for the OSL special tax appraisal is that the property must be “actively managed” to sustain a *breeding, migrating, or wintering population of indigenous wild animals for human use*. The word indigenous indicates the wildlife species must be native to Texas and is exclusive of exotic animals that may have been introduced purposely or accidentally. A *breeding-group* is a population of wildlife species large enough to live independently over several generations. This could be small mammals or bird species for smaller tracts of land or white-tailed deer and wild turkey on larger tracts of land. *Migrating* wildlife species are those moving between seasonal ranges while *wintering* species are those that may use the property during the winter.

Purpose of Wildlife Management:

The third requirement for the property to be considered for the OSL special tax appraisal is that the wildlife species must be managed for *human use*. *Human use* may include wildlife species that are used for food

or medicine as the result of harvest of the species for consumption. Human use of wildlife species also includes recreation and may involve either active or passive pursuits. Active pursuits may include hunting, observing wildlife, photography, and other recreational uses. The passive use of simply owning property and managing wildlife is likewise recognized as a qualifying human use. Note that unless the property is being used to manage wildlife for human use, the property will not qualify for the OSL special tax appraisal.

THE APPLICATION FOR OPEN-SPACE LANDS AGRICULTURAL APPRAISAL

Whenever a landowner decides to change their land use from agricultural to wildlife management, an Application for 1-d-1 (Open-Space) Agricultural Appraisal must be submitted to the appraisal district in the county in which the property is located. This form, along with a wildlife management plan, should be submitted between January 1 and April 30 of the year in which the change in land use is to take place. If the application is granted by the chief appraiser in the county, the landowner does not need to file the application again in later years unless the chief appraiser requests a new application, or if the decision is made to choose another agricultural use designation for the property.

THE MANAGEMENT PLAN

Another requirement for qualifying for the OSL special tax appraisal is for the landowner to submit a wildlife management plan (WMP) to the chief tax appraiser in the county between January 1 and April 30 of the tax year. The WMP should be submitted on the TPWD form (TPWD 885-W7000 1-D-1 Open Space Agricultural Valuation Wildlife Management Plan). The chief appraiser may accept, but not require, a management plan on another form. All required information, however, must be provided, which is called for on the official TPWD885-W7000 form for each tract for which wildlife management use qualification is sought. The practices and activities contained in the plan must be consistent with the practices and activities recommended in Guidelines for Qualification of Agricultural Land in Wildlife Management Use and the TPWD Comprehensive Wildlife Management Planning Guidelines for the ecoregion in which the property is located. The management plan may be entirely filled out and submitted by the landowner, or the landowner may choose to engage the services of a wildlife management professional to assist in completing the WMP.



MANAGEMENT PRACTICES

The law requires that landowners conduct specific management practices designed to enhance the target wildlife species. At least three of the following seven management practices must be performed each year on the property based on the wildlife management plans. Details regarding TPWD wildlife management practices required in each of 10 different ecological areas are listed in the Resources section later in this publication. Some of the ecological areas have been combined due to similar management practices for the areas.

Habitat Control (Habitat Management)

Wildlife habitat is dynamic, not static, requiring active management to benefit wildlife. Habitat management may require the clearing and management of brush or the conversion of introduced plant species to native species.

Therefore, this management practice is critical in maintaining the breeding population of various wildlife species. Depending on the target species to be managed, habitat management may take various forms and involves actively manipulating the land for the benefit of the species. Some of the qualifying activities for habitat control/management include:

- ▶ Grazing management;
- ▶ Prescribed burning;
- ▶ Range enhancement;
- ▶ Brush management;
- ▶ Forest management;
- ▶ Riparian management and improvement;
- ▶ Wetland improvements;
- ▶ Habitat protection for species of concern;
- ▶ Managing native, exotic and feral species; and
- ▶ Wildlife restoration.

Erosion Control

Land management activities that reduce soil erosion are desirable components of the overall management plan that meets the requirements of the Law. Qualifying erosion control activities include:

- ▶ Pond construction;
- ▶ Gully shaping;
- ▶ Streamside, pond, and wetland re-vegetation;
- ▶ Establishing native plants;
- ▶ Dike, levee construction or management, and water diversion.



Predator Control/Management

If there is a high number of predators having a significant negative impact on target wildlife species, attempts to control the predators qualifies as a management practice under the Law. Recall that non-game species like songbirds, birds of prey, and many others are protected by state and federal law. Some of the qualifying activities are:

- ▶ Mammal predator control;
- ▶ Fire ant control;
- ▶ Brown-headed cowbird control; and
- ▶ Grackle or starling control.

Providing Supplemental Water

Water is vital for all wildlife species. The development of supplemental water sources for wildlife species is a qualifying practice under the Law. Supplemental water may also be a seasonal development as in the case of moist soil management structures that provide seasonal water for migrating waterfowl. Supplemental water development activities that would qualify under the Law include:

- ▶ Marsh or wetland restoration or development;
- ▶ Managing well, trough and windmill overflow or installing new supplemental water sources; and
- ▶ Spring development and/or improvements.

Providing Supplemental Food

Most wildlife environments provide natural food. A landowner may provide supplemental food by way of habitat manipulation (e.g., brush clearing) or by providing supplemental forages or food that tends to augment the food that occurs naturally. Supplemental food activities that qualify under the Law include:

- ▶ Establishing food plots;

- ▶ Providing and maintaining feeder and mineral supplements; and
- ▶ Manage tame pasture, old fields and croplands to benefit wildlife species.

Providing Shelter

This term means actively creating or maintaining vegetation or artificial structures that provide shelter from the weather, for nesting and breeding sites, or for “escape cover” from predators. Providing shelter may be as simple as creating “snag” trees and/or brush piles, or by constructing structures such as nest boxes. Qualifying activities regarding providing shelter include:

- ▶ Installing nest boxes and bat boxes;
- ▶ Brush piles and slash retention;
- ▶ Managing fence lines;
- ▶ Managing hay meadow, pasture or cropland;
- ▶ Half-cutting trees and shrubs;
- ▶ Establishing woody plants and shrubs; and
- ▶ Developing natural cavities and snags.

Conduct Census Counts to Determine Population

Census counts are periodic surveys that help determine the population of a certain species or the number of different species occupying the property being managed for wildlife. Census counts are helpful in determining whether, or not management activities are enhancing wildlife populations. Different methods of obtaining population/species estimates include:

- ▶ Spotlight counting;
- ▶ Aerial counts;
- ▶ Daylight wildlife composition counts;
- ▶ Harvest data collection and record keeping;
- ▶ Browse utilization surveys;
- ▶ Census and monitoring endangered, threatened or protected wildlife; and
- ▶ Census and monitoring non-game wildlife species.

SUMMARY

Using wildlife management as an agricultural practice to qualify for the 1-d-1 Open Space Agricultural tax appraisal in Texas is not widely understood by many landowners or potential landowners. While it is relatively easy to switch from traditional agricultural uses such as cattle or hay production to wildlife management agricultural use, there are several guidelines that must be adhered to in order for the



property to receive the special agriculture tax appraisal based on wildlife management. The enjoyment associated with managing for wildlife, however, make the change in land use management worthwhile for many landowners. Landowners are reminded that to qualify for the special tax appraisal, the following issues must be addressed:

1. The property must have already been qualified as 1-d-1 Open-Space Agricultural Use land the year prior to changing to wildlife management.
2. The land must be used to support a sustaining breeding, migrating, or wintering population of indigenous wild animals. In other words, the *primary* use of the land must be for managing wildlife.
3. An application for 1-d-1 (Open Space) Agricultural Appraisal must be submitted showing the change in land use to wildlife management and submitted to the appraisal district in the county in which the property is located.
4. A Wildlife Management Plan for Agricultural Tax Valuation must be completed and submitted to the Central Appraisal District in the county in which the property is located.
5. If property has been reduced in size since the previous tax year, minimum tract size requirements must be met to qualify for OSL appraisal for wildlife management.

If you require additional information regarding wildlife management as an Open Space Land Agricultural special tax appraisal, contact your local appraisal district, Texas A&M AgriLife Extension Service, or the Texas Parks and Wildlife Department.

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The Comprehensive Wildlife Management Planning
Guidelines developed by Texas Parks and Wildlife
Department for each ecoregion can be found [here](#) and
are intended to assist landowners in preparing a wildlife
management plan for ad valorem tax purposes.

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