

**NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Hunting and Game Management

RULE NO: 68A-25.031

RULE TITLE: Regulations Governing Alligator Egg and Hatchling
Collections on Lands Not Included in Alligator Management
Programs.

PURPOSE AND EFFECT: The purpose of the proposed rule is to provide for hatchling collections in a manner similar to how public waters eggs are collected. The effect will be to more fully utilize the established hatchling collection quota and provide more latitude for participants to collect/receive hatchlings at desired levels.

SUMMARY: The proposed rule would provide for hatchling collections in a manner similar to how public waters eggs are collected. This would involve a single hatchling-collection coordinator that permitted farmers choose to oversee collection of the established hatchling quota, rather than issuing collection permits to individual permitted farmers.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternatives must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: During the regular meeting of the Commission, February 4-5, 2009, 8:30 a.m. to 5:00 p.m., each day.

PLACE: Sandestin Golf and Beach Resort, 9300 Emerald Coast Parkway West, Destin, Florida 32500.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting The ADA Coordinator, at (850) 488-6411. If you are hearing or speech impaired, please contact the agency by calling (850) 488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-25.031 Regulations Governing Alligator Egg and Hatchling Collections on Lands Not Included in Alligator Management Programs.

(1) Conditions governing alligator hatchling collections:

(a) Establishment of hatchling collection areas, quotas, and a coordinator:

1. Alligator hatchling collection areas shall be established by the executive director, or his designee, that are suitable for surveying, establishment of quotas, and collection based upon habitat characteristics and expected numbers of hatchlings.

2. Alligator hatchling collection quotas will be established by the executive director, or his designee, for individual counties or other specified management units. Such quotas will be based on the quantity of alligator habitat in each individual county and the best biological information that indicates the number of hatchlings that can be removed from the system without long-term adverse impacts on population levels.

3. Farmers permitted as eligible to receive hatchlings from the wild as specified in paragraph 68A-25.004(2)(e), F.A.C., and licensed as specified in Section 379.3751, F.S., who wish to participate in hatchling collections shall apply in writing. Farmers also permitted as eligible to collect hatchlings from the wild as specified in paragraph 68A-25.004(2)(f), F.A.C., may identify the person for whom they vote to be permitted as the hatchling collection coordinator (herein referred to as hatchling coordinator). Applications must be received by the Commission by July 1 of each year. For purposes of this rule, receipt shall mean actual receipt on or before the deadline by the Commission by U.S. Mail, express delivery, hand-delivery, or facsimile (fax) copy. Applications received after July

1 will not be accepted irrespective of the postmark date. The executive director, or his designee, shall issue a permit to direct and conduct hatchling collections on behalf of eligible participants to the individual receiving the majority of the votes from eligible voting members. The hatchling coordinator shall be licensed as an alligator farmer as specified in Section 379.3751, F.S., prior to being issued a permit.

(b) Procedures and requirements for alligator hatchling collections:

1. The hatchling coordinator shall solicit the participation of eligible farmers as follows:

a. Farmers permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be given the first opportunity to contribute fee payment for hatchlings in the established collection quota.

b. In the event that farmers permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., do not contribute fee payments for all hatchlings in the established quota, other eligible farmers not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be given the opportunity to contribute fee payments for the remaining hatchling quota.

2. Within five working days of receiving notice from the Commission of the established hatchling quota, the hatchling coordinator shall purchase hatchling tags at a cost of \$5 each for each hatchling in the quota for which he intends to collect and shall indicate the percentage of the fees that was paid by farmers not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C.

3. The hatchling coordinators shall be issued a permit specifying the areas, quotas, and requirements for hatchling collections.

4. Alligator hatchling collections may be conducted only according to provisions of the hatchling collection permit and only from locations and during periods specified in the permit.

5. The hatchling coordinator shall be solely responsible for making fee payments, informing participants in the collection of permit requirements, ensuring that permit requirements are met, meeting reporting requirements, conducting hatchling collections, and equitably distributing hatchlings to group participants.

6. Farmers submitting applications consistent with (1)(a)3., above, and who are permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be given equal opportunity to participate in the hatchling collection and distribution; farmers who are not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be entitled to receive a share of the hatchlings collected in proportion to the percentage of the fees that they paid.

7. Hatchlings may only be taken under this rule by alligator farmers in the collection group, the hatchling coordinator, and their agents licensed as specified in Section 379.3751, F.S.

8. Alligator hatchlings shall not be collected pursuant to this subsection from egg collection areas established under subsection (2), from lands included in alligator management programs established under Rule 68A-25.032, F.A.C., or from areas designated by the executive director, or his designee, as closed to such collections in order to provide for scientific studies or as necessary to protect alligator populations.

9. Alligator hatchlings shall be immediately tagged upon capture with alligator hatchling tags, except that hatchlings captured from a boat shall be tagged no later than immediately upon return to shore. A hatchling collection form (FWC Form 1002AF, effective date April 1, 1996, incorporated herein by reference) provided by the Commission must be completed prior to leaving the collection site and shall accompany the hatchlings at all times until they are delivered to a participating permittee's alligator farm. Hatchling collection forms shall be submitted to the Commission as specified in the collection permit. No person shall possess any untagged alligator hatchlings acquired pursuant to this section.

10. Alligator hatchlings shall be transported and housed in suitable facilities as provided in Rule 68A-6.005, F.A.C., and transported to participating permitted alligator farms within fifteen (15) days following collection.

11. Alligator hatchling tags issued to the hatchling coordinator shall remain the sole property of the Commission until attached as provided herein. The hatchling coordinator's agents licensed pursuant to Section 379.3751, F.S., and any licensed alligator farmer and licensed agent(s) for that farmer while in the presence of that farmer who is authorized to do so by the hatchling coordinator may possess unused hatchling tags and take alligator hatchlings as specified in the permit and this section. Licensees taking hatchlings independent of the hatchling coordinator shall be in possession of a copy of the collection permit. The hatchling coordinator shall be strictly liable to ensure that all alligator hatchling tags remain in his possession, the possession of licensed alligator farmers he has authorized to take hatchlings, or the possession of his licensed agent(s).

12. All unused alligator hatchling tags issued pursuant to this section shall be returned to the Commission as specified in the collection permit.

~~Only alligator farmers permitted as eligible to receive hatchlings from the wild as specified in paragraph 68A-25.004(2)(f), F.A.C., and licensed as specified in Section 379.3751, F.S., (hereinafter referred to as farm permittees) and their agents licensed as specified in Section 379.3751, F.S., shall be authorized to take alligator hatchlings under this subsection. Alligator hatchlings may only be taken according to provisions of a hatchling collection permit and only from locales specifically designated in the permit.~~

~~(b) Alligator hatchling collection quota limits will be established by the executive director for individual counties or other specified management units. Such quotas will be based on the quantity of alligator habitat in each individual county and the best biological information that indicates the number of hatchlings that can be removed from the system without long term adverse impacts on population levels.~~

~~(c) Assignment of counties or specified management units will be based on the preference identified by applicants on application forms and a random drawing.~~

~~(d) Assignment of all alligator hatchling collection areas to farm permittees will be conducted at least once every three (3) years, and the assignment of relinquished collection areas will be conducted in intervening years. Farm permittees who wish to request the assignment of hatchling collection areas will identify their preferred collection areas and total number of alligator hatchlings requested for the year on application forms (FWC Form 1001AF, effective date April 1, 1996, incorporated herein by reference and available from the Commission) provided by the Commission. Completed applications must be received by the Commission by June 15 of each year. For purposes of this rule, receipt shall mean actual receipt by the Commission, on or before the deadline, by U.S. Mail, express delivery, hand delivery or by facsimile (fax) copy. Applications received after June 15 will not be accepted irrespective of the postmark date.~~

~~(e) Each farm permittee selected in the assignment process will be authorized to receive a hatchling collection permit and a number of hatchling tags up to the combined collection quotas for the hatchling collection areas assigned to him. Each farm permittee shall remit hatchling tag fees for the total collection quota of each hatchling collection area that is assigned to him and from which he would like to take hatchlings. Upon receipt of hatchling tag fees, the Commission will issue a hatchling collection permit and the total authorized number of hatchling tags to the farm permittee. The fee for alligator hatchling tags provided under this section shall be fixed, pursuant to Section 379.3752, F.S., at a cost of \$5 each and are non refundable.~~

~~(f) Any assigned alligator hatchling collection area may be voluntarily surrendered or transferred to another eligible farm permittee prior to issuance of the hatchling collection permit for the area in a given year provided that a written request for such surrender or transfer and payment for transferred area quotas is received by the Commission by December 1 of each year.~~

~~(g) Alligator hatchling collection areas and their associated collection quotas for which hatchling tag fees are not received by December 1 of each year shall revert to a pool of available collection areas and may be reassigned the following year. In years in which all collection areas are not assigned, any new farm permittee not previously assigned collection areas shall be given priority in the reassignment of areas from the pool of available collection areas until each new farm permittee is assigned the minimum quota established each year under paragraph (1)(b).~~

~~(h) Permittees shall obtain alligator hatchling tags from the Commission in a quantity not to exceed their assigned alligator hatchling collection quota for the time specified by their permit.~~

~~(i) Alligator hatchling collections may be conducted under the conditions set forth under this subsection from September 15 through December 1.~~

~~(j) Permittees or their agent(s) shall not collect wild alligator hatchlings until receipt of permittee's written report by the Commission identifying the total, calendar year, hatchling production and the number of remaining viable eggs on the permittee's alligator farm as of September 10 or later of each year. Notwithstanding provisions for inventories in Rule 68A-25.004, F.A.C., the Commission may inventory a permittee's total egg inventory and hatchling production.~~

~~(k) Alligator hatchlings shall not be collected pursuant to this subsection from egg collection areas established under subsections (2) and (4), from lands included in alligator management programs established under Rule 68A-25.032, F.A.C., or from areas designated by the executive director as closed to such collections in order to provide for scientific studies or as necessary to protect alligator populations.~~

~~(l) Alligator hatchlings shall be immediately tagged upon capture with alligator hatchling tags, except that hatchlings captured from a boat shall be tagged no later than immediately upon return to shore. A hatchling~~

collection form (FWC Form 1002AF, effective date April 1, 1996, incorporated herein by reference) provided by the Commission must be completed prior to leaving the collection site and shall accompany the hatchlings at all times until they are delivered to the permittee's alligator farm. Hatchling collection forms shall be submitted to the Commission by December 16. No person shall possess any untagged alligator hatchlings acquired pursuant to this section.

~~(m) Alligator hatchlings shall be transported and housed in suitable facilities as provided in Rule 68A-6.005, F.A.C., and transported to the permitted alligator farm within fifteen (15) days following collection.~~

~~(n) Alligator hatchling tags issued to a permittee shall remain the sole property of the Commission until attached as provided herein. The permittee's agents licensed pursuant to Section 379.3751, F.S., and any licensed alligator farmer and licensed agent(s) for that farmer while in the presence of that farmer who is authorized to do so by the permittee may possess unused hatchling tags and take alligator hatchlings as specified in the permit and this section. Licensees taking hatchlings independent of the permittee shall be in possession of a copy of the harvest permit. The permittee shall be strictly liable to ensure that all alligator hatchling tags remain in his possession, the possession of licensed alligator farmers he has authorized to take hatchlings, or the possession of his licensed agent(s).~~

~~(o) All unused alligator hatchling tags issued pursuant to this section shall be returned to the Commission by December 16 each year.~~

(2) Conditions governing alligator egg collections:

(a) Establishment of Type A egg collection areas, groups, coordinators, and quotas:

1.(a) Type A Alligator egg collection areas shall be established by the executive director, or his designee, that are suitable for surveying, establishment of quotas, and collection based upon habitat characteristics, expected nest densities, and anticipated costs of surveys and collections.

2.(b) Egg collection permits shall be issued for no more than two groups of eligible alligator farmers.

3.(c) Farmers permitted as eligible to receive eggs from the wild as specified in paragraph 68A-25.004(2)(e), F.A.C., and licensed as specified in Section 379.3751, F.S., who wish to participate in egg collections shall apply and identify, in writing, the collection group in which they elect to participate. Farmers also permitted as eligible to participate in the collection and distribution of eggs as specified in paragraph 68A-25.004(2)(f), F.A.C., may identify the person for whom they vote to be permitted as the egg collection coordinator (herein referred to as egg coordinator). Applications must be received by the Commission by April 1 of each year. Eligible farmers meeting the April 1 application deadline may transfer to the other collection group upon written request received by the Commission. Such transfer requests must be received by April 15. For purposes of this rule, receipt shall mean actual receipt on or before the deadline by the Commission by U.S. Mail, express delivery, hand-delivery, or facsimile (fax) copy. Applications and transfer requests received after April 1 and April 15, respectively, will not be accepted irrespective of the postmark date. The executive director, or his designee, shall issue permits to direct and conduct egg collections on behalf of group participants to the individuals receiving the majority of the votes from eligible voting members in each group. Each egg coordinator shall be licensed as an alligator farmer as specified in Section 379.3751, F.S., prior to being issued a permit.

4.(d) Quotas for the number of nests that may be opened on each collection area shall be determined by Commission biologists conducting surveys and will be set to ensure no long term negative impacts on alligator populations.

5.(e) The proportion of the total nest quota to be assigned to a collection group will be calculated as the number of farms permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., participating in that collection group on April 1, divided by the total number of farms permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., participating in either collection group.

(b)(3) Procedures and requirements for alligator egg collections on Type A egg collection areas:

1.(a) Egg coordinators shall solicit the participation of group members as follows:

a1. Farmers permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be given the first opportunity to contribute fee payments for nests assigned to their group.

b2. In the event that farmers permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., do not contribute fee payments for all nests assigned to the group, farmers in the group not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be given the opportunity to contribute fee payments for the remaining nest quota.

~~2.(b)~~ Within five working days of receiving notice from the Commission of the group's total nest quota and collection area assignments, each egg coordinator shall purchase 25 egg fee permits at a cost of \$5 per egg for each nest in the quota from which he intends to collect eggs and shall indicate the percentage of the fees that was paid by farmers in the group not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C. If payment is not made for the full nest quota, the egg coordinator shall provide notice in writing with the fee payment of the areas from which he does not intend to collect eggs and, if a partial quota is to be collected from an area, shall specify the area and the number of nests to be collected from that area. Only one area may be specified from which a partial quota will be collected.

~~3.(e)~~ Any nest quota for which fee payment and notice are not received as specified in paragraph (3)(b), above, shall be assigned to the other collection group provided that the group's egg coordinator submits fee payment and notice for the quota to be transferred within five working days of notification as specified in paragraph (3)(b).

~~4.(d)~~ Egg cCoordinators shall be issued Alligator Egg Fee Assessment Records (FWC Form 1007AF, effective April 1, 1996, which is incorporated herein by reference) by the Commission that document the number of eggs for which payment was received and permits specifying the areas, quotas, and requirements for egg collections.

~~5.(e)~~ Permits shall expire August 7 of each year, except that the executive director, or his designee, may extend the expiration date upon request of a group egg coordinator if collections are delayed for reasons outside of the control of the egg coordinator and collectors and a concerted effort has been made to complete the collections before August 7. Any quota unused upon expiration of the permit shall be assigned to the other collection group upon purchase of the requisite number of egg permits by the other group's egg coordinator.

~~6.(f)~~ Alligator egg collections may be conducted only according to provisions of the egg collection permit and only from locations and during periods specified in the permit.

~~7.(g)~~ Each egg coordinator shall be solely responsible for making fee payments, informing participants in the collection of permit requirements, ensuring that permit requirements are met, meeting reporting requirements, conducting egg collections, and equitably distributing eggs to group participants.

~~8.(h)~~ Egg collections shall only be conducted under the supervision of Commission personnel.

~~9.(i)~~ Prior to egg collection, the egg coordinator shall request approval of collection dates, exit points, and egg inspection sites for each collection area from the executive director or his designee. Egg inspection sites at locations different from approved exit points shall be approved by the executive director or his designee only in extenuating circumstances or when shelter from inclement weather and utilities suitable for egg inspection are not available at the exit point. Commission personnel shall be provided the opportunity to inventory eggs at the exit point and to supervise the transport of eggs from the exit point to such approved egg inspection sites.

~~10.(j)~~ Farmers in each collection group shall be given equal opportunity to participate in the egg collection and distribution; farmers in each group who are not permitted pursuant to paragraph 68A-25.004(2)(f), F.A.C., shall be entitled to receive a share of the eggs collected from each area in proportion to the percentage of the group's fees that they paid.

~~11.(k)~~ Eggs may only be taken under this rule by alligator farmers in the collection group, the egg ~~collection~~ coordinator, and their agents licensed as specified in Section 379.3751, F.S.

~~12.(l)~~ The number of nests opened on each egg collection area shall not exceed the quota established pursuant to paragraph (2)(d). All eggs from each opened nest shall be collected.

~~13.(m)~~ The egg coordinator shall possess Alligator Egg Fee Assessment Records that indicate an available balance of no less than one egg collection permit for each egg collected.

~~14.(n)~~ All eggs collected each day shall be presented in a single layer for inspection to Commission personnel at the designated egg inspection site. The egg coordinator may select eggs to be retained and shall mark said eggs in a manner designated by the Commission. A fee of \$5 per egg shall be assessed for every egg retained as recorded on Alligator Egg Fee Assessment Records. All remaining eggs shall be surrendered to Commission personnel at the egg inspection site. Each egg ~~collection~~ coordinator shall be refunded fees assessed under this provision for eggs retained from egg collections areas for which he/she has paid for the survey costs not to exceed the amount he/she paid for such surveys as documented by Commission flight records and helicopter flight time invoices.

~~15.(o)~~ Each collection day at the egg inspection site, the egg coordinator shall record the number of eggs retained on one or more Alligator Egg Fee Assessment Records, sign the form(s) to verify the number of eggs retained and balance to be collected, obtain the signature on the form(s) of the Commission staff person supervising

the collection, and submit a copy of the form(s) to such staff person.

~~16.(p)~~ Each collection day at the egg inspection site the egg coordinator shall provide Commission personnel completed copies of FWC form 1005AF (effective June 26, 1994, incorporated herein by reference and available from the Commission) signed by the egg coordinator and indicating the number of eggs to be transferred to each participating farm or to a designated temporary storage facility. Eggs may be temporarily stored at the designated storage facility for up to 30 days following collection before transfer to the participating farms.

~~17.(q)~~ Eggs may only be transferred to the designated temporary storage facility or to farms participating in the egg collection group. The egg coordinator shall be responsible for ensuring that a copy of FWC form 1005AF is completed for each transfer of eggs and that a copy of the completed form, signed by the egg coordinator, accompanies the eggs during any such transfer. Any physical transfer of eggs must be accomplished within two days of completion and signing of the form by the egg coordinator.

~~18.(r)~~ Each participating farmer receiving eggs shall sign the accompanying copy of FWC form 1005AF and submit it to the Commission within ten days of the transferral date to document the addition of those eggs to their farm inventory.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption by the Commission.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3012, 379.3751, 379.3752 FS. History—New 8-24-87, Amended 6-7-88, 2-14-89, 4-11-90, 4-15-92, 4-29-93, 6-26-94, 3-30-95, 4-1-96, 9-15-96, 4-12-98, Formerly 39-25.031, Amended 4-30-00, 5-13-02, 4-11-04, 3-30-06, 3-19-08,_____.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: December 5, 2008.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

**STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Hunting and Game Management

RULE NO: 68A-25.031

RULE TITLE: Regulations Governing Alligator Egg and Hatchling
Collections on Lands Not Included in Alligator Management
Programs.

The purpose of the proposed rule is to provide for hatchling collections in a manner similar to how public waters eggs are collected. The effect will be to more fully utilize the established hatchling collection quota and provide more latitude for participants to collect/receive hatchlings at desired levels.