

NOTICE OF PROPOSED RULE
Rule 68A-9.006, F.A.C.
Agenda Item 5 A 2

FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

RULE NO: 68A-9.006

RULE TITLE: Wildlife Rehabilitation Permit.

PURPOSE AND EFFECT: The purpose and effect of this rule is to address the rehabilitation of injured, orphaned or otherwise impaired wildlife. The proposed rule will clarify the length of time wildlife may be possessed for rehabilitation purposes and final disposition of such wildlife. The rule will be considered together with proposed changes to Rule Chapter 68A-6, F.A.C., relating to wildlife in captivity.

SUMMARY: The proposed rule addresses the requirements for the rehabilitation of native wildlife.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *The agency has determined that this rule will ___or will not X have an impact on small business. A SERC has ___ or has not X been prepared by the agency.*

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.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution

LAW IMPLEMENTED: Article IV, Section 9, Florida

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission's regular meeting June 17 - 18, 2009, 8:30 a.m. to 5:00 p.m., each day.

PLACE: Plantation Inn, 9301 West Fort Island Trail, Crystal River, FL 34429.

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: Jim Antista, General Counsel, Legal Office, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-9.006 Wildlife Rehabilitation Permit.

(1) ~~(a)~~ No person shall possess any sick, injured, orphaned, or otherwise impaired wildlife for rehabilitation purposes without a permit from the executive director in accordance with this rule section_ and, if possessing migratory birds, a joint state federal permit from the executive director, approved by the director of the United States Fish and Wildlife Service.

(2) A federal permit authorizing rehabilitation of migratory birds, approved by the director of the United States Fish and Wildlife Service, is required if possessing migratory birds for rehabilitation purposes.

(3) ~~(2)~~ Application requirements:

(a) An applicant shall make written application to the Commission by completing the Joint State/Federal Special Purpose Permit Application for Wildlife and Migratory Bird Rehabilitation application form. Such application form shall be available at the Florida Fish and Wildlife Conservation Commission's Tallahassee and regional offices, or at http://www.myfwc.com/RULESANDREGS/Rules_Captive_index.htm. Rehabilitator Application Form (FWC Form 2000 WR, effective 11-6-94, and incorporated herein by reference and available at

the Commission's Tallahassee and regional offices). An applicant must be 18 years of age, or older.

(b) – (d) No change.

(e) A rehabilitation permit ~~is not shall not be~~ required for care or treatment of exotic or non-native wildlife, provided that persons possessing Class I, ~~or Class II or Class III~~ exotic wildlife are licensed according to Rule 68A-6.002, F.A.C.; and persons possessing venomous reptiles or reptiles of concern are licensed in accordance with Rule 68A-6.007, F.A.C. Sick or injured exotic or non-native wildlife shall not be comingled in the same cage or enclosure with sick, injured or otherwise impaired native wildlife.

(f) Exotic or non-native wildlife or domestic animals may be used for fostering orphaned native wildlife.

(g) ~~(f)~~ In addition to the above requirements, applications shall be subject to general application requirements and standards of Rule 68A-5.004, F.A.C.

(4) ~~(3)~~ The inspection requirements for wildlife rehabilitation facilities are as follows:

(a) – (c) No change.

(5) ~~(4)~~ Standards for Wildlife Rehabilitation.

(a) Care, disposition, dispersal, or release of wildlife, their carcasses, parts, products or progeny shall be as follows:

1. Wildlife possessed for rehabilitation purposes may be held no longer than 180 days before it must be released, transferred or euthanised. Wildlife shall be rehabilitated in such a manner as to be able and ready to survive release into the wild. Species of native wildlife that fully recover shall be released into the wild, except American alligators and American crocodiles. Fully recovered individual animals of these species must be placed into a properly licensed exhibition, educational, or breeding facility as directed by commission personnel. The release of native wildlife shall occur at or near the point of capture, or onto habitat where such wildlife naturally occur, and which will biologically support the species.

2. Wildlife may be retained for rehabilitation purposes longer than the 180-day period in instances where a licensed veterinarian has certified that a longer holding period is necessary in the interest of the health and welfare of the wildlife. Medical records concerning all wildlife for which an extension of the 180-day period is obtained shall be maintained at the facility and made available for inspection, upon request, by Commission personnel.

3. ~~2.~~ Wildlife undergoing rehabilitation or medical treatment shall not be exhibited. Permittees may keep wildlife with permanent physical impairments for educational display under permit in accordance with Section 379.3761, F.S., and Chapter 68A-6, F.A.C.

4. ~~3.~~ When wildlife has been diagnosed as “psychologically impaired or imprinted” by an independent rehabilitator and a veterinarian it shall not be considered non-releasable unless such finding is approved by the Commission.

5. When wildlife has been diagnosed as “physically impaired” it shall be evaluated by an independent rehabilitator or veterinarian and an authorized Commission representative before it is considered to be non-releasable due to its physical impairment.

6. ~~4.~~ Permittees shall place non-releasable wildlife in a properly licensed exhibition, educational, or breeding facility.

7. ~~5.~~ Wildlife may be transferred or relocated to other licensed rehabilitation facilities at the discretion of the Commission to facilitate alternative treatments and optimum care.

8. ~~6.~~ When euthanasia of wildlife is necessary, euthanasia shall be humane.

(b) – (i) No change.

(j) Permittees receiving any species classified as state endangered shall notify the Tallahassee office of the Commission's Division of Law Enforcement within seventy-two (72) hours of the receipt of the wildlife.

(k) – (m) No change.

(6) ~~(5)~~ Under certain emergency conditions, such as oil spills, hurricanes, floods, and other natural or manmade disasters, the Commission may impose additional restrictions or provide for permit exemptions as may be necessary to safeguard affected wildlife such as, but not limited to, the coordination and direction of rehabilitation permittees and their facilities, the assignment of zones for implementing rehabilitative services, and the authorization of additional volunteers to aid in the capture and treatment of wildlife.

(7) ~~(6)~~ The permit may be subject to revocation, suspension, or non-renewal in accordance with Rule 68A-5.004, F.A.C.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-6-94,

Formerly 39-9.006. Amended _____.

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.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Colonel Julie Jones, Director, Division of Law Enforcement, Florida Fish and Wildlife Conservation

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 17, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: April 24, 2009

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

RULE TITLES:

RULE NOS.:

68A-9.006

Wildlife Rehabilitation Permit.

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Federal regulations exist pertaining to possession and rehabilitation of migratory birds. This regulation is consistent with Federal regulations pertaining to rehabilitation of migratory birds and addresses the requirements for rehabilitation of native Florida wildlife.