

NOTICE OF PROPOSED RULE
Rule 68A-25.002
Freshwater Turtles
Agenda Item 5, A, 1, a

FISH AND WILDLIFE CONSERVATION COMMISSION
Division of Habitat and Species Conservation

RULE NO:
68A-25.002

RULE TITLE:
General Provisions for Taking, Possession and Sale of
Reptiles

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to change the allowable number of freshwater turtles and the types of freshwater turtles that may be harvested in order to protect freshwater turtles from over exploitation.

SUMMARY: The proposed rule would address the taking and possession of wild native Florida freshwater turtles as follows: prohibit the selling of native Florida turtles taken from the wild; prohibit take of turtle eggs from the wild; possession or transportation turtles listed as Species of Special concern would be prohibited; prohibit the take of specified turtles; set a season for take of Soft-shell turtles; limit each person to taking one turtle daily of the species for which take is allowed; preserve the current possession limit of two for certain specified turtles; impose a transport limit of one turtle with exceptions ; and allow Certified turtle aquaculture facilities to collect wild turtles as brood stock under a permitting system that would be reviewed in the calendar year 2011.

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 a statement of estimated regulatory costs, or provide a proposal for lower cost regulatory alternative, 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 Constitution.

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

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:

68A-25.002 General Provisions for Taking, Possession and Sale of Reptiles

(1) – (5) No change.

(6) Turtles

(a) Take and possession–

1. No person shall take, transport, or possess any turtle listed in 68A-27.005, F.A.C. (alligator snapping

turtle (*Macrochelys temminckii*), Barbour's map turtle (*Graptemys barbouri*) or Suwannee cooter (*Pseudemys suwanniensis*), their eggs, or parts thereof except as provided in 68A-27.005, F.A.C.

2. For turtles not listed in chapter 68A-27, F.A.C., the following restrictions control the take or possession:

a. No person shall take more than one turtle per day unless authorized by permit from the executive director as provided in section 68A-9.002, F.A.C.

b. Turtle eggs may not be taken from the wild.

c. Turtles may only be taken by hand, baited hooks, minnow seine nets or dip nets.

d. No person shall take Escambia map turtles (*Graptemys ernsti*), cooters (*Pseudemys* spp.) or snapping turtles (*Chelydra* spp.) from the wild.

e. No softshell turtles (*Apalone* spp.) may be taken from the wild during the period May 1 to July 31.

f. No person shall possess more than two Escambia map turtles (*Graptemys ernsti*), two diamond-backed terrapins (*Malaclemys terrapin*), two box turtles (*Terrapene carolina*), or two loggerhead musk turtles (*Sternotherus minor*).

g. The Commission recognizes aquaculture as an alternative to commercial harvest of wild populations of freshwater turtles. An owner, manager, agents or director of an aquaculture facility certified by the Florida Department of Agriculture and Consumer Services pursuant to section 597.004, F.S. and chapter 5L-3, F.A.C. may harvest freshwater turtles as brood stock for scientific or commercial aquaculture as authorized by permit from the executive director limiting the location of harvest activities, duration of harvest activities, species of turtles to be harvested, number and size of turtles to be harvested to prevent overharvest of freshwater turtles.

(b) Transport—No person shall transport more than one turtle or any turtle eggs unless authorized by one of the following:

1. A permit from the executive director as provided in Rule 68A-9.002, F.A.C. An individual transporting turtles under the authority of this permit shall possess a copy of the permit.

2. An aquaculture facility certification issued by the Florida Department of Agriculture and Consumer Services under section 597.004, F.S. and chapter 5L-3, F.A.C. An individual transporting turtles under the authority of this certification shall possess a copy of such certificate.

3. A license for sale or exhibition of wildlife under Section 379.3761, F.S. An individual transporting more than one turtle under the authority of this license shall possess a copy of such license.

4. Documentation of the source and supplier of the turtles, indicating the purchase date; quantity and species of turtles acquired; name and complete address of supplier; and license identification number of supplier where applicable.

(c) Sale—No person shall buy, sell, or possess for sale turtles, their eggs or parts thereof, that have been taken from the wild.

~~No person shall take more than a total of five (5) native Florida freshwater turtles each day unless authorized by permit from the Executive Director as provided in Rules 68A 5.004, 68A 9.002, and 68A 27.002, F.A.C., except that holders of commercial freshwater fishing licenses as provided in Section 379.363, F.S., may take an additional fifteen (15) Florida softshell turtles (*Apalone ferox*) for a total of 20 turtles in the aggregate per day. Freshwater turtles may be taken as prescribed in Rules 68A 23.012 and 68A 23.003, F.A.C., and manually or by baited hooks, bow, dip nets, traps so designed that any freshwater fish taken therein may escape, or by spearing only during daylight hours. The taking of turtles by bucket traps, snares, or shooting with firearms is prohibited. No person shall buy, sell, or possess for sale any alligator snapping turtle (*Macrochelys temminckii*), box turtle (*Terrapene carolina*), Barbour's map turtle (*Graptemys barbouri*), Escambia River map turtle (*Graptemys ernsti*), diamondback terrapin (*Malaclemys terrapin*), river cooter (*Pseudemys concinna*), or loggerhead musk turtle (*Sternotherus minor*), or parts thereof. No person shall possess more than two Barbour's map turtles, two Escambia River map turtles, two diamondback terrapins, two river cooters, two box turtles, two loggerhead musk turtles, or one alligator snapping turtle unless authorized by permit from the executive director as provided in Rule 68A 9.002 and Chapter 68A 27, F.A.C. River cooters may not be taken from 15 April to 31 July.~~

~~(7) No softshell turtles (*Apalone* spp.) or their eggs may be taken from the wild during the period 1 May to 31 July.~~

~~(8) No person shall possess more than 50 eggs taken from the wild Eggs of those turtle species enumerated in~~

~~subsection 68A 25.002(6), F.A.C., are subject to the same possession limits as apply for those turtles. The purchase or sale of turtle eggs taken from the wild is prohibited.~~

~~(9) – (13) renumbered as (7) – (11). No change.~~

~~(14) On or after July 1, 1990, and until January 1, 2008, any person or entity not currently permitted to possess or exhibit venomous reptiles must qualify for a permit by meeting the following criteria:~~

~~(a) Submit documentation in accordance with the criteria specified in paragraph 68A 6.0022(5)(c), F.A.C., showing a minimum of one (1) year substantial practical experience in the care, feeding, handling and husbandry of the family of venomous reptiles for which the permit is sought.~~

~~(b) Shall not have been convicted of a violation of venomous reptile regulations for three (3) years prior to application for such permit.~~

~~(c) Must be at least 18 years old at the time of application.~~

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. FS. History--New 8-1-79, Amended 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-25.02, Amended 6-1-86, 5-10-87, 10-8-87, 4-13-88, 2-14-89, 7-1-89, 7-1-90, 4-14-92, 4-1-96, 9-15-96, 4-12-98, 7-1-99, Formerly 39-25.002, Amended 4-30-00, 3-30-06, 5-18-06, 6-7-07, 10-23-08,_____.

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: Tim Breault, Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Florida Fish and Wildlife Conservation Commission, sitting as agency head, in a duly noticed public meeting.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2009.

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

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE
FISH AND WILDLIFE CONSERVATION COMMISSION
Division of Habitat and Species Conservation

RULE NO:
68A-25.002

RULE TITLE:
General Provisions for Taking, Possession and Sale of
Reptiles

The Fish and Wildlife Conservation Commission has received reports and concerns from turtle experts, environmental organizations and the public about the harvest of freshwater turtles in Florida. Reports that large numbers of freshwater turtles have been harvested along with a documented increase in the trade of freshwater turtles as pets and food, particularly in foreign markets, have been verified. Other states have recently enacted stricter regulations on turtle harvests (Alabama, Michigan, Maryland, North Carolina, Tennessee, and Texas), and as a result an increase in the number of individuals wishing to collect turtles in Florida is a reasonable expectation. These factors combined would likely cause increase harvest of fresh water turtles in Florida to unsustainable levels. Currently some freshwater turtle species can be collected without limits. The proposed rule amendments prohibit sale of turtles taken from the wild, limit non-commercial collection and transport to one turtle per person daily, strengthen the protection for imperiled turtle species and require permits for the collection of turtles as brood stock for aquaculture. These changes will relieve commercial harvest pressures on wild populations, while still allowing some non-commercial use of wild turtles and continuation of turtle aquaculture.

There are no federal regulations or standards regarding the same subject as this rule.