

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-9.002

RULE TITLE: Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

PURPOSE AND EFFECT: The purpose of this proposed rule revision is to clarify that federal authorizations other than permits also are acceptable as indication of federal authorization to take and/or possess migratory birds or their nests. The effect of this proposed rule revision is to expand the types of federal authorizations that may be used to satisfy the rule requirements for such authorizations.

SUMMARY: Migratory birds are protected by federal and state law. The U. S. Fish and Wildlife Service can allow the take of such species by issuing a permit or other forms of authorization (e.g., a depredation order, policy statement, etc.). This rule authorizes the FWC executive director to also issue permits to take migratory birds by issuing a permit, but the rule specifies that such a permit is only valid if the holder also has a federal permit. As previously noted, federal authorization for take may be in some form other than a permit. The proposed rule revision allows these other forms of authorization to satisfy the rule requirement for federal authorization.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 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 April 13-14, 2016, 8:30 a.m. to 5:00 p.m., each day

PLACE: *list meeting site, address, Miami.*

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: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-9.002 Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes.

(1) The executive director may issue permits authorizing the taking or possession of wildlife or freshwater fish or

their nests or eggs for scientific, educational, exhibition, propagation, management or other justifiable purposes. Such permits shall be subject to such terms, conditions and restrictions as may be prescribed therein, provided that no such permits shall be operative as to migratory birds unless the holder thereof has a permit or other authorization from the U.S. Fish and Wildlife Service permitting the taking, exhibiting, or possession of such birds, their nests or eggs. Failure to abide by all terms and conditions stipulated in any written permit issued by the executive director shall be a violation of this section.

(2) – (4) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.02, Amended 12-25-95, 4-1-96, Formerly 39-9.002, Amended 7-1-02, 3-21-10, _____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-9.002

RULE TITLE: Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

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SMALL BUSINESS IMPACT ASSESSMENT

FISH AND WILDLIFE CONSERVATION COMMISSION

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-9.002 **RULE TITLE:** Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

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DRAFT

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-9.002 **RULE TITLE:** Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

DRAFT

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-16.003

RULE TITLE: Non-listed Inactive Migratory Bird Nests.

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is eliminate the need for a permit to take inactive (meaning with no birds or eggs) nests or parts of such nests of birds not listed as endangered or threatened.

SUMMARY: Migratory birds and their active nests are protected from certain activities, including take, by the federal Migratory Bird Treaty Act (MBTA). That Act, including its protective provisions, also is incorporated into the Florida Fish and Wildlife Conservation Commission's (FWC) rules in Chapter 16, F.A.C. Federal policy clarifying application of the MBTA to nest destruction indicates that no federal permit or other authorization is needed to destroy an inactive nest. FWC rules do not currently include language making this distinction between active and inactive nest. This proposed rule provides that language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-16.003 Non-Listed Inactive Migratory Bird Nests

For birds not listed in Chapter 68A-27, F.A.C., no permit is required to take (remove, relocate, or destroy) nests or any parts thereof which are inactive and do not contain eggs or flightless young, except as specified in FWC approved management plans or guidelines for such species. The nest must be removed, relocated, or destroyed when no birds are physically present. The nest materials may not be possessed but may be donated to an entity in

possession of state and/or federal permits or other authorizations, or relocated to an alternate nesting platform or destroyed by burial, trash disposal or incineration, in accordance with state, county or local rules and ordinances. Any take (removal, relocation or destruction) should be reported to the FWC Inactive Bird Nest Take registry within 2 business days. The registry and additional information are available at MyFWC.com.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New

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NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

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FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-16.003 **RULE TITLE:** Non-listed Inactive Migratory Bird Nests.

The purpose and effect of this proposed rule is eliminate the need for a permit to take inactive (meaning with no birds or eggs) nests or parts of such nests of birds not listed as endangered or threatened. Migratory birds and their active nests are protected from certain activities, including take, by the federal Migratory Bird Treaty Act (MBTA). That Act, including its protective provisions, also is incorporated into the Florida Fish and Wildlife Conservation Commission's (FWC) rules in Chapter 16, F.A.C. Federal policy clarifying application of the MBTA to nest destruction indicates that no federal permit or other authorization is needed to destroy an inactive nest. FWC rules do not currently include language making this distinction between active and inactive nest. This proposed rule provides that language.

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**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-16.003 **RULE TITLE:** Non-listed Inactive Migratory Bird Nests.

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**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-16.003 **RULE TITLE:** Non-listed Inactive Migratory Bird Nests.

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

DRAFT

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-25.002

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

PURPOSE AND EFFECT: The purpose of this proposed rule revision is to provide certain protections for some reptile species that are being reclassified to an unlisted status. The effect of this proposed rule revision is to prohibit the take and possession of Peninsula ribbon snakes, red rat snakes, and striped mud turtles from the Lower Keys.

SUMMARY: The Commission found that Peninsula ribbon snakes, red rat snakes, and striped mud turtles from the Lower Keys did not meet the criteria for listing as State-designated Threatened species. Therefore, the Peninsula ribbon snake and striped mud turtle are being removed from the Florida Endangered and Threatened Species List, and the red rat snake is being removed from the State's Species of Special Concern List. However, these species need protection of intention take and possession to prevent possible exploitation that would cause them to meet listing criteria in the future. The proposed rule revisions provide those protections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

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RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

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

(1) to (5) No change.

(6) Turtles.

(a) Take and possession – For turtles not listed in Chapter 68A-27, F.A.C., the following restrictions control the take or possession:

~~1. No person shall take, transport, or possess any turtle listed in Rule 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 Rule 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:~~

~~1a. No person shall take more than one turtle per day unless authorized by permit from the executive director as provided in Rule 68A-9.002, F.A.C.~~

~~2b. Turtle eggs may not be taken from the wild.~~

~~3e. Turtles may only be taken by hand, baited hooks, minnow seine nets or dip nets.~~

~~4d. No person shall take Escambia map turtles (*Graptemys ernsti*), cooters (*Pseudemys* spp.), striped mud turtles (*Kinosternon baurii*), alligator snapping turtles (*Macrochelys temminckii*) or snapping turtles (*Chelydra* spp.) from the wild.~~

~~5e. No softshell turtles (*Apalone* spp.) may be taken from the wild during the period May 1 to July 31.~~

~~6f. 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*).~~

~~7g. 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.

(7) to (9) No change.

(10) No person shall take or possess Peninsula ribbon snakes (*Thamnophis sauritus sackerii*) or red rat snakes (*Pantherophis guttatus*) from the Lower Keys population.

~~(11)(10)~~ No person shall buy, sell or possess for sale any Florida pine snake (*Pituophis melanoleucus mugitus*), nor shall any person possess more than one Florida pine snake, except that said restrictions shall not apply to amelanistic (= "albino") specimens.

~~(12)(11)~~ Reptiles may be taken throughout the year in any manner not conflicting with other provisions of these rules.

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, 7-20-09, 8-19-14, _____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-25.002

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

The purpose of this proposed rule revision is to provide certain protections for some reptile species that are being reclassified to an unlisted status. The effect of this proposed rule revision is to prohibit the take and possession of Peninsula ribbon snakes, red rat snakes, and striped mud turtles from the Lower Keys. The Commission found that these species did not meet the criteria for listing as State-designated Threatened species. Therefore, the Peninsula ribbon snake and striped mud turtle are being removed from the Florida Endangered and Threatened Species List, and the red rat snake is being removed from the State's Species of Special Concern List. However, these species need protection of intention take and possession to prevent possible exploitation that would cause them to meet listing criteria in the future. The proposed rule revisions provide those protections.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-25.002

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

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**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-25.002

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

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

DRAFT

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-26.002

RULE TITLE: Regulations Relating to the Taking of Amphibians.

PURPOSE AND EFFECT: The purpose of this proposed rule revision is to provide certain protections for some amphibian species that are being reclassified to an unlisted status. The effect of this proposed rule revision is to prohibit the take and possession of gopher frogs and Pine Barrens treefrogs.

SUMMARY: The Commission found that gopher frogs and Pine Barrens treefrogs did not meet the criteria for listing as State-designated Threatened species. Therefore, these species are being removed from the State's Species of Special Concern List. However, these species need protection from intention take and possession to prevent possible exploitation that would cause them to meet listing criteria in the future. The proposed rule revisions provide those protections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

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THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-26.002 Regulations Relating to the Taking of Amphibians.

(1)(a) Except as prohibited in (1)(b) below, frogs ~~Frogs~~ may be taken by gigs, clubs, blow guns, hook and line, firearms or manually. Frogs may be taken throughout the year including non-daylight hours except that they may only be taken by firearm during daylight hours.

(b) No intentional take by any means or possession is allowed of the gopher frog (*Lithobates capito*) or the Pine

Barrens treefrog (*Hyla andersonii*) except as authorized by permit from the executive director as provided in Rule 68A-9.002, F.A.C., relating to the permitting to take wildlife or freshwater fish for justifiable purposes.

(2) Amphibians other than frogs may be taken throughout the year in any manner not conflicting with other provisions of these rules and regulations except that when seines, nets or traps are used, the provisions of Chapter 68A-23, F.A.C., relating to the taking of bait minnows and other freshwater fish shall apply.

(3) Any person taking for sale or selling frogs shall be licensed as provided by Section 379.363, F.S.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.363 FS. History--New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-26.02, 39-26.002, Amended 3-25-12, _____.

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NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

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FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-26.002

RULE TITLE: Regulations Relating to the Taking of Amphibians.

The purpose of this proposed rule revision is to provide certain protections for some amphibian species that are being reclassified to an unlisted status. The effect of this proposed rule revision is to prohibit the take and possession of gopher frogs and Pine Barrens treefrogs. The Commission found that these species did not meet the criteria for listing as State-designated Threatened species. Therefore, gopher frogs and Pine Barrens treefrogs are being removed from the State's Species of Special Concern List. However, these species need protection from intention take and possession to prevent possible exploitation that would cause them to meet listing criteria in the future. The proposed rule revisions provide those protections.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-26.002

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**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-26.002

RULE TITLE: Regulations Relating to the Taking of Amphibians.

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.0012

RULE TITLE: Procedures for Listing and Removing Species from Florida's Endangered and Threatened Species List.

PURPOSE AND EFFECT: The purpose and effect of this proposed rule revision is to remove a subsection of the rule referring to a moratorium that is no longer in effect.

SUMMARY: A two-year moratorium on new request for listing or removal of species from the Florida Endangered and Threatened Species List, except for emergency actions, was created when this rule was revised in November 2010. That moratorium has expired and the subsection referring to it is being removed to keep the rule language concise and accurate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 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 April 13-14, 2016, 8:30 a.m. to 5:00 p.m., each day.

PLACE: *list meeting site, address, Miami.*

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: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-27.0012 Procedures for Listing and Removing Species from Florida's Endangered and Threatened Species List.

- (1) No change.
- (2) State-designated Threatened Species.
 - (a) Except as provided in subsection (1) above, these procedures shall not apply to:
 1. Federally-designated Endangered and Threatened species,

2. Species not native to Florida,
 3. Harvested species that are monitored through periodic stock assessments or other techniques and are the subject of any rule in Title 68, F.A.C., that allows harvest,
 4. Species whose occurrence in Florida is only accidental,
 5. Species that ~~are~~ is not within the Commission's constitutional authority.
- (b) – (e) No change.
(3) No change.
(4) ~~There is a moratorium for two years after the effective date of this rule on new requests for listing or removal of species to or from the State designated Threatened Species list, except for emergency actions, in order to facilitate development of management plans for species currently on this list.~~

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-23-99, Formerly 39-27.0012, Amended 7-1-03, 5-26-05, 11-8-10, 11-14-11,_____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.0012

RULE TITLE: Procedures for Listing and Removing Species from Florida's
Endangered and Threatened Species List.

The purpose and effect of this proposed rule revision is to remove a subsection of the rule referring to a moratorium that is no longer in effect. A two-year moratorium on new requests for listing or removal of species from the Florida Endangered and Threatened Species List, except for emergency actions, was created when this rule was revised in November 2010. That moratorium has expired and the subsection referring to it is being removed to keep the rule language concise and accurate.

DRAFT

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.0012 **RULE TITLE:** Procedures for Listing and Removing Species from Florida's Endangered and Threatened Species List.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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.

DRAFT

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.0012

RULE TITLE: Procedures for Listing and Removing Species from Florida's
Endangered and Threatened Species List.

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

DRAFT

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.003

RULE TITLE: Designation of Endangered and Threatened Species;
Prohibitions.

PURPOSE AND EFFECT: The purposes of this proposed rule revision are to change the rule title; authorize take, possession, or selling of State-designated Threatened species if such conduct is authorized in a management plan approved by the Commission; and to implement species status changes found warranted by the Commission. The effect of this rule revision is a title that better describes the rule, more clarity on what conduct may be permitted to cause take or possession of State-designated Threatened species, and a listing status for species as found warranted by the Commission.

SUMMARY: The Commission's imperiled species rules were significantly revised in 2010, and as a result, all then listed species that had not had their status recently reviewed were evaluated against the listing criteria. Based on these evaluations, staff made listing status recommendations to the Commission. The Commission approved these recommendation in June 2011. However, as specified by rule, any listing status changes were not to be implemented until a management plan for the species was approved. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. This revision includes reclassifying 23 species from Species of Special Concern to State designated Threatened and adding them to the Florida Endangered and Threatened Species List, and reclassifying two species from State-designated Threatened to unlisted and removing them from the list.

Additionally, during development of the ISMP it was determined that some activities or conduct which may cause some minor amount of take may be authorized in the management plan because they are known to benefit species or not to cause significant impacts to species. Under the current rule, these activities or conduct would be a violation of the rule even though the overall impact is beneficial. Proposed revisions to the rule allow for such activities or conduct.

Finally, the rule title is being revised to more clearly label the content of the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 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 April 13-14, 2016, 8:30 a.m. to 5:00 p.m., each day.

PLACE: list meeting site, address, Miami.

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: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-27.003 Florida Endangered and Threatened Species List; Prohibitions Designation of Endangered and Threatened Species; Prohibitions.

(1) No changes.

(2) State-designated Threatened species:

(a) No person shall take, possess, or sell any threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by Commission rule or by permit from the Commission or when such conduct is authorized in a management plan approved by the Commission.

(b) The species in this subsection are hereby declared to be State-designated Threatened Species, and shall be afforded the protective provisions specified.

(c) Fish:

1. Blackmouth shiner (*Notropis melanostomus*),

2. Bluenose shiner (*Pteronotropis welaka*),

3. Crystal darter (*Crystallaria asprella*),

4. Key silverside (*Menidia conchorum*),

(d) Amphibians:

1. Florida bog frog (*Lithobates okaloosae*),

2. Georgia blind salamander (*Eurycea wallacei*).

(e) Reptiles:

1. Barbour's map turtle (*Graptemys barbouri*),

2. Florida brownsnake (*Storeria victa*); lower Keys population only,

3. Peninsula ribbon snake (*Thamnophis sauritus sackerii*); lower Keys population only,

4. Florida Keys mole skink (*Plestiodon egregius egregius*),

5. Florida pine snake (*Pituophis melanoleucus mugitus*),

6. Gopher tortoise (*Gopherus polyphemus*). The Gopher tortoise shall be afforded the protective provisions specified in this subparagraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

7. Key ringneck snake (*Diadophis punctatus acricus*),

8. Rim rock crowned snake (*Tantilla oolitica*),

9. Short-tailed snake (*Stilosoma extenuatum*),

10. Striped mud turtle (*Kinosternon baurii*); lower Keys population only.

(f) Birds:

1. American oystercatcher (*Haematopus palliatus*),

2. Black skimmer (*Rynchops niger*),

3. Florida burrowing owl (*Athene cunicularia floridana*),

44. Florida sandhill crane (*Grus canadensis pratensis*),
5. Little blue heron (*Egretta caerulea*),
62. Least tern (*Sterna antillarum*),
7. Marian's marsh wren (*Cistothorus palustris marianae*),
8. Reddish egret (*Egretta rufescens*),
9. Roseate spoonbill (*Platalea ajaja*),
10. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*),
113. Snowy plover (*Charadrius alexandrinus*),
124. Southeastern American kestrel (*Falco sparverius paulus*),
13. Tricolored heron (*Egretta tricolor*),
14. Wakulla seaside sparrow (*Ammodramus maritimus juncicola*),
15. White-crowned pigeon (*Patagioenas leucocephala*),
16. Worthington's marsh wren (*Cistothorus palustrisgriseus*).

(g) Mammals:

1. Big Cypress fox squirrel (*Sciurus niger avicennia*),
2. Everglades mink (*Neovison vison evergladensis*),
3. Sanibel rice rat (*Oryzomys palustris sanibeli*),
4. Sherman's short-tailed shrew (*Blarina shermani*),

(h) Crustaceans:

1. Santa Fe crayfish (*Procambarus erythrops*)
2. Black Creek crayfish (*Procambarus pictus*).

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003. Amended 12-16-03, 7-20-09, 11-8-10, 11-14-11, 8-23-12, 9-19-12, 6-10-15, _____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.003

RULE TITLE: Designation of Endangered and Threatened Species;
Prohibitions.

The purposes of this proposed rule revision are to change the rule title; authorize take, possession, or selling of State-designated Threatened species if such conduct is authorized in a management plan approved by the Commission; and to implement species status changes found warranted by the Commission. The effect of this rule revision is a title that better describes the rule, more clarity on what conduct may be permitted to cause take or possession of State-designated Threatened species, and a listing status for species as found warranted by the Commission. The Commission's imperiled species rules were significantly revised in 2010, and as a result, all then listed species that had not had their status recently reviewed were evaluated against the listing criteria. Based on these evaluations, staff made listing status recommendations to the Commission. The Commission approved these recommendations in June 2011. However, as specified by rule, any listing status changes were not to be implemented until a management plan for the species was approved. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. This revision includes reclassifying 23 species from Species of Special Concern to State designated Threatened and adding them to the Florida Endangered and Threatened Species List, and reclassifying two species from State-designated Threatened to unlisted and removing them from the list.

Additionally, during development of the ISMP it was determined that some activities or conduct which may cause some minor amount of take may be authorized in the management plan because they are known to benefit species or not to cause significant impacts to species. Under the current rule, these activities or conduct would be a violation of the rule even though the overall impact is beneficial. Proposed revisions to the rule allow for such activities or conduct.

Finally, the rule title is being revised to more clearly label the content of the rule.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.003

RULE TITLE: Designation of Endangered and Threatened Species;
Prohibitions.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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.

DRAFT

**STATEMENT OF ESTIMATED REGULATORY COSTS
FISH AND WILDLIFE CONSERVATION COMMISSION**

RULE CHAPTER TITLE: Rules Relating to Endangered or Threatened Species

RULE NO: 68A-27.003 **RULE TITLE:** Designation of Endangered and Threatened Species; Prohibitions

1. A GOOD FAITH ESTIMATE OF NUMBER AND TYPE OF INDIVIDUALS AND ENTITIES LIKELY TO BE REQUIRED TO COMPLY WITH THE RULE:

2. A GOOD FAITH ESTIMATE OF THE COST TO FWC AND OTHER GOVERNMENTAL AGENCIES OF IMPLEMENTING AND ENFORCING THE RULE:

3. ANTICIPATED EFFECT ON STATE AND LOCAL REVENUES:

4. AN ESTIMATE OF TRANSACTIONAL COSTS LIKELY TO BE INCURRED BY INDIVIDUALS AND PUBLIC AND PRIVATE ENTITIES THAT ARE REQUIRED TO COMPLY WITH THE RULE:

5. ANALYSIS OF IMPACT ON SMALL BUSINESS AS DEFINED BY SECTION 288.703, F.S.:

6. ANALYSIS OF IMPACT ON SMALL COUNTIES AND CITIES AS DEFINED BY SECTION 120.52, F.S.:

7. REASONS FOR ACCEPTING (OR REJECTING) A PROPOSAL FOR A LOWER COST REGULATORY ALTERNATIVE:

Note: Species to be added to the Endangered and Threatened Species list under rule 68A-27.003 may result in an economic impact more than \$200,000 annually as defined in Section 120.54(3)(b), Florida Statutes. A more detailed analysis will be conducted to evaluate the level of economic impacts prior to final rule adoption. If that additional analysis shows that the impact will exceed \$200,000 annually, a Statement of Regulatory Cost (SERC) will be completed and included in the final rule noticing process. Some of the species proposed for listing, such as the Scott's seaside sparrow, the Wakulla seaside sparrow, and Worthington's marsh wren are range limited and the estimated economic impact would not meet the impact thresholds as defined in Section 120.54(3)(b), F.S.

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.003

RULE TITLE: Designation of Endangered and Threatened Species;
Prohibitions.

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

DRAFT

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.005

RULE TITLE: Designation of Species of Special Concern; Prohibitions; Permits.

PURPOSE AND EFFECT: The purpose and effect of this rule revision are to implement species status changes found warranted by the Commission and to remove language referring to a moratorium that is no longer in effect.

SUMMARY: The Commission's imperiled species rules were significantly revised in 2010, and as a result, all then listed species that had not had their status recently reviewed were evaluated against the listing criteria. Based on these evaluations, staff made listing status recommendations to the Commission. The Commission approved these recommendation in June 2011. However, as specified by rule, any listing status changes were not to be implemented until a management plan for the species was approved. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. This revision includes reclassifying 23 species from Species of Special Concern to State designated Threatened and adding them to the Florida Endangered and Threatened Species List, and reclassifying 13 species from Species of Special Concern to unlisted and removing them from the list. Additionally, the revision removes language referring to a moratorium that is no longer in effect.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 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 April 13-14, 2016, 8:30 a.m. to 5:00 p.m., each day.

PLACE: *list meeting site, address, Miami.*

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: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-27.005 Designation of Species of Special Concern; Prohibitions; Permits.

~~(1) During the moratorium created in subsection 68A-27.0012(4), F.A.C.: Management plans will be developed for the species listed in this rule and the species will be evaluated under the listing criteria in subsection 68A-27.001(3), F.A.C., for listing as a State-designated Threatened species. If the Commission determines that the species warrants listing as a State-designated Threatened species, final Commission action on the listing shall include removing reference to the species from this rule. If the species evaluation demonstrates the species does not qualify for listing as a State-designated Threatened species, the Commission will remove the species from this rule upon completion of a management plan. After a biological status review is conducted and a management plan is approved, the Commission will decide whether a species should remain listed when the species is determined to be data deficient pursuant to the Guidelines for Using the IUCN Red List Categories and Criteria.~~

~~(2)~~ The following species are hereby declared to be of special concern, and shall be afforded the protective provisions specified.

~~(a)~~ No person shall take, possess, transport, or sell any species of special concern included in this subsection or parts thereof or their nests or eggs except as authorized by permit from the executive director, permits being issued upon reasonable conclusion that the permitted activity will not be detrimental to the survival potential of the species. For purposes of this section, the definition of the word take in Rule 68A-1.004, F.A.C., applies.

~~(b)~~ Fish:

- ~~1. Bluenose shiner (*Pteronotropis welaka*);~~
- ~~2. Harlequin darter (*Etheostoma histrio*);~~
- ~~3. Lake Eustis pupfish (*Cyprinodon hubbsi*);~~
- ~~4. Rivulus (*Rivulus marmoratus*);~~
- ~~5. Saltmarsh topminnow (*Fundulus jenkinsi*);~~
- ~~6. Southern tessellated darter (*Etheostoma olmstedii maculaticeps*).~~

~~(c)~~ Amphibians:

- ~~1. Florida bog frog (*Lithobates okaloosae*);~~
- ~~2. Georgia blind salamander (*Haideotriton wallacei*);~~
- ~~3. Gopher frog (*Lithobates capito*);~~
- ~~4. Pine Barrens treefrog (*Hyla andersonii*).~~

~~(d)~~ Reptiles:

- ~~1. Alligator snapping turtle (*Macrochelys temminckii*);~~
- ~~2. Barbour's map turtle (*Graptemys barbouri*);~~
- ~~3. Florida Keys mole skink (*Eumeces egregius egregius*);~~
- ~~4. Florida pine snake (*Pituophis melanoleucus mugitus*);~~
- ~~5. Red rat snake (*Elaphe guttata*); lower Keys population only;~~
- ~~6. Suwannee cooter (*Pseudemys suwanniensis*).~~

~~(e)~~ Birds:

- ~~1. American oystercatcher (*Haematopus palliatus*);~~
- ~~2. Black skimmer (*Rynchops niger*);~~
- ~~3. Brown pelican (*Pelecanus occidentalis*);~~
- ~~4. Burrowing owl (*Athene cunicularia*);~~
- ~~5. Limpkin (*Aramus guarauna*);~~
- ~~6. Little blue heron (*Egretta caerulea*);~~
- ~~7. Marian's marsh wren (*Cistothorus palustris marianae*);~~
- ~~8. Osprey (*Pandion haliaetus*); Monroe County population only;~~
- ~~9. Reddish egret (*Egretta rufescens*);~~
- ~~10. Roseate spoonbill (*Platalea ajaja*);~~
- ~~11. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*);~~
- ~~12. Snowy egret (*Egretta thula*);~~

13. Tricolored heron (*Egretta tricolor*);
14. Wakulla seaside sparrow (*Ammodramus maritimus juncicola*);
15. White ibis (*Eudocimus albus*);
16. Worthington's marsh wren (*Cistothorus palustris griseus*).

(fd) Mammals:

1. Eastern chipmunk (*Tamias striatus*);
2. Florida mouse (*Peromyscus floridanus*);
3. Homosassa shrew (*Sorex longirostris eonis*);
4. Sanibel Island rice rat (*Oryzomys palustris sanibeli*);
25. Sherman's fox squirrel (*Sciurus niger shermani*);
6. Sherman's short tailed shrew (*Blarina carolinensis shermani*).

(g) Mollusks:

Florida treesnail (*Liguus fasciatus*)

(eh) Crustaceans:

1. Black Creek crayfish, also known as Spotted royal crayfish (*Procambarus pictus*);
2. Panama City crayfish (*Procambarus econfinae*);
3. Santa Fe Cave crayfish (*Procambarus erythropus*).

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 6-21-82, 7-1-84, 7-1-85, Formerly 39-27.05, Amended 6-1-86, 5-10-87, 4-27-89, 10-22-92, 5-26-94, 6-23-99, Formerly 39-27.005, Amended 2-27-01, 5-1-01, 9-29-03, 6-1-06, 11-8-07, 11-8-10, 9-19-12, _____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.005

RULE TITLE: Designation of Species of Special Concern; Prohibitions;
Permits.

The purpose and effect of this rule revision are to implement species status changes found warranted by the Commission and to remove language referring to a moratorium that is no longer in effect. The Commission's imperiled species rules were significantly revised in 2010, and as a result, all then listed species that had not had their status recently reviewed were evaluated against the listing criteria. Based on these evaluations, staff made listing status recommendations to the Commission. The Commission approved these recommendation in June 2011. However, as specified by rule, any listing status changes were not to be implemented until a management plan for the species was approved. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. This revision includes reclassifying 23 species from Species of Special Concern to State designated Threatened and adding them to the Florida Endangered and Threatened Species List, and reclassifying 13 species from Species of Special Concern to unlisted and removing them from the list. Additionally, the revision removes language referring to a moratorium that is no longer in effect.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.005 **RULE TITLE:** Designation of Species of Special Concern; Prohibitions; Permits.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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.

DRAFT

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.005

RULE TITLE: Designation of Species of Special Concern; Prohibitions;
Permits.

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.007

RULE TITLE: Permits and Authorizations for the take of Florida Endangered and Threatened Species.

PURPOSE AND EFFECT: The purposes of this proposed rule revision are to add a human safety factor to intentional take considerations, modify permitting standard language, and clarify where intentional take of marine organisms is addressed. The effect of this rule revision is improved human safety, more consistent permitting standards, and more clarity with regard to intentional take of marine organisms.

SUMMARY: The Commission's imperiled species rules were significantly revised in 2010. One of the objectives was to reduce the complexity of the imperiled species management system by creating a listing process with just one classification. As a result, all species then classified as Endangered or Threatened that were not also Federally listed were reclassified as State-designated Threatened. However, to avoid any perception of a loss of protection, the permitting standards for those species were to be maintained in Rule 68A-27.007 until the species were covered by a management plan. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. The ISMP does not recommend a different permitting standard for these species than that used for most State-designated Threatened species. Therefore, the permit standard language specifically for these species is being removed from the rule.

Additionally, human safety is being added as a factor that may be considered when evaluating an application for the intentional take of a State-designated Threatened species.

Finally, the permitting for the intention take of marine organisms as defined in Chapter 68B-8, F.A.C. is regulated according to that chapter and not by Chapter 68A-27, F.A.C. The rule revision clarifies this distinction.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] 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.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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: Art. IV, Sec. 9, Florida Constitution

LAW IMPLEMENTED: Art. IV, Sec. 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 April 13-14, 2016, 8:30 a.m. to 5:00 p.m., each day.

PLACE: *list meeting site, address, Miami.*

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: Dr. Thomas H. Eason, Ph.D., Director, Division of Habitat and Species Conservation, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Tallahassee, FL 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-27.007 Permits and Authorizations for the Take of Florida Endangered and Threatened Species.

(1) No change.

(2) The permit requirements for the taking of a State-designated Threatened species are as follows:

(a) Intentional take: The Commission may issue permits authorizing intentional take of Florida State-designated Threatened species for scientific or conservation purposes which will benefit the survival potential of the species except for species that have a permitting standard for intentional take in Rule 68A-27.003, F.A.C., and then that standard will apply. For purposes of this rule, a scientific or conservation purpose shall mean activities that further the conservation or survival of the species, including collection of scientific data needed for conservation or management of the species. The following factors shall be considered in determining whether there is a scientific or conservation purpose which will benefit the survival potential of the species;

1. Whether the purpose for which the permit required is adequate to justify removing specimens of the species if removed from the wild;

2. The probable direct or indirect effect which issuing the permit would have on the wild population of the species sought to be taken;

3. Whether the permit would conflict with any program intended to enhance the survival of the species sought to be taken;

4. Whether the purpose of the permit would likely reduce the threat of extinction for the species sought to be taken;

5. The opinions or views of scientists or other persons or organizations having expertise concerning the species sought to be taken;

6. Whether the expertise, facilities, or other resources available to the applicant are adequate to successfully accomplish the objective stated in the application; and-

7. Human safety.

(b) Incidental take: The Commission may issue permits authorizing incidental take of State-designated Threatened species upon a conclusion that the following permitting standards have been met: the standards for species that have a permitting standard for incidental take when contained in Rule 68A-27.003, F.A.C.; take precedence; ~~for blackmouth shiner, striped mud turtle, Florida mastiff bat, and pillar coral, a permit may be issued if the permitted activity clearly enhances the survival potential of the species;~~ for all other State-designated Threatened species, the permit may be issued when there is a scientific or conservation benefit and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species. Factors which shall be considered in determining whether a permit may be granted are:

1. The objectives of a federal recovery plan or a state management plan for the species sought to be taken;

2. The foreseeable long range impact over time if take of the species is authorized;

3. The impacts to other fish and wildlife species if take is authorized;

4. The extent of injury, harm or loss of the species;

5. Whether the incidental take could reasonably be avoided, minimized or mitigated by the permit applicant;

6. Human safety; and

7. Other factors relevant to the conservation and management of the species.

(c) Land management activities that benefit wildlife and that are not inconsistent with Management Plans for species as defined in this rule chapter are authorized and do not require a permit authorizing incidental take despite any other provision of this section.

(d) Agriculture, as defined in Section 570.02, F.S., conducted in accordance with Chapter 5I-8, F.A.C., and the wildlife best management practices (BMPs) adopted in Rule 5I-8.001, F.A.C., by the Department of Agriculture and Consumer Service pursuant to Section 570.94, F.S., is authorized and does not require a permit authorizing incidental take despite any other provision of this section or Rule 68A-27.005, F.A.C.

(e) Wildlands fire suppression actions necessary to ensure public safety during emergency circumstances, including but not limited to, setting counterfires, removing fences and other obstacles, digging trenches, cutting firelines, or using water from public and private sources are authorized and do not require a permit authorizing incidental take despite any other provision of this section.

(f) Intentional Take of a marine organism as defined in Chapter 68B-8, F.A.C., and identified as a Florida Endangered and Threatened Species will be permitted pursuant to the provisions of Chapter 68B-8, F.A.C.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-8-10, Amended 10-9-13, 1-19-15,_____.

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.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas H. Eason, Ph.D.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 18, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2015

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

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.007

RULE TITLE: Permits and Authorizations for the take of Florida Endangered and Threatened Species.

The purposes of this proposed rule revision are to add a human safety factor to intentional take considerations, modify permitting standard language, and clarify where intentional take of marine organisms is addressed. The effect of this rule revision is improved human safety, more consistent permitting standards, and more clarity with regard to intentional take of marine organisms. The Commission's imperiled species rules were significantly revised in 2010. One of the objectives was to reduce the complexity of the imperiled species management system by creating a listing process with just one classification. As a result, all species then classified as Endangered or Threatened that were not also Federally listed were reclassified as State-designated Threatened. However, to avoid any perception of a loss of protection, the permitting standards for those species were to be maintained in Rule 68A-27.007 until the species were covered by a management plan. The Imperiled Species Management Plan (ISMP) covering these species is being approved concurrently with this rule revision. The ISMP does not recommend a different permitting standard for these species than that used for most State-designated Threatened species. Therefore, the permit standard language specifically for these species is being removed from the rule.

Additionally, human safety is being added as a factor that may be considered when evaluating an application for the intentional take of a State-designated Threatened species.

Finally, the permitting for the intention take of marine organisms as defined in Chapter 68B-8, F.A.C. is regulated according to that chapter and not by Chapter 68A-27, F.A.C. The rule revision clarifies this distinction.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.007

RULE TITLE: Permits and Authorizations for the take of Florida Endangered and Threatened Species.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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DRAFT

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-27.007

RULE TITLE: Permits and Authorizations for the take of Florida Endangered and Threatened Species.

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting on April 13-14, 2016, at Miami. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.

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