

Gopher Tortoise Permitting Guidelines Revision



July 23, 2020



Florida Fish and Wildlife Conservation Commission

Staff Contacts:

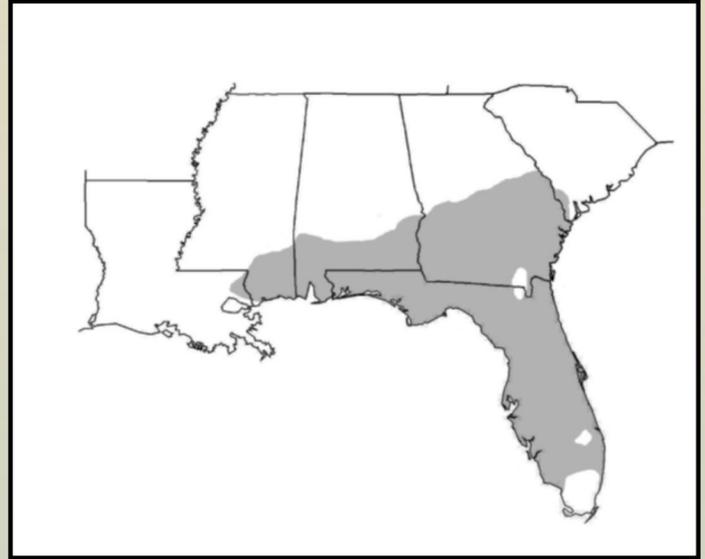
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Photo: Gopher tortoise (FWC Photo)

Background

- State-Threatened species
- Candidate for federal listing
- Largest remaining population and habitat found in Florida



The gopher tortoise is a state-Threatened species found in dry upland areas of the southeast. The largest remaining populations of gopher tortoises are found in Florida. In addition to state protection, the U.S. Fish and Wildlife Service is currently reviewing the status of the species for consideration for federal listing.

Gopher tortoises are long-lived animals, and are dependent on burrows they dig in upland areas. They are susceptible to burrow collapse and crushing during land development, so protections are focused on removing tortoises from burrows and relocating them to safe areas. The first Gopher Tortoise Management Plan was completed in 2007, with the first Gopher Tortoise Permitting Guidelines following the next year – these 2 documents pre-dated the development of the Imperiled Species Management Plan, and the associated Guidelines.

Photo: range map of the gopher tortoise

Permitting Guidelines History

- Originally approved in April 2008
- 9 revisions approved
- 10th revision recommended for approval



GOPHER TORTOISE MANAGEMENT PLAN

Gopherus polyphemus

September 2012



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
620 South Meridian Street
Tallahassee, FL 32399-1600

The Gopher Tortoise Permitting Guidelines provide a comprehensive overview of the permitting process and provide direction for the authorization of take of gopher tortoises and their burrows. Guidelines include clarification about protections for the gopher tortoise, describe which activities require a permit, and the methods and qualifications needed for individuals to conduct and monitor gopher tortoise relocations.

The Gopher Tortoise Permitting Guidelines were originally approved by the Commission in 2008, shortly after the species was reclassified as state-Threatened (2007). They were developed with the help of the Gopher Tortoise Technical Assistance Group and many other interested stakeholders. The Permitting Guidelines have been revised nine times since inception. The information included in the following slides represents the 10th revision to this document. Revisions have allowed for continued improvement in the permitting process and in conservation for the gopher tortoise.

Photo: Gopher tortoise (FWC Photo)

July 2020 Revisions

- Clarify text and streamline permitting process
- Improve data quality through improved data collection methods
- Improve effectiveness of relocation activities



Revisions to the Guidelines were made with following goals in mind:

- 1) To clarify potentially vague or confusing text of the guidelines and streamline the permitting process;
- 2) To improve the quality of the data being collected, improve the methods of collection, and
- 3) To improve the conservation value and effectiveness of relocation activities.

Photo: Gopher tortoise in habitat (FWC Photo)

Clarifying Revisions

- Permitting terms and glossary definitions
- Permitting process
- Recipient site stocking rates
- Methodologies
- Commensals



A number of revisions were made based on inconsistencies that were pointed out by staff, partners and stakeholders over the past few years.

Revisions were made to clarify:

- Permitting terms (e.g. phased relocations) and glossary definitions (e.g. abandoned burrows, depth to water table, densiometer, line transect distance sampling, ponding, registered agent, and unimproved pasture)
- Permitting process (e.g. permit renewal requests must be submitted prior to permit expiration, 90-day survey timeframe relates to start of capture activities, and cold weather restrictions include day of release)
- Stocking rate calculations for recipient sites and clarified stocking density for soft release enclosure pens
- Methodologies (e.g. revised the gopher tortoise marking scheme to account for >3999 tortoises released at recipient sites, clarified survey design methodology related to burrow and vegetation transect establishment, and the use of line transect distance sampling (LTDS) for gopher tortoise population surveys)
- Guidance when encountering commensals during permitted activities was updated to reflect the Species Conservation Measures and Permitting Guidelines for the Florida mouse, Florida pine snake, and gopher frog. These changes can be found in Appendix 9 of the Guidelines.

Photo: Gopher tortoise hatchling (FWC Photo)

Authorized Gopher Tortoise Agents



- Extended duration of permits to 4 years
- Added criteria for renewing permits
- Added scoping requirements



Authorized Gopher Tortoise Agents are individuals authorized to handle tortoises through a permit, and they are a critical part of the success of the gopher tortoise permitting program. Several revisions to the Authorized Agent permit renewal process are intended to ensure that these agents have and maintain the skills necessary to safely relocate gopher tortoises.

Revisions include:

- extending the duration of Authorized Gopher Tortoise Agent permits from 2 to 4 years.
- adding criteria to demonstrate relocation experience and required training for Authorized Agent permit renewal.

Under the current Guidelines, there are no requirements to continue to demonstrate expertise prior to renewal of the Authorized Agent permit. Adding this requirement, while extending the timeframe, ensures that Agents continue to build expertise.

An additional revision requires that, prior to being permitted to conduct burrow scoping, an Authorized Agent must document experience scoping at least 5 gopher tortoise burrows under the direct supervision of an experienced person (e.g. another Agent or a scientific researcher). Incorrect use of a burrow scope can injure tortoises, and this requirement will improve safety for tortoises.

Additionally, registered gopher tortoise agents are individuals that register in the online permitting system prior to applying for a relocation permit. Homeowners that wish to use on-site relocation of tortoises where 10 or Fewer Burrows are on site and trapping will be done without the use of a backhoe can become registered agents after taking a short, free training course. This allows them to use a bucket trap and shovel to safely capture the tortoise and excavate the burrow without hiring an Authorized Agent. To ensure that registered agent status is used as it was intended, the number of relocation permits a registered gopher tortoise agent may apply for has been limited to two (2) in any twelve (12) month period.

Photo: Gopher tortoise burrow excavation with backhoe (FWC Photo)

Data Collection Effort



- Determine efficacy of all-terrain vehicle (ATV) burrow surveys on donor (development) sites
 - If ATVs are used, applicants provide notification to FWC prior to relocation activities to allow for data collection.
 - Data collection will also occur for pedestrian survey methods.



The 2012 Gopher Tortoise Management Plan references belt-transect surveys conducted by pedestrians as the standard survey methodology to identify gopher tortoise burrows. When describing the methodology for belt-transect surveys, the 2017 Gopher Tortoise Permitting Guidelines do not specifically say that pedestrian surveys are required; because all research has used the pedestrian method, it is the method with known efficacy for locating burrows. The lack of clarity in the Guidelines has led to Authorized Agents conducting surveys on ATVs or from vehicles. We currently have no information on how often this occurs or if these surveys are as effective at locating gopher tortoise burrows as pedestrian surveys. Revisions to the Permitting Guidelines clarify that while burrow surveys should be pedestrian surveys, the use of ATVs for burrow surveys on donor sites is authorized if FWC is notified in advance and survey maps and shapefiles are provided to FWC. This authorization is provided as part of a data collection effort to determine the efficacy of non-pedestrian surveys. We will re-evaluate use of ATVs after the data collection effort is completed.

Recipient Site Monitoring

- Revised accepted survey methodologies for gopher tortoise population and vegetation surveys
- Simplified monitoring timeline for gopher tortoise recipient sites



Recipient sites intended to provide long-term conservation for relocated gopher tortoises. Current survey methods do not collect the data needed to understand the population trends and recruitment of juvenile tortoises at recipient sites. Proposed changes to the Guidelines are based on a need to update survey methodologies and improve monitoring of the conservation provided at recipient sites. The methodology for recipient site monitoring was revised to include belt transect gopher tortoise surveys with burrow scoping and to authorize the use of Line Transect Distance Sampling (LTDS) with burrow scoping as methods to estimate tortoise populations. These changes can be found in Appendix 7 of the guidelines.

A monitoring timeline in 5 year increments was established for gopher tortoise recipient sites based on the survey methodology implemented and the number of tortoises permitted to be relocated to the recipient site.

Stakeholder Engagement

- FWC revision informed by research and stakeholder input
 - Gopher Tortoise Technical Assistance Group (GTTAG)
- Multiple public comment periods held for stakeholder review and feedback
- Two public webinars
 - May 18 & 19, 2020
- More than 100 comments and suggestions received



Revisions to the Gopher Tortoise Permitting Guidelines are led by FWC but informed by research and stakeholder input.

Potential revisions to the Guidelines were first presented to the Gopher Tortoise Technical Assistance Group (GTTAG) and revision suggestions were solicited from Steering Committee members. Staff solicited public comments from September 4, 2019 to November 1, 2019 (59 days) and again this spring from April 20, 2020 to May 20, 2020 (30 days).

Two public webinars were held on May 18 and 19, 2020 to inform the public of proposed revisions. The public webinars and public comment periods were advertised to GovDelivery listservs and were formally noticed in the Florida Administrative Register. We received more than 100 comments and suggested revisions from a wide variety of partners and stakeholders.

Future Revisions

- Staff received comments expressing concern that silvicultural and agricultural practices are impacting tortoises.
 - The gopher tortoise enforcement policy, developed in 2008, treats silviculture and agriculture differently for tortoises than for other listed species.
 - Wildlife Best Management Practices, developed with FDACS, provide protections for other listed species on agricultural and silvicultural lands.
- Staff will be working with stakeholders to bring consistent protections to all listed species through implementation of the Wildlife Best Management Practices.



Some of the comments received related to an area that was not under revision – the enforcement policy found in Appendix 1 provides authorizations for take during silvicultural and agricultural activities. The policy was written in 2008, prior to the revisions to the state Threatened and Endangered Species rule; this rule incorporates Wildlife Best Management Practices as the mechanism to provide protection to listed species during agricultural and silvicultural activities. The WBMPs are voluntary measures that outline ways to avoid take, and they cover those listed species likely to be found on agricultural and silvicultural properties. Operations enrolled in the WBMP programs are covered for take of listed species, should it occur.

Staff will be working with stakeholders and partners to bring consistency to the protections for listed species by fully incorporating the WBMPs into the Gopher Tortoise Permitting Guidelines, and anticipate future revisions.

Draft Rules

- Guidelines to be incorporated by reference
- Removes redundant language
- Added prohibition against painting turtles and tortoises



The Permitting Guidelines are to be incorporated by reference into 68A-27.003 F.A.C., consistent with Species Conservation Measures and Permitting Guidelines for other listed species. Changes to 68A-25.002, F.A.C. were made to remove redundant language referring to take and possession of gopher tortoises, which are already prohibited under 68A-27.003, F.A.C. Language was added to make it clear that painting any turtle or tortoise is explicitly prohibited.

Rule language was updated in Appendix 1 of the Gopher Tortoise Permitting Guidelines to reflect that the guidelines will be incorporated into rule.

Staff Recommendation

- Approval of July 2020 Gopher Tortoise Permitting Guidelines Revisions
- Approval to publish notices of proposed rules to incorporate Guidelines and adopt as final without further hearing, unless requested
 - 68A-27.003 F.A.C.
 - 68A-25.002 F.A.C.



Staff recommends the Commission approve the revisions to the July 2020 Gopher Tortoise Permitting Guidelines, as presented. The Guidelines will become effective when incorporated into rule, which is anticipated in early September.

Additionally, staff recommends the Commission approve publishing notices for the two proposed rules; staff also recommends that if a hearing is not requested within 21 days of the notice, the rules would be adopted without further public hearing, as allowed by s. 120.54(3) Florida Statutes.