

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

DIVISION: Freshwater Fish and Wildlife

RULE NO.: 68A-9.006 **RULE TITLE:** Wildlife Rehabilitation Permit

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise the wildlife rehabilitation permit rule to allow the expertise of a falconer to assist in the rehabilitation of raptors. The U.S. Fish and Wildlife Service (Service) and FWC currently share regulatory authority and permitting responsibilities related to falconry in Florida. The Service is relinquishing permitting responsibilities to states, Indian Tribes and U.S. territories with “certified” (by the Service) falconry regulations. Florida must have certified rules in place by January 1, 2014, in order for falconry to continue in the state. During the revision of the falconry rules we identified additionally affected rules in which there is a connection to wildlife rehabilitators and falconers. Falconers possess expertise in preparing raptors for release to the wild that can be utilized by rehabilitators. They also provide an opportunity to allow transfer of certain raptors to falconers for care and use.

SUMMARY: The proposed rule amendment would modify the section in order to meet Federal guidelines for transferring raptors from a rehabilitator to a falconer, in addition to meeting the needs of the state and our constituents. Some of the modifications include: allowance of a rehabilitator to give temporary possession of a raptor to a falconer to allow for care and preparation for release back to the wild; allowance for transfer of a raptor to the falconer.

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.*

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: Article IV, Section 9, Florida Constitution.

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

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

DATE AND TIME: During the regular meeting of the Commission, February 13-14, 2013, 8:30 a.m. to 5:00 p.m., each day.

PLACE: SeaWorld Park, 7007 SeaWorld Drive, Orlando, FL 32821.

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: Jason Marlow, Investigator II, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-9.006 Wildlife Rehabilitation Permit

- (1) – (4) NO CHANGE
- (5) Standards for Wildlife Rehabilitation.

(a) –(e) NO CHANGE

(f) Wildlife shall be cared for at the facility listed in the wildlife rehabilitator permit, except under the following circumstances:

1. The volume of wildlife needing care is beyond the capacity of the permittee's facilities; or
2. When continuous care of wildlife is required; or
3. Insufficient space is available for volunteers to work with the number of wildlife requiring treatment; or
4. When a raptor has been temporarily given to a General or Master Falconer in order to condition the raptor in preparation for its release to the wild.

Under these conditions, volunteer workers may care for specimens off-premise on a temporary basis. Each permittee is authorized to have up to ten (10) volunteers to aid in the off-premise rehabilitation of wildlife. A current listing of the names and addresses of off-premise volunteers shall be kept by the permittee. Upon submission of biannual permit renewal information to the Commission, permittees shall submit a listing of all off-premise volunteers who have assisted the facility during the permit period. Volunteers keeping migratory birds off-premise shall record their daily work time in a log book on a daily basis. Those volunteers who care for native mammals only are not required to record daily work time. All volunteers are responsible for maintaining a log of the animals cared for off-premise, to include a record of treatment, condition, and disposition. Volunteers shall possess a copy of the rehabilitation permit when temporarily possessing wildlife off-premise. The permittee shall be fully responsible for the volunteer's treatment and possession of the wildlife.

(g) Permittees may Transfer Raptors to a General or Master Falconer.

1. A permittee may temporarily transfer raptors to an individual who holds a valid General or Master Falconry permit for the falconer to assist in conditioning the raptors for release to the wild. For falconers assisting the permittee:

a. The permittee must provide the falconer with a letter or form that identifies the bird and explains that the falconer is assisting in its rehabilitation.

b. The falconer does not need to meet the rehabilitator facility standards. The falconer must meet the facility standards of a falconer.

c. The falconer does not have to add the raptor possessed for rehabilitation purposes to his or her falconry permit; it will remain under the permit of the rehabilitator.

d. Upon coordination with the permittee, the falconer must release all releaseable raptors to the wild or return them to the permittee for release within the 180-day timeframe in which the permittee is authorized to possess the birds, unless the Commission authorizes the falconer to retain and condition a bird for longer than 180 days, or unless the permittee transfers the bird to the falconer to hold under his/her falconry permit.

2. Permittees may transfer raptors to a General or Master Falconer in order to add the raptor to the falconer's permit.

a. The falconer may acquire a raptor of any age of a species that he/she is permitted to possess directly from a rehabilitator. Transfer to the falconer is at the discretion of the rehabilitator.

b. The transfer would be required to be reported pursuant to 68A-9.005(13)(a) F.A.C.

c. If the falconer acquires a bird from a rehabilitator, it will count as one of the raptors the falconer is authorized to take from the wild that year.

~~(h)~~ (g) All wildlife shall be kept in accordance with general requirements governing captive wildlife, pens and caging set forth in Rules 68A-6.004, 68A-6.0041, ~~and~~ 68A-6.0023, and 68A-9.005, F.A.C.

(h) through (m) redesignated as (i) through (n) NO CHANGE

(6) through (7) NO CHANGE

PROPOSED EFFECTIVE DATE: July 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-6-94, Formerly 39-9.006, Amended 8-27-09, 07-01-13.

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(S) ORIGINATING PROPOSED RULE: Jason Marlow, Investigator II, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2012.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2013.