

**Background Report
Final Rule 68A-25.004
Agenda Item 18 A
June 19, 2014**

Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: RULE TITLE:

68A-25.004 Regulations Governing the Operation of Alligator Farms

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the alligator farm fencing requirements and that only farmers who display alligators to the public would have to meet the housing requirements for alligators in the captive wildlife rules. The effect of the proposed rule will be to improve understanding of the rule and decrease burdens on farmers who do not display alligators to the public.

SUMMARY: The proposed rule establishes that chain link fencing material equivalents must be equivalent in strength and that only farmers who display alligators residing in their permanent enclosures to the public must also conform to the captive wildlife housing requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not 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 a statement of estimated regulatory costs, or provide a proposal for a 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; 379.3751 FS.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 17, 2014, 1:00 p.m. – 5:00 p.m.; June 18-19, 2014, 8:30 a.m. – 5:00 p.m., each day

PLACE: Crowne Plaza – Ft. Myers at Bell Tower Shops, 13051 Bell Tower Drive, Ft. Myers, FL 33907

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 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 using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane R. Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-25.004 Regulations Governing the Operation of Alligator Farms.

Alligator farms may be established and operated and alligators, eggs, and hides may be possessed by alligator farmers and farming agents subject to the following:

(1) through (2)(b) No change.

(c) An alligator farm may be licensed and permitted separately on a parcel contiguous with another alligator farm provided the following criteria are met to ensure maintenance of separate inventories on the farms:

1. The applicant shall submit a copy of the current deed or leaseholder agreement in the prospective farm, along with a detailed map or drawing to scale, depicting the farm's boundaries. Such boundaries shall be readily identifiable on the ground and shall show a clear demarcation between the farms.

2. A fence, wall, or equivalent structure, not less than six feet high, and constructed of not less than 11 1/2 gauge chain link, or strength equivalent, shall separate the borders of ponds or outdoor tanks of the adjacent farm, when they are not separated by a minimum of 100 feet of dry land.

3. When buildings are used for alligator grow-out, they shall be separate for each farm.

4. Egg incubators, if provided, shall be in buildings separate from those of any other contiguous farm.

5. Rearing tanks on the respective farms shall be separately drainable.

6. Farm buildings and outside tanks on the respective farm, that are not separated by a minimum of 100 feet, shall be visibly marked with the name of the farm or other identifier to facilitate inventory inspections.

(d) through (5)(e) No change.

(6) Specifications for alligator farms:

(a) Pens or holding facilities shall be constructed in a manner to prevent the escape of any alligator contained in such pen or facility or entrance by any alligator from outside such pen or facility. The ponds and outdoor tanks of all farms licensed to exhibit wildlife under Section 379.3761, F.S., shall conform to the fencing requirements for alligators as provided in Rule 68A-6.003, F.A.C. Farms not licensed to exhibit wildlife shall not be required to meet such standards, but shall have fencing five feet in height consisting of not less than 11 1/2 gauge chain link or its strength equivalent and utilize fence ties 11 1/2 gauge or its strength equivalent ~~equivalent~~ to secure the fencing to posts, rails, and to any other structural parts to prevent the escape or entrance of an alligator.

(b) Alligators less than four (4) feet in length shall be kept in readily drainable rearing tanks of concrete, fiberglass, plastic, or metal construction or other materials approved by the executive director or designee that will ensure their secure and humane confinement.

(c) Minimum space requirements shall be:

1. One half (0.5) square foot of space for each alligator less than 24 inches in length and enough space to allow the alligator to at least partially submerge and partially exit from the water.

2. One and a half (1.5) square feet of space for each alligator measuring 24 inches to 48 inches in length and enough space to allow the alligator to at least partially submerge.

3. Three (3) square feet of space for each alligator greater than 48 inches in length and enough space to allow the alligator to at least partially submerge.

4. For all alligator sizes, one dimension of the enclosure must be at least as long as the longest animal it contains. Alligator farm permittees who also display alligators residing in their permanent enclosures to the public shall furnish alligator housing of sufficient size and design as provided by Rules 68A-6.004 and 68A-6.0023, F.A.C.

(7)(a) through (8)(b) No change.

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

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3751 FS. History--New 8-1-79, Amended 6-21-82, Formerly 39-25.04, Amended 8-24-87, 6-7-88, 2-14-89, 4-11-90, 4-4-91, 4-15-92, 7-1-94, 3-30-95, 4-1-96, 9-15-96, 11-12-98, Formerly 39-25.004, Amended 4-30-00, 3-30-06, 3-19-08, 3-24-13, 10-9-13, 4-2-14, _____.

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: Diane R. Eggeman, Director, Division of Hunting and Game Management, 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: April 17, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 8, 2014