

Agenda Item 11. A.
June 24, 2015
Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: RULE TITLE:

68A-12.002 General Methods of Taking Game; Prohibitions

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise regulations on the methods of taking game and crows. The effect of the proposed rule amendment will be to enable the agency to better manage fish and wildlife resources.

SUMMARY: The proposed rule amendment would allow the use of revolvers for taking resident game birds, crows or game mammals; prohibit the use of full metal jacket ammunition and muzzleloading guns of less than .40 caliber firing a single ball and 20 gauge firing two or more balls for taking bear; require broadheads used on arrows or bolts for taking deer, turkey or bear to have at least two sharpened edges and be at least 7/8 inches wide; prohibit the taking of cub bear or bear with one or more cub bear; prohibit the waste of any game and provide a definition of waste; prohibit the take of bear if a hunter or the bear is less than 100 yards from a game feeding station; and prohibit the use of processed foods at game feeding stations except foods specifically produced or marketed for deer or swine.

Additionally, the proposed rule amendment would provide non-substantive technical changes, such as grammatical corrections, language standardization, or clarification of existing provisions.

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

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

DATE AND TIME: During the Commission's regular meeting June 23-25, 2015, 1:30 p.m. on the first day and 8:30 a.m. each day thereafter

PLACE: Hyatt Regency, 1000 Boulevard of the Arts, Sarasota, FL 34236.

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-12.002 General Methods of Taking Game and Crows; Prohibitions.

(1) No person may take any game or birds, crows or game mammals except as herein provided.

(2) Game and Resident game birds, crows and game mammals may be taken only during the daytime between one-half hour before sunrise and one-half hour after sunset in the open season established by the Commission,

provided that the hours in which the taking hunting of gobblers or bearded turkeys is permitted during the spring season shall be from one-half hour before sunrise until sunset and that the hours in which the taking of migratory game birds is permitted shall be as specified in Rules 68A-13.003 and 68A-13.008, F.A.C.

(3) Resident game ~~Game~~ birds, crows or game mammals may be taken with any of the following:

(a) Shotgun — ~~Shotguns used for taking migratory birds shall be not larger than 10 gauge and incapable of holding more than three shells in magazine and chamber combined.~~

(b) Rifle, revolver or pistol, except that:-

1. No change.

2. Firearms using any rimfire cartridge are prohibited for taking deer or bear.

3. The use of non-expanding, full metal case (military ball) ammunition is prohibited for taking deer or bear.

4. ~~Taking wildlife with any~~ No centerfire semi-automatic rifles having a magazine capacity of more than five rounds may be used is prohibited.

5. Muzzleloading guns of less than .40 caliber firing a single bullet or of less than 20 gauge firing two or more balls, are prohibited for taking deer or bear.

6. No change.

(c) through (d) No change.

(e) Bow or crossbow, except that:-

1. ~~The possession or use of arrows having explosive or drug administering heads while hunting is prohibited.~~

1.2. Any arrow or bolt used to take in the hunting of deer, bear, hog or turkey shall be equipped with a broadhead that has a minimum of two sharpened edges with a minimum width of 7/8 inches.

3. ~~Hunting with a bow equipped with sights or aiming devices with electronic computational capabilities or light projection (laser) features during any archery season is prohibited.~~

2.4. The take of game specified, ~~except migratory birds~~, for any archery season with any gun other than a bow or crossbow is prohibited during any special archery season except this subparagraph shall not limit the methods of take of game specified for any coinciding season.

5. renumbered 3. No change.

(f) Dogs may be used as an aid to taking game ~~mammals and game birds other than turkeys~~ unless otherwise prohibited.

(4) Migratory game birds may be taken with any of the following:

(a) Shotgun - Shotguns used for taking migratory game birds shall be not larger than 10 gauge and incapable of holding more than three shells in magazine and chamber combined.

(b) Falcon.

(c) Bow or crossbow.

(4) renumbered (5) No change.

(6)(5) Resident game birds and game mammals ~~Non migratory game~~ may be taken from stationary vehicles.

(7)(6) The taking of fawn deer, cub bear, bear with one or more cub bear, panther or swimming deer is prohibited.

(8)(7) No person shall:

(a) Possess or use arrows or bolts having explosive or drug-administering heads while taking game or crows.

(b) Take any game or crows with a bow equipped with sights or aiming devices with electronic computational capabilities or light projection (laser) features during any archery season.

(c)(a) Take any game or crows ~~wildlife~~ from a moving motorized vehicle, aircraft or boat (except as provided in subsection 5 4 hereof), or use such vehicle, aircraft or boat to herd or drive game or crows ~~wildlife~~.

(d)(b) Take game or crows ~~wildlife or freshwater fish~~ in the South Region from any tracked vehicle not in compliance with Rule 68A-11.005, F.A.C., or possess any bow and arrow on an airboat during any early archery season in Dade County.

(c) relettered (e) No change.

(f)(d) Take any game on any land or waters upon which corn, wheat, grain or any other food or substance has been deposited by other than normal agricultural harvesting or planting except as provided by subsection (9)(8). Migratory game birds may be taken in accordance with regulations established by the U.S. Department of the Interior.

(g) Waste any game that has been wounded or killed by that person while hunting. For purposes of this paragraph, "waste" means to intentionally fail to make a reasonable effort to retrieve a wounded or killed animal and render it for consumption or use.

(e) through (f) relettered (h) through (i) No change.

~~(9)(8)~~(a) Game feeding stations may be maintained for the purpose of propagating quail, turkey, and other wild game under natural conditions.

(b) Non-migratory game may be taken in proximity to game feeding stations which are maintained with feed (corn, wheat, grain or any other food substance deposited by other than normal agricultural harvesting or planting) throughout the year provided that each feeding station shall have been maintained at least six months prior to the taking of game in proximity thereof. Wild turkey may not be taken if the hunter is less than 100 yards from a game feeding station when feed is present. Bear may not be taken if the hunter or the bear is less than 100 yards from a game feeding station when feed is present.

(c) No processed food products may be used at game feeding stations in any area of the state with an established bear season. Processed food products are any food substance that has been modified by the addition of ingredients or by treatment to modify its chemical composition or form or to enhance its aroma or taste. This includes: food products enhanced by sugar, honey, syrups, oils, salts, spices, peanut butter, grease, meat, bones, or blood; candies, pastries, gum, and sugar blocks; and extracts of such products but does not include scented sprays or aerosols and scent powders.

(d) Notwithstanding (c) above, pelletized feeds, flavored corns or other grains, and mineral or vitamin supplements specifically and exclusively produced or marketed for feeding deer and commercially available feeds specifically and exclusively marketed for feeding swine (hogs) may be used at game feeding stations statewide.

~~(9) The taking of non-protected mammals or non-protected birds is not restricted to the methods of taking or prohibitions included herein except as provided in Rule 68A 24.002, F.A.C.~~

~~(a) Non-protected mammals.~~

~~1. Armadillo.~~

~~2. Black or Norway rat.~~

~~3. House mouse.~~

~~(b) Non-protected birds.~~

~~1. English sparrow.~~

~~2. Starling.~~

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, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-12.02, Amended 6-1-86, 4-11-90, 4-14-92, 4-20-93, 3-1-94, 3-30-95, 4-1-96, 12-28-98, Formerly 39-12.002, Amended 7-1-05, 7-1-06, 7-1-08, 10-23-08, 1-1-11, 7-1-13, 12-23-14,_____.

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 15, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 8, 2015