

NOTICE OF PROPOSED RULEMAKING

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE: General: Ownership, Short Title, Severability and Definitions

RULE TITLES:

RULE NOS.:

Definitions.

68A-1.004

PURPOSE AND EFFECT: The purpose of the proposed change is to update the definitions for endangered, threatened, and species of special concern. The effect will be to alter the definitions to reflect modern enhancements to the criteria within the definitions.

SUMMARY: The definitions of the terms "endangered species," "species of special concern," and "threatened species" in subsections (27), (74), and (78), respectively, of Rule 68A-1.004, F.A.C., are updated and clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$285 for administrative preparation and \$251 for legal advertising. No other significant economic impacts are expected.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for 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.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. - 5:00 p.m., each day, April 14-15, 2005.

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, Florida.

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: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-1.004 Definitions.

The following definitions are for the purpose of carrying out the provisions of the rules of the Fish and Wildlife Conservation Commission relating to wild animal life and freshwater aquatic life. As used herein, the singular includes the plural. The following shall be construed respectively to mean:

(1) - (26) No Change.

(27) Endangered species – As designated by the Commission, a species, subspecies, or isolated population of a species or subspecies which is so few or depleted in number or so restricted in range or habitat due to any man-made or natural factors that it is in imminent danger of extinction in or extirpation from Florida as determined by (a), (b), (c), (d) or (e) below:

(a) Reduction in pPopulation size based on any of the following ~~reduction in the form of either:~~

1. An observed, estimated, inferred or suspected population size reduction of at least 80% over the previous ten years or three generations, whichever is longer, where the reduction or its causes may not have ceased OR may not be understood OR may not be reversible, based on: (and specifying) any of the following:

- a. Direct observation
- b. An index of abundance appropriate for the species
- c. A decline in area of occupancy, extent of occurrence or quality of habitat

- d. Actual or potential levels of exploitation
 - e. The effects of introduced taxa species, hybridization, pathogens, pollutants, competitors or parasites
2. A population size reduction of at least 80%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on; (and specifying); any of 1.b., 1.c., 1.d. or 1.e. above.
 3. An observed, estimated, inferred, projected, or suspected population size reduction of at least 80% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased OR may not be understood OR may not be reversible, based on (and specifying) any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.
 4. An observed, estimated, inferred, or suspected reduction of at least 90% over the last 10 years or three generations, whichever is longer, where the causes of reduction are clearly reversible AND understood AND ceased, based on (and specifying) any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.
- (b) Geographic range in the form of either eExtent of occurrence estimated to be less than 40 square miles or area of occupancy estimated to be less than 4 square miles, and estimates indicating any two of the following:
1. Severity fragmented or known to exist at only a single location.
 2. Continuing decline, observed, inferred or projected, in any of the following:
 - a. Extent of occurrence
 - b. Area of occupancy
 - c. Area, extent and/or quality of habitat
 - d. Number of locations or subpopulations
 - e. Number of mature individuals
 3. Extreme fluctuations in any of the following:

a. Extent of occurrence

b. Area of occupancy

c. Number of locations or subpopulations

d. Number of mature individuals

(c) Population size estimated to number fewer than 250 mature individuals and either:

1. An estimated continuing decline of at least 25% within three years or one generation, whichever is longer, or

2. A continuing decline, observed, projected or inferred, in numbers of mature individuals and at least one of the following population structure in the form of either:

a. Population structure in the form of either no subpopulation estimated to contain more than 50 mature individuals, or at least 90% of mature individuals in one subpopulation.

~~Severe fragmentation (that is, no subpopulation estimated to contain more than 50 mature individuals)~~

b. Extreme fluctuations in number of mature individuals ~~All individuals are in a single subpopulation.~~

(d) Population size estimated to number less than 50 mature individuals.

(e) Quantitative analysis showing the probability of extinction in the wild is at least 50% within ten years or three generations, whichever is longer (up to a maximum of 100 years).

(28) - (73) No Change.

(74) Species of special concern – As designated by the Commission, a species, subspecies, or isolated population of a species or subspecies which is facing a moderate risk of extinction in or extirpation from Florida in the future, as determined by (a), (b), (c), (d) or

(e) below:

(a) Reduction in pPopulation size based on any of the following reduction in the form of ~~either:~~

1. An observed, estimated, inferred or suspected population size reduction of at least ~~30~~20% over the last ten years or three generations, whichever is longer, where the

reduction or its causes may not have ceased or may not be understood or may not be reversible, based on (and specifying) any of the following:

- a. Direct observation
- b. An index of abundance appropriate for the species
- c. A decline in area of occupancy, extent of occurrence and/or quality of habitat
- d. Actual or potential levels of exploitation
- e. The effects of introduced species, hybridization, pathogens, pollutants, competitors or parasites

2. A population size reduction of at least 30%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on (and specifying) any of 1.b., 1.c., 1.d. or 1.e. above.

3. An observed, estimated, inferred, projected or suspected population reduction of at least 30% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on (and specifying) any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.

4. An observed, estimated, inferred or suspected population size reduction of at least 50% over the last 10 years or three generations, whichever is longer, where the causes of reduction are clearly understood AND reversible AND ceased, based on (and specifying) any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.

(b) Geographic range in the form of either eExtent of occurrence estimated to be less than 7,700 square miles or area of occupancy estimated to be less than 770 square miles, and estimates indicating any two of the following:

1. Severely fragmented or known to exist at no more than 10 locations ~~only a single location~~.

2. Continuing decline, observed, inferred or projected, in any of the following:

- a. Extent of occurrence

- b. Area of occupancy
 - c. Area, extent and/or quality of habitat
 - d. Number of locations or subpopulations
 - e. Number of mature individuals
3. Extreme fluctuations in any of the following:
- a. Extent of occurrence
 - b. Area of occupancy
 - c. Number of locations or subpopulations
 - d. Number of mature individuals
- (c) Population size estimated to number fewer than 10,000 mature individuals and either:
1. An estimated continuing decline of at least 10% within ten years or three generations, whichever is longer; or
 2. A continuing decline, observed, projected, or inferred, in numbers of mature individuals and at least one of the following population structure in the form of either:
 - a. Population structure in the form of either no subpopulations estimated to contain more than 1,000 mature individuals, or all mature individuals are in one subpopulation. Severely fragmented (i.e., no subpopulation estimated to contain more than 1,000 mature individuals)
 - b. Extreme fluctuations in number of mature individuals ~~All individuals are in a single subpopulation.~~
- (d) Population very small or restricted in the form of either of the following:
1. Population size estimated to number fewer than 1,000 mature individuals.
 2. Population with a very restricted ~~is characterized by an acute restriction in its~~ area of occupancy (less than ~~16~~ 40 square miles) or ~~in the~~ number of locations (typically 5 or fewer than 5) such that it is prone to the effects of human activities or stochastic events within a very short time period in an uncertain future.
- (e) Quantitative analysis showing the probability of extinction in the wild is at least 10%

within 100 years.

(75) - (77) No Change.

(78) Threatened species – As designated by the Commission, a species, subspecies, or isolated population of a species or subspecies which is facing a very high risk of extinction in or extirpation from Florida in the future, as determined by (a), (b), (c), (d) or (e) below:

(a) Reduction in pPopulation size based on any reduction in the form of either of the following:

1. An observed, estimated, inferred, or suspected population size reduction of at least 50% over the last ten years or three generations, whichever is longer, where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on; (and specifying); any of the following:

- a. Direct observation
- b. An index of abundance appropriate for the species
- c. A decline in area of occupancy, extent of occurrence and/or quality of habitat
- d. Actual or potential levels of exploitation
- e. The effects of introduced species, hybridization, pathogens, pollutants, competitors or parasites

2. A population size reduction of at least 50%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on; (and specifying); any of 1.b., 1.c., 1.d. or 1.e. above.

3. An observed, estimated, inferred, projected or suspected population size reduction of at least 50% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.

4. An observed, estimated, inferred or suspected population size reduction of at least 70% over the last 10 years or three generations, whichever is longer, where the causes of

reduction are clearly understood AND reversible AND ceased, based on (and specifying) any of 1.a. 1.b., 1.c., 1.d. or 1.e. above.

(b) Geographic range in the form of either eExtent of occurrence estimated to be less than 2,000 square miles or area of occupancy estimated to be less than 200 square miles, and estimates indicating any two of the following:

1. Severely fragmented or known to exist at no more than five locations
2. Continuing decline, observed, inferred or projected, in any of the following:
 - a. Extent of occurrence
 - b. Area of occupancy
 - c. Area, extent and/or quality of habitat
 - d. Number of locations or subpopulations
 - e. Number of mature individuals
3. Extreme fluctuations in any of the following:
 - a. Extent of occurrence
 - b. Area of occupancy
 - c. Number of locations or subpopulations
 - d. Number of mature individuals

(c) Population size estimated to number fewer than 2,500 mature individuals and either:

1. An estimated continuing decline of at least 20% within five years or two generations, whichever is longer (up to a maximum of 100 years in the future); or
2. A continuing decline, observed, projected, or inferred, in numbers of mature individuals and at least one of the following ~~population structure in the form of either:~~

a. Population structure in the form of either no subpopulation estimated to contain more than 250 mature individuals, or at least 95% of mature individuals in one subpopulation.

~~Severely fragmented (i.e., no subpopulation estimated to contain more than 250 mature individuals)~~

b. Extreme fluctuations in number of mature individuals ~~All individuals are in a single~~

subpopulation.

(d) Population size estimated to number fewer than 250 mature individuals.

(e) Quantitative analysis showing the probability of extinction in the wild is at least 20% within 20 years or five generations, whichever is longer (up to a maximum of 100 years).

(79) - (90) No Change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-15-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-1.04, Amended 6-1-86, 5-10-87, 10-8-87, 3-1-88, 4-13-88, 4-27-89, 4-11-90, 7-1-92, 4-20-93, 3-1-94, 7-1-94, 4-1-96, 11-23-97, 7-1-98, 6-23-99, Formerly 39-1.004, Amended 7-1-00, 5-1-01, 5-1-03, 7-1-04,_____.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Mr. Timothy Breault.

NAME OF SUPERVISOR WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad,
Executive Director.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2005.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: December 10,
2004.

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.W.

