

NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION: Division of Habitat and Species Conservation

RULE NO: 68A-27.003	RULE TITLE: Designation of Endangered Species; Prohibitions; Permits.
68A-27.004	Designation of Threatened Species; Prohibitions; Permits.

PURPOSE AND EFFECT: The purpose of these proposed revised rules is to reclassify the Florida manatee from an endangered species to a threatened species. The Fish and Wildlife Conservation Commission has determined that this reclassification is warranted. The effect of these rule changes will be to more accurately classify the imperiled status of the manatee while maintaining protections to conserve the species.

SUMMARY: Rule 68A-27.003, F.A.C., is amended to delete the listing of the manatee as an endangered species. Rule 68A-27.004, F.A.C., is amended to add the listing of the manatee as a threatened species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Commission expects the effects of the proposed rule changes to be very limited and thus does not expect significant economic impacts to result from the change in classification from “endangered” to “threatened.” Costs to implement the rule changes are not expected to exceed a few thousand dollars and the Commission does not anticipate any significant change in state or local revenues. The statement of estimated regulatory costs is available at: <http://myfwc.com/manatee/>. 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; Section 372.121 Florida Statutes.

A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission’s regular meeting December 5 – 6, 2007, 8:30 a.m. - 5:00 p.m., each day.

PLACE: Marriott Key Largo, Key Largo, 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: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULES ARE AS FOLLOWS:

68A-27.003 Designation of Endangered Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be endangered and shall be afforded the protective provisions specified. No person shall pursue, molest, harm, harass, capture, possess, or sell any of the endangered species included in this subsection, or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

- (a) Pillar coral (*Dendrogyra cylindrus*)
- (b) Blackmouth shiner (*Notropis melanostomus*)
- (c) Okaloosa darter (*Etheostoma okaloosae*)
- (d) Shortnose sturgeon (*Acipenser brevirostrum*)

- (e) American crocodile (*Crocodylus acutus*)
- (f) Green sea turtle (*Chelonia mydas*)
- (g) Hawksbill sea turtle (*Eretmochelys imbricata*)
- (h) Kemp's ridley sea turtle (*Lepidochelys kempii*)
- (i) Leatherback sea turtle (*Dermochelys coriacea*)
- (j) Striped mud turtle (*Kinosternon bauri*) (lower keys population only)
- (k) Wood stork (*Mycteria americana*)
- (l) Snail kite (*Rostrhamus sociabilis plumbeus*)
- (m) Peregrine falcon (*Falco peregrinus*)
- (n) Ivory-billed woodpecker (*Campephilus principalis*)
- (o) Bachman's warbler (*Vermivora bachmanii*)
- (p) Kirtland's warbler (*Dendroica kirtlandii*)
- (q) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
- (r) Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- (s) Gray bat (*Myotis grisescens*)
- (t) Indiana bat (*Myotis sodalis*)
- (u) Florida mastiff bat (*Eumops glaucinus floridanus*)
- (v) Silver rice rat (*Oryzomys argentatus*)
- (w) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
- (x) Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)
- (y) St. Andrews beach mouse (*Peromyscus polionotus peninsularis*)
- (z) Anastasia Island beach mouse (*Peromyscus polionotus phasma*)
- (aa) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
- (bb) Key Largo woodrat (*Neotoma floridana smalli*)
- (cc) Florida saltmarsh vole (*Microtus pennsylvanicus dukecampbelli*)
- (dd) Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*)
- ~~(ee) Florida manatee (*Trichechus manatus latirostris*)~~
- ~~(eff)~~ Florida panther (*Puma concolor coryi*)
- ~~(ffgg)~~ Key deer (*Odocoileus virginianus clavium*). No person shall feed Key deer (*Odocoileus virginianus clavium*) by hand or by placing any food that serves to attract such species.
- ~~(gghh)~~ North Atlantic right whale (*Eubalaena glacialis*)
- ~~(hhii)~~ Fin whale (*Balaenoptera physalus*)
- ~~(ijjj)~~ Sei whale (*Balaenoptera borealis*)
- ~~(jjkk)~~ Humpback whale (*Megaptera novaeangliae*)
- ~~(kkll)~~ Sperm whale (*Physeter macrocephalus*)
- ~~(llmm)~~ Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*)
- ~~(mmnn)~~ Stock Island tree snail (*Orthalicus reses*)

(2) The Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), listed after June 23, 1999, is hereby declared to be endangered, and shall be afforded the protective provisions specified in this subsection. No person shall take, harm, harass, possess, sell, or transport any Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), or parts thereof or their eggs, larvae or pupae except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003. Amended 12-16-03, _____.

68A-27.004 Designation of Threatened Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, molest, harass or sell any of the threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by specific permit from the Executive Director, permits being issued only for scientific or conservation purposes and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species.

1. Crystal darter (*Crystallaria asprella*)
2. Key silverside (*Menidia conchorum*)
3. Loggerhead seaturtle (*Caretta caretta*)
4. Bluetail mole skink (*Eumeces egregius lividus*)
5. Sand skink (*Neoseps reynoldsi*)
6. Key ringneck snake (*Diadophis punctatus acricus*)
7. Rim rock crowned snake (*Tantilla oolitica*)
8. Short-tailed snake (*Stilosoma extenuatum*)
9. Florida brown snake (*Storeria dekayi victa*) (lower keys population only)
10. Florida ribbon snake (*Thamnophis sauritus sackeni*) (lower keys population only)
11. Eastern Indigo snake (*Drymarchon corais couperi*)
12. Atlantic salt marsh water snake (*Nerodia clarkii taeniata*)
13. Bald eagle (*Haliaeetus leucocephalus*)
14. Southeastern American kestrel (*Falco sparverius paulus*)
15. Crested caracara (Caracara cheriway)
16. Florida sandhill crane (*Grus canadensis pratensis*)
17. Roseate tern (*Sterna dougalli*)
18. Least tern (*Sterna antillarum*)
19. White-crowned pigeon (*Columba leucocephala*)
20. Florida scrub jay (*Aphelocoma coerulescens*)
21. Snowy plover (*Charadrius alexandrinus*)
22. Piping plover (*Charadrius melodus*)
23. Big Cypress fox squirrel (*Sciurus niger avicennia*)
24. Florida black bear (*Ursus americanus floridanus*) (other than those found in Baker and Columbia counties or in Apalachicola National Forest or which are held in captivity under permit)
25. Everglades mink (*Mustela vison evergladensis*)
26. Southeastern beach mouse (*Peromyscus polionotus niveiventris*)

(2) The following species, listed after June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) The Gopher tortoise (*Gopherus polyphemus*) is hereby declared to be threatened, and shall be afforded the protective provisions specified in this paragraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

(b) The Florida manatee (*Trichechus manatus latirostris*) is hereby declared to be threatened and shall be afforded the protective provisions specified in this paragraph. It is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee. Permits to possess manatees for scientific or enhancement purposes may be issued by the U. S. Department of the Interior.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-85, Formerly 39-27.04, Amended 6-1-86, 5-10-87, 4-27-89, 6-23-99, Formerly 39-27.004, Amended 9-29-03, _____, _____.

NAME OF PERSON(S) ORIGINATING PROPOSED RULES: Mr. Tim Breault, Division of Habitat and Species Conservation.

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

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: June 13, 2007.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W: May 4, 2007.