

NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT

RULE NO: RULE TITLE.:
68A-6.0024 Commercialization of Wildlife; Public Contact; Bonding or Financial Responsibility Guarantee.

PURPOSE AND EFFECT: The purpose and effect of this rule is to address bonding requirements for the exhibition of venomous reptiles and Class I wildlife as required by statute. The proposed rule will provide the mechanisms by which an exhibitor of Class I wildlife may meet the financial responsibility guarantee in the amount of \$10,000 or comply with the comprehensive general liability insurance requirement, and define the circumstances under which the bond or financial responsibility guarantee will be forfeited. Rule 68A-6.0024 is a new rule that should have the effect of assuring that exhibitors of Class I wildlife maintain minimal financial responsibility.

SUMMARY: The proposed rule addresses bond requirements for the exhibition of venomous reptiles or Class I wildlife. It establishes the terms of the bond and requires notification upon termination of the bond. The proposed rule provides methods that exhibitors of Class I wildlife may demonstrate the financial responsibility guarantee in the sum of \$10,000 in lieu of the bond, or requires the maintenance of general comprehensive liability insurance. The proposed rule addresses when the bond or financial responsibility guarantee will be forfeited. This rule prohibits the exhibition of venomous reptiles without a bond, or in the instance of Class I wildlife without a bond or without meeting the financial responsibility guarantee or without general comprehensive liability insurance as required.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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, 372.88, 372.92, 372.921 F.S.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.86, 372.87, 372.88, 372.92, 372.921 F.S.

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

DATE AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. - 5:00 p.m., each day.

PLACE: St. Petersburg Hilton, 333 First Street South, St. Petersburg, 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: Captain Linda Harrison, Division of Law Enforcement, Investigations Section, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850) 488-6253.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-6.0024 Commercialization of Wildlife; Public Contact; Bonding or Financial Responsibility Guarantee.

(1) It is unlawful to exhibit venomous reptiles to the public without having posted a performance bond as listed below.

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission shall be submitted at the time of initial license application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the performance bond expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing

and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury occurs or other damages results from exhibited reptiles.

2. The exhibitor shall fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) In lieu of a surety bond, a person may submit a cash bond to the Florida Fish and Wildlife Conservation Commission to satisfy the performance bond requirement. Such payment shall be in the sum of \$10,000 and may be in the form of cash, cashier's check, or certified check. In the instance of a check, such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit venomous reptiles.

(c) The performance bond will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury occurs or other damage results from exhibited reptiles and the exhibitor fails to indemnify and save harmless the injured party; or

2. The exhibitor fails to fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

(d) The exhibition of venomous reptiles in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000 is prohibited.

(2) It is unlawful to exhibit Class I wildlife without having guaranteed financial responsibility. The following methods of payment will satisfy the financial responsibility requirement:

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000, in compliance with and as noted in subparagraph 68A-6.0024(1)(a), F.A.C., above. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury to the public occurs, including accidental death, or other property damage occurs from the exhibited Class I wildlife.

2. The exhibitor shall indemnify and save harmless the Florida Fish and Wildlife Conservation Commission for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of Class I wildlife.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) Cash, cashier's check, or certified check in the sum of \$10,000. In the instance of a check such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit Class I wildlife.

(c) Irrevocable letter of credit issued by a bank, savings and loan, credit union or other similar state or federally chartered financial institution, payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000.

(d) In lieu of the \$10,000 financial responsibility guarantee any person exhibiting Class I wildlife may maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate as shall protect the exhibitor from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. The insurance policy shall be for a duration of not less than the duration of the licensing period. A current Certificate of Insurance evidencing proof of insurance maintained by the exhibitor in such amounts as required by this section, including terms, coverage and expiration date, shall be submitted at the time of initial application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the insurance policy expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301.

(e) The performance bond or financial responsibility guarantee in the sum of \$10,000, or any portion thereof, will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury to the public, including accidental death, or other property damage results from exhibited Class I wildlife and the exhibitor fails to indemnify and save harmless the injured party; or

2. Class I wildlife is taken into custody or seized by commission personnel. In instances where Class I wildlife is seized or taken into custody by the Commission the permittee shall be responsible for payment of all expenses

relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of the wildlife.

(f) The exhibition of Class I wildlife in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000, or a financial responsibility guarantee in the sum of \$10,000, or a current and valid comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate is prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.88, 372.92, 372.921 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.86, 372.87, 372.88, 372.92, 372.921 FS. History – New

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Colonel Julie Jones, Director, Division of Law Enforcement.

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

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

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

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement

RULE TITLES: RULE NOS.:

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To the extent that there is no federal standard or regulation on the same subject, the proposed state rule is stricter.

