

NOTICE OF PROPOSED RULE
Rule 68A-23.003
Agenda Item 5, A, 1, b, i

FISH AND WILDLIFE CONSERVATION COMMISSION
Division of Habitat and Species Conservation

RULE NO:
68A-23.003

RULE TITLE:
Commercial Fishing Devices; Provision for Use in Certain Waters.

PURPOSE AND EFFECT: The purpose of this rule change is to reconcile this section with proposed rule changes to 68A-25.002. Recent proposed changes to 68A- 25.002 specify the methods that can be used to harvest freshwater turtles. The effect of this rule development would be to maintain consistency and eliminate any conflicts between this section and 68A-25.002.

SUMMARY: Concerns that freshwater turtle populations would be impacted by recent increases in harvest have led to proposed rule changes to 68A-25.002 that prohibit the collection of freshwater turtles from the wild. Removing references to freshwater turtles from 68A-23.003 would maintain consistency and eliminate any conflicts between this section and 68A-25.002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will ___or will not ___X have an impact on small business. A SERC has ___ or has not ___X been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or 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 379.363 Florida Statutes.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Antista, General Counsel, Legal Office, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-23.003 Commercial Fishing Devices; Provision for Use in Certain Waters

(1) no change

(2) Wire traps and slat baskets:

(a) Species to be taken – Non-game fish ~~and turtles (as prescribed by Rule 68A 25.002, F.A.C.)~~.

(b) – (d) no change

(3) Pound nets: The use of pound nets shall be prohibited, except that established pound net sites registered with the Commission by December 31, 1982, may be fished only by the registered claimant or his designee. Such pound net registration shall not be transferable to any other person.

(a) Species to be taken – Non-game fish ~~and turtles (as prescribed by Rule 68A 25.002, F.A.C.)~~.

(b) – (c) no change.

(4) Hoop nets:

(a) Species to be taken – Non-game fish ~~and turtles (as prescribed by Rule 68A 25.002, F.A.C.)~~.

(b) – (d) no change

(5) Minnow lift nets:

(a) Species to be taken – Non-game fish ~~and turtles (as prescribed by Rule 68A 25.002, F.A.C.)~~.

(b) – (d) no change

(6) Minnow seine:

(a) Species to be taken – Non-game fish (except catfish) ~~and turtles (as prescribed by Rule 68A 25.002, F.A.C.)~~.

(7) – (8) no change

(9) Permits may be issued by the executive director to authorize the operation of haul seines in specified areas.

(a) Southwest Region haul seine permits:

1. – 7 no change

8. Non-game fish ~~and turtles (as prescribed in Rule 68A 25.002, F.A.C.)~~ may be harvested from haul seines.

Any other fish or wildlife ~~All gamefishes~~ caught shall be returned immediately to the lake being fished.

9 – 11 no change

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

*Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.363 FS. History—
New 8-1-79, Amended 10-23-79, 5-19-80, 6-22-80, 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-23.03, Amended 6-1-86,
4-13-88, 7-1-90, 1-1-92, 7-1-92, 10-22-92, 4-20-93, 7-1-95, 4-1-96, 7-1-97, 7-1-98, Formerly 39-23.003, Amended 7-1-
08,_____.*

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.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, 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: June 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 5, 2008