

NOTICE OF PROPOSED RULE

Rule 68A-12.011

Agenda Item 5, A, 3

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement

RULE NO:

68A-12.011

RULE TITLE:

Regulations Governing the Establishment and Operation of Game Farms.

PURPOSE AND EFFECT: The purpose and effect of this rule is to promulgate a new rule pertaining to the establishment and operation of game farms in Florida. The proposed rule will replace substantive portions of existing statute, Section 379.302, Florida Statutes. That statute is expected to be repealed by the Legislature after this replacement rule is adopted. The proposed rule also clarifies the requirements for lawful operation of game farms in Florida.

SUMMARY: The proposed rule addresses and clarifies the requirements for establishment and lawful operation of game farms in Florida.

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 the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternatives 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, 379.3711, F.S.

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

DATE AND TIME: During the regular meeting of the Commission, June 17 and 18, 2009, 8:30 a.m. to 5:00 p.m., each day.

PLACE: Plantation Inn, 9301 West Fort Island Trail, Crystal River, FL 34429.

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: 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 AS FOLLOWS:

68A-12.011 Regulations Governing the Establishment and Operation of Game Farms.

(1) Any person may establish, maintain, or operate a game farm within this state for the protection, propagation, raising or production of native or non-native game for private or commercial purposes. Before a game farm is established the owner or operator must be licensed and comply with the provisions of this rule

(a) Such game farm must not exceed an area of 640 acres owned or leased and no game farm may join or be connected to another game farm. In the event that the facility location is under lease to the applicant, said lease must be for a term sufficient to cover the term of the license and such lease is subject to review and approval by commission personnel as a condition to the granting of the license.

(b) All game farms must be fenced in such manner that domestic game thereon may not escape and wild game on surrounding lands may not enter. Game farms are subject at any time to inspection by commission personnel, for compliance with Commission rules and other applicable laws. No game farm license shall be issued for the possession of game until the premises of such game farm has been inspected and approved by commission personnel.

(c) Game reared or produced on game farms is considered personal property and may be sold or disposed of as such.

(d) It is unlawful to buy, sell or transfer any live game to or from any unlicensed entity within Florida. Game raised or produced on game farms may be purchased, sold, shipped, and transported for propagation, restocking or food purposes. Recipients of any live game received from a game farm must be licensed pursuant to this rule, s. 379.3761, or 379.3712, F.S., unless exempt from the licensing provision.

(e) The licensing provisions of this rule shall not apply to:

1. The possession, protection, propagation, raising or production of bison for commercial farming purposes.

2. The protection, propagation, raising or production of 50 or fewer live bob white quail or non-native game birds (except non-native ducks and geese) for personal use, consumption, educational, dog training or other not-for-sale or exhibition purpose.

3. Persons purchasing or receiving eggs for food or consumptive purposes

(2) All game farms established under the provisions of this section must comply with Chapter 68A-6 concerning the provisions of food, humane treatment, sanitary conditions, housing and transportation. Those game farms acquiring, possessing, selling or otherwise disposing of deer, elk or other members of the Family *Cervidae* must also comply with sections 68A-4.005, 68A-4.0051 and 68A-4.0053, F.A.C., concerning introduction, importation, movement, and transportation requirements. Those game farms acquiring, possessing, selling or otherwise disposing of mallard ducks must also comply with section 68A-4.0052, F.A.C.

(3) The person holding a game farm license must maintain a record of each of the following changes in inventory: acquisitions of game, animals harvested for personal consumption, and sale or transfer of game, alive or dead. Such records shall be open to inspection upon request by commission personnel:

(a) Records of acquisition must include the date of acquisition; quantity and species of game acquired; name and complete address of supplier; and license identification number of supplier, where applicable.

(b) Records of sale or transfer must include the date of sale or transfer; quantity and species of game sold or transferred; name and complete address of the entity to which game is sold or transferred; and license identification number of the recipient, where applicable.

(c) Any person holding a game farm license who imports or conducts intrastate movement of deer, elk, or other members of the Family *Cervidae* must keep and maintain copies of all records of compliance with rules 68A-4.0051 and 5C-26, F.A.C., regarding the importation or intrastate movement of such deer, elk, or other members of the Family *Cervidae*.

(4) All game sold for food or consumptive purposes must be killed on the premises of the game farm or transported to a licensed processing facility for immediate processing. In instances where live game is transported to a licensed processing facility for immediate processing a copy of the current and valid game farm license of the farm where such game was produced must accompany the live game in transport. In instances where live game is sold or transferred, the transporter of such game must comply with the provisions of subsection (7) herein.

(a) Game for which there is an open season may not be killed by shooting, except during the open season for such game.

(b) Only the game farm licensee or the licensee's bona fide employee may kill game on the game farm premises. For each bona fide employee the licensee must make available for inspection the employee's employment file or other proof of employment status.

(5) Harvested game sold or transferred for food or consumptive purposes must comply with the following provisions:

- (a) The sale of deer meat (venison) from species of deer native to the state is prohibited.
- (b) Each game bird or the sealed container in which game birds are placed must be clearly marked with the species and the name, complete address, and license identification number of the game farm producing the game.
- (c) Deer meat (venison) from species of deer not native to the state may only be sold when packaged in a tamper-proof container clearly marked with a label stating “NON-NATIVE VENISON (species identified) PRODUCED ON A LICENSED GAME FARM.” Additionally, each container must be clearly marked to indicate the name, complete address, and license identification number of the game farm producing the game.
- (d) If harvested game stored on the premises of the game farm has been sold or transferred, it must be clearly marked or tagged to reflect the name and complete address of the recipient, and the date of sale or transfer.
- (e) Game harvested on a game farm and stored on the premises may not be commingled with game taken from the wild.
- (f) This section shall not supersede any rules of any state or Federal agency or any laws regarding quality control, inspections, transportation, sale or regulation of foodstuff and meat products.
- (6) Unless otherwise provided in this section, no person or common carrier may purchase, receive, possess, or transport any game originating from a game farm without a bill of sale or transfer clearly indicating: the quantity and species of game; the name, complete address and license identification number of the game farm producing the game; the date of sale or transfer; and the name, complete address and, where applicable, license identification number of the recipient. Any person licensed pursuant to the provisions of this rule transporting game for personal consumption, which was produced under the authorization of their license, may transport game without a bill of sale or transfer, provided their valid Game Farm License accompanies the shipment. Any package or container containing such game must be clearly marked as follows:
- (a) Any package or container containing harvested game for food or consumptive purposes must be clearly marked as provided in this rule.
- (b) Any container containing live game must be clearly marked to indicate: the quantity and species of game contained there in; the name, complete address, and license identification number of the game farm producing the game; the date of sale or transfer; and the name, complete address, and license identification number of the recipient, where applicable.
- (7) An applicant must make written application to the Commission by completing the Game Farm License application form. Such application form may be obtained online at <http://www.myfwc.com/license> or by contacting the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600. The applicant for a Game Farm License must provide the following information:
- (a) The business name of the proposed game farm, where applicable.
- (b) The complete mailing address to include city, state and zip code for the applicant.
- (c) The complete facility address where the game farm is located to include city, state, and zip code. If the address is a rural route, the applicant must provide directions to the location of the game farm.
- (d) The County where the game farm is located
- (e) The list of game to be raised on the game farm.
- (f) The applicant’s printed name, signature, and contact information to include home phone number and business phone number.
- (g) The applicant’s biographical information to include Date of Birth, Social Security Number, height, hair color, sex and race.
- (h) A copy of the valid and current lease agreement in the event that the facility location is under lease to the applicant.
- (i) Submission of an e-mail address for the applicant is optional.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.302, 379.3711 FS. History -
New _____.*

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(S) ORIGINATING PROPOSED RULE: Colonel Julie Jones, Director, Division of Law

Enforcement, Florida Fish and Wildlife Conservation Commission.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Florida Fish and Wildlife Conservation Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: December 19, 2008

**STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

Division of Law Enforcement

RULE TITLES:

68A-12.011

RULE NOS.:

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There are no federal standards or regulations on the same subject.