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Document No. 5007
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-15-15, 50-15-70, and 50-15-80

123-151.1 Regulations for Spotted Turtle.

123-151.3 Exchange and Transfer for Certain Native Reptiles and Amphibians. (New)

123.151.4 Possession Limits for Certain Native Reptiles and Amphibians. (New)

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations for species and subspecies of non-game wildlife for the management of native reptile and amphibian species. This includes limitations on, and permitting for, the possession, transfer, sale, barter, trade, shipment, and removal from this State of native reptile and amphibian species. The following is a section-by-section summary of the proposed changes and additions:

123-151.1. Regulations for Spotted Turtle.

A. Specifies spotted turtles may only be possessed by permit

B. Describes spotted turtle permit conditions and reporting

1. Specifies conditions for spotted turtle possession permits

2. Specifies criteria for registration of possessed spotted turtles

a. Specifies marking for spotted turtle identification

3. Prohibits the addition of spotted turtles under previous permits

4. Establishes annual permitting for spotted turtle possession

5. Establishes spotted turtle permit conditions

a. Prohibits sale, purchase, trade, exchange, gift, or barter

b. Prohibits collection of wild spotted turtles

c. Requires that individual turtles have identification marks

d. Specifies that unmarked spotted turtles may only be possessed by scientific collecting permit

e. Specifies that reproduction of spotted turtles must be for scientific or conservation purposes as permitted by the Department.

C. Specifies permit reporting requirements

1. Describes permit renewal reporting requirements

2. Specifies that deaths and dispositions must be reported

D. Updates reference to statutory penalty section

123-151.3. Exchange and Transfer for Certain Native Reptiles and Amphibians.

A. Establishes protections for native reptiles and amphibians and describes conditions under which they may be transferred and exchanged by exemption.

1. Allows transfer to the Department or Department designated recipient

2. Provides exemption for transfer subject to other State and Federal law and clarifies application of regulation.

3. Describes transfer criteria for zoos and aquaria, research institutions, educational displays, and schools.

4. Allows for laboratory produced venom and venom products to be exchanged.

5. Allows transfer, sale, and trade of non-wild type snakes

6. Describes conditions for exchange of three wild-type snake species produced in captivity.

7. Describes conditions for exchange of three wild-type snake species produced in captivity.

8. Describes conditions for exchange of one wild-type snake species produced in captivity.

9. Sets conditions for permitting of harvest and sale of yellowbellied turtles and snapping turtles.

- 10. Clarifies that American Alligators are regulated by other provisions of Title 50.
- 11. Allows sale and trade of bull frogs
- 12. Allows transfer of native reptiles and Amphibians to Department permitted Wildlife Rehabilitators, describes conditions of transfer, and establishes permitting conditions for rehabilitators.
 - a. Requires Department permitted Wildlife Rehabilitators provide appropriate care
 - i. Describes minimum husbandry requirements
 - ii. Requires water to be provided
 - iii. Requires appropriate feeding
 - iv. Requires appropriate disease and pest control
 - b. Requires Department permitted Wildlife Rehabilitators to have veterinary care available
 - i. Describes conditions to document veterinary care
 - ii. Describes conditions to document veterinary care
 - c. Describes requirements for annual reporting
- 13. Allows State and Federally recognized Native American Tribe members to transfer cultural items containing native reptile and amphibian parts
 - B. Describes requirements and permitting for native reptile and amphibian collections to be exported from the state
 - C. Describes temporary export permit conditions where the animals will return to their state of origin
 - D. Clarifies permit requirements for possession of species designated as state endangered or threatened and in need of management
 - E. References statutory penalties section

123-151.4. Possession Limits for Certain Native Reptiles and Amphibians.

- A. Clarifies permit requirements for possession of species designated as state endangered or threatened and in need of management
- B. Repeats the aggregate possession limit for native turtles set in Statute
- C. Provides for and describes the required registration of turtle collections in excess of the established limits
- D. Describes statutory possession limit for eastern box turtle and describes registration and marking for those that exceed the limits.
 - 1. Specifies marking for eastern box turtles
 - 2. Describes annual reporting requirements for permit
- E. Clarifies possession limit for diamondback terrapin
- F. States statutory possession limit, of five per species, for eleven native turtle species
- G. Allows Scientific Collection Permit to be issued for possession in excess of established limits and specifies purposes for issuance
- H. Allows permits issuance to exceed established limits and describes eligible entities
- I. Clarifies that regulations 123-151.3 and 123-150.4 apply to the transfer of native reptiles and amphibians
- J. References statutory penalties section

A Notice of Drafting for this regulation was published on September 25, 2020 in the *South Carolina State Register*, Volume 44, Issue No. 9.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on December 3, 2020 at 10:00 am in Room 335, Rembert C. Dennis Building. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202, no later than November 24, 2020.

Preliminary Fiscal Impact Statement:

The amendment of Regulations 123-151 will result in limited fiscal impact. These regulations decrease exploitation of wild collected native reptiles and amphibians while allowing educational, rehabilitation, and research to continue. While the sale of wild collected native species will be curtailed, sales tax generation through the sale of a number of species of captive produced reptiles important to the trade and associated business licensing will continue and should provide an increased demand for these specimens that are legally produced.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11).

DESCRIPTION OF THE REGULATION: Regulations for Spotted Turtle; and Exchange and Transfer for Certain Native Reptiles and Amphibians.

Purpose: These regulations amend and add to Regulations 123-151 in order to establish protection for native reptiles and amphibians and set conditions for lawful possession, transfer, sale, barter, trade, shipment and removal from the state, and attempt of any of the preceding as well as establishing permitting and permitting conditions. These regulations support implementation of Act 177 and provide for the registration and other functions of the Act, including lawful possession and transfer situations.

Legal Authority: Under Section 50-15-15, of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over native reptiles and amphibians and is able to promulgate regulations for the appropriate management of native reptile and amphibians species including limitations on, and permitting for, the possession, transfer, sale, barter, trade, shipment, and removal from this State of native reptile and amphibian species. Under section 50-15-20, the Department of Natural Resources is authorized to designate nongame species as threatened and in need of management and to establish regulation related to take, possession, transport, export, processing, sale or offer for sale, or shipment of designated species. Under section 50-15-30 and 50-15-40, the take, possession and transport of state listed species is prohibited and the Department may permit these activities. Under section 50-15-60, the Department of Natural Resources is authorized to promulgate regulations as are necessary to carry out the purpose of the article. Under section 50-15-70, possession limits are established for native turtles and the section allows the Department of Natural Resources to permit possession in excess of the established limits for scientific, zoological, conservation, or other special purposes.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations into the website. The public will be notified through this publication and through news releases and other Department media outlets and publications.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

South Carolina’s native reptiles and amphibians continue to face threats from extensive commercial collection from the wild and other negative pressures. The passage of recent reptile and amphibian legislation (Act 177) protects native turtles by statute and allows the Department to protect other species by regulation. In order to ensure that other reptile and amphibian species are not targeted for collection and exploit, regulation is needed. Additionally, there is a need to provide legal means for the transfer of native

turtles and the ability to exceed the statutory limits for scientific, zoological, conservation, and other special purposes.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state. These regulations decrease exploitation of wild collected native reptiles and amphibians while allowing educational, rehabilitation, and research to continue. While the sale of wild collected native species will be curtailed, sales tax generation through the sale of a number of species of captive produced reptiles important to the trade and associated business licensing will continue and should provide an increased demand for these specimens that are legally produced.

UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no cost estimates and the uncertainties associated with them are provided.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of these regulations will not have any negative impacts on public health, but will benefit the natural resources of this state, by helping to ensure wild populations of native reptiles and amphibians can continue to persist.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

No detrimental impact on public health will occur if this proposed regulation is not implemented. Failure to implement this regulation will allow unregulated take and global sale of wild collected native reptiles and amphibians to continue and can contribute to decline and extirpation of populations of these species.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations. These regulations have been developed with the input of staff, professional biologists, members of the public, and an array of stakeholders. These regulations have been circulated in draft form to stakeholders since late 2019 and incorporate many of the comments and suggestions that have been provided.

~~Indicates Matter Stricken~~
Indicates New Matter

Text:

ARTICLE 5
NON-GAME AND ENDANGERED SPECIES

- 123-151.1. Regulations for Spotted Turtle (*Clemmys guttata*).
- A. Spotted Turtle ~~Program~~ Protection

~~1. It is unlawful for any A person shall not to take, possess, transport, import, export, process, sell, purchase, offer for sale, trade, gift, barter, ship, or receive for shipment any spotted turtle (*Clemmys guttata*) without a permit from the Department.~~

B. Spotted Turtle Permits

~~1. The department has the authority to grant or deny spotted turtle permits at no cost. Application must be made to the department for a spotted turtle permit. No new permit for the possession of spotted turtles shall be issued by the Department unless for scientific and/or conservation purposes pursuant to Regulation 123-150, et seq. at the discretion of the Department.~~

~~2. The permits are valid for five (5) years from the date of issue. Any person in possession of a Spotted Turtle Permit granted by the Department as of the adoption of this regulation has 90 days from the adoption of this regulation to register with the Department the current number of Spotted Turtles, both wild-caught and captive born, in their possession. Spotted turtles will be assigned a unique number and must be shell notched with the identification number provided by Department personnel.~~

~~a. Permit applicants will shell notch spotted turtles in their possession as prescribed by the Department with the Department issued identification numbers. Permit applicants must provide evidence of applied shell notches and signed affidavit confirming all individual turtles in their possession were shell notched as directed by the Department and that they understand the regulations as they pertain to spotted turtles. Upon completion, the Department will issue a permit for the registered spotted turtles.~~

~~3. The permits must be renewed every five years at the discretion of the department. Current permit holders as of the date of adoption of this regulation may not add additional spotted turtles to their collection or allow reproduction~~

~~4. The department may set permit conditions consistent with the protection of spotted turtles. Permit conditions include but are not limited to: Current permit holders' as of the date of adoption of this regulation permits are valid for five (5) years from the date of issue; however, upon completion and certification of marking, the Department will issue a new permit valid for 1 year. Subsequent permits will be valid for 1 year and may be renewed at the discretion of the Department.~~

~~a. Sale of adult spotted turtles is prohibited~~

~~b. An individual may take and possess no more than nine wild-caught adult spotted turtles.~~

~~e. An individual may sell captive bred spotted turtles under four inches in carapace length for educational purposes.~~

~~5. The Department may set permit conditions consistent with the protection of spotted turtles. Permit conditions include but are not limited to:~~

~~a. Sale, purchase, trade, exchange, gift, or barter of any spotted turtles is prohibited.~~

~~b. No wild-caught spotted turtles may be collected.~~

~~c. All spotted turtles must be individually marked via shell notching with a unique identification number issued by the Department.~~

~~d. No unmarked spotted turtles may be possessed, unless covered by a scientific collection permit.~~

~~e. Reproduction of captive spotted turtles is prohibited unless authorized by the Department for scientific or conservation purposes. Offspring from unauthorized reproduction must be surrendered to the Department.~~

C. Permit Reporting Requirements

~~1. Spotted turtle permit holders will report the following information to the department every five years. At the time of permit renewal, spotted turtle permit holders will report to the Department the number of wild-caught and captive-bred spotted turtles in their possession and provide evidence documenting the identification number indicated by shell notch.~~

~~a. Number of wild-caught adult spotted turtles in possession (not to exceed 9).~~

~~b. Number of captive-bred spotted turtles in possession.~~

~~e. Number of captive-bred spotted turtles produced during calendar year.~~

~~d. Number of captive-bred, juvenile spotted turtles sold in the calendar year.~~

~~2. Any death or disposition of a spotted turtle must be reported to the Department immediately.~~

D. The ~~penalty~~ penalties for violations of this regulation ~~is~~ are prescribed in Section 50-15-80a, Code. Each spotted turtle taken or possessed in violation of these regulations shall constitute a separate offense.

123-151.3. Exchange and Transfer for Certain Native Reptiles and Amphibians.

A. No native reptile or amphibian, including parts, products, eggs, and derivatives may be sold, purchased, traded, exchanged, bartered, exported or shipped, transferred and/or re-homed, except:

1. Transferring possession of a native reptile or amphibian to the Department or the Department's designated recipient. The circumstances of acceptance shall be at the Department's discretion.

2. Transferring possession of native reptiles or amphibians when lawfully possessed and transfer is specifically authorized pursuant to other applicable federal or state laws, including those in Title 50. With respect to S.C. Code Section 50-16-60 this exception shall not apply and the provisions of S.C. Code Section 50-15-15 and the associated regulations in 123-151.3 and 123-151.4 shall have priority concerning possession and transfer of reptiles and amphibians.

3. Zoos and Aquaria maintaining accreditation or certification by the Association of Zoos and Aquariums, accredited research institutions under Institutional Care and Use Committees, and schools and educational displays open to the public may transfer and receive transferred reptiles and amphibians and must provide written notification to the Department specifying the number and species prior to transfer. Any such transfer may not be a sale, purchase, barter, or other commercial transaction. This exception also applies to the donor of a native reptile or amphibian to the above entities.

4. Venom or venom derivatives obtained or produced by a laboratory.

5. Any non-native phenotype (i.e. – "morph" or genetic mutation) of native snake species.

6. Any native wild phenotype of the following species reproduced in captivity and under 10 inches in total length, eastern garter snake (*Thamnophis sirtalis*), mole king snake (*Lampropeltis calligaster*), and eastern milksnake (*Lampropeltis triangulum*).

7. Any native wild phenotype of the following species reproduced in captivity and under 20 inches in total length, corn snake (*Pantherophis guttatus*), rat snake (*Pantherophis sp.*), and eastern king snake (*Lampropeltis getula*)

8. Any native wild phenotype of the following species reproduced in captivity and, or under 24 inches in total length, pine snake (*Pituophis melanoleucus*).

9. The yellow-bellied slider (*Trachemys scripta*) species and the common snapping turtle (*Chelydra serpentina*) species if these turtles were taken from a) a permitted aquaculture facility or b) a private pond pursuant to a permit issued by the Department at the request of the owner or owner's agent. Any person transporting more than five yellow-bellied sliders (*Trachemys scripta*) species or common snapping turtle (*Chelydra serpentina*) species must be in possession of a permit pursuant to which the turtles were taken or acquired. A person selling, offering to sell, or purchasing these species must have documentation from the aquaculture facility or permitted private pond as to the origin of the turtles.

10. American alligators (*Alligator mississippiensis*), alligator eggs, alligator parts, and alligator products, while subject to regulation under other provisions of Title 50.

11. Bull Frogs *Lithobates (Rana) catesbeianus*.

12. Native reptiles and amphibians may be transferred to department-permitted wildlife rehabilitators for the purpose of rehabilitation and release. Any transfer may not be a sale, purchase, barter, or other commercial transaction. Wildlife rehabilitators may be permitted by the Department by demonstrating the following:

a. All captive reptiles and amphibians must receive proper care to ensure:

i. appropriate bedding, cover, temperature regulation, and secure shelter;

ii. potable water is accessible at all times or sufficient to meet daily requirements;

iii. food of a quantity and nutritive value to meet normal requirements; and

iv. an effective program for the control of diseases, parasites, and pests is established and maintained.

b. Any permitted wildlife rehabilitator must show proof of veterinary care either:

i. by being a licensed veterinarian; or

ii. with a letter from the treating or consulting veterinarian, or veterinary practice, listing the permit holder and those species for which the veterinary practice will provide treatment or consultation.

c. Providing an annual report documenting all reptiles and amphibians transferred to the permitted individual or facility and from the permitted individual or facility and will describe the final disposition of each individual.

13. Native American Indian tribes recognized Federally or by the State of South Carolina's Commission for Minority Affairs, pursuant to S.C. Code Section 1-31-60, and their members may transfer possession of parts of dead native reptiles when such parts are or will be incorporated in Native American cultural items and religious items, including but not limited to regalia, decorative attire, religious items, and musical instruments. This exception does not apply to live animals.

B. An otherwise lawful collection of native reptiles or amphibians may be exported from the State of South Carolina if an export permit is first obtained from the Department. Export permits are only available when an individual or legal entity is permanently relocating to another state.

C. Temporary export permits for native reptiles and amphibians may be granted at the discretion of the Department for the purposes of education, rehabilitation, and conservation where the animals will return to their state of origin.

D. Any state endangered or threatened and in need of management species are subject to the protections provided by S.C. Code Sections 50-15-10, *et seq.* and shall not be possessed or transferred except by permit issued by the Department.

E. The penalties for violation of this regulation are prescribed in S.C. Code Section 50-15-80.

123-151.4. Possession Limits for Certain Native Reptiles and Amphibians.

A. A person shall not possess any species listed as endangered or threatened and in need of management pursuant to S.C. Code Sections 50-15-10, *et seq.* except by permit issued by the Department.

B. A person shall not possess more than 10 native turtles in aggregate.

C. Any person in possession of more than 10 native turtles and in excess of the established possession limits as of September 28, 2020 has 90 days from September 28, 2020 to register with the Department the current number by species of native turtles, both wild-caught and captive born, in their possession. No additional turtles may be acquired until such time as the number of turtles in possession is below the limit set in regulation.

D. A person shall not possess more than 2 eastern box turtles (*Terrapene carolina*). Any person in possession of eastern box turtles in excess of the established possession limits as of September 28, 2020 has 90 days from September 28, 2020 to register with the Department the current number of eastern box turtles, both wild-caught and captive born, in their possession. No new turtles may be acquired until such time as the number of turtles in possession is below the limit set in regulation. Registered turtles will be assigned a unique identification number and must be shell notched with the identification number provided.

1. Permit applicants will shell notch turtles in their possession as prescribed by the Department with the Department issued identification numbers. Permit applicants must provide evidence of applied shell notches and signed affidavit confirming all individual turtles in their possession were shell notched as directed by the Department and that they understand the regulations as they pertain to eastern box turtles. Upon completion, the Department will issue a permit for the registered box turtles.

2. Box turtle permit holders will be required to submit an annual report on the status and number of registered box turtles on a Department provided form.

E. A person shall not possess more than 2 diamondback terrapins (*Malaclemys terrapin*). This provision does not prohibit the incidental catch of diamondback terrapins by persons engaged in a lawful fishery when the terrapins are returned immediately to the water.

F. A person shall not possess more than 5 turtles total from any of the following species/subspecies: Florida cooter (*Pseudemys floridana*), river cooter (*Pseudemys concinna*), chicken turtle (*Deirochelys reticularia*), eastern painted turtle (*Chrysemys picta*), spiny softshell turtle (*Apalone spinifera*), Florida softshell turtle (*Apalone ferox*), eastern mud turtle (*Kinosternon subrubrum*), striped mud turtle (*Kinosternon bauri*), common musk turtle (*Sternotherus odoratus*), yellow-bellied slider (*Trachemys*

scripta) and common snapping turtle (*Chelydra serpentina*). The above limit does not apply to the lawful possession of yellow-bellied slider (*Trachemys scripta*) species and the common snapping turtle (*Chelydra serpentina*) species pursuant to Regulation 123-151.3.

G. The Department may issue scientific collection permits as described in Regulation 123-150.3 in excess of the above limits for scientific and conservation purposes.

H. Zoos and Aquaria maintaining accreditation or certification by the Association of Zoos and Aquariums, accredited research institutions under Institutional Care and Use Committees, schools and educational displays open to the public, and Department permitted wildlife rehabilitators may request a permit to exceed the above listed possession limits at the discretion of the Department.

I. Pursuant to S.C. Code Section 50-15-15(B), no native reptiles or amphibians may be possessed or transferred pursuant to S.C. Code Section 50-16-60 except as provided in Regulations 123-151.3 and 123-150.4.

J. The penalties for violation of this regulation are prescribed in S.C. Code Section 50-15-80.