

15A NCAC 10B.0124 COMMERCIAL TAKE OF CERTAIN TURTLES AND TERRAPINS PROHIBITED

(a) It shall be unlawful to engage in the commercial taking of any turtle, terrapin or tortoise species, whether native or non-native.

(b) "Commercial taking" is defined as the taking, possession, collection, transportation, purchase or sale of five or more non-permitted individual turtles, terrapins, or tortoises, or any part thereof, in any given year.

(c) This rule shall not apply to the following:

(1) A licensed veterinarian or holder of a valid rehabilitation permit when involved with medical treatment or rehabilitation;

(2) A bona fide zoo operated by the federal government, the State, or a unit of local government;

(3) Any bona fide scientific, biological, medical, veterinary, education, or research institution;

(4) Any person who accidentally collects greater than four turtles from these families incidental to any lawful activity, and who immediately returns them to the wild;

(5) Property owners who legally apply for and receive depredation permits from the Wildlife Resources Commission or one of its Wildlife Damage Control Agents.

(d) Any person who was in lawful possession of more than four specimens in aggregate on June 30, 2003 must apply for a Possession Permit to retain them. The permit to retain these specimens must be applied for by **January 1, 2007**. The permit shall be valid for so long as the specimens remain in the lawful possession of the permittee if annual reporting and renewal requirements are met, and at a minimum, shall be subject to the following conditions:

(1) The specimens may not be released to the wild except with specific written permission from the Wildlife Resources Commission.

**Comment:** The PRT working group of NCPARC decided to include all turtle species, native and non-native, in the prohibition of commercial take. This protects the 5 species of native turtles (1 snapper and 4 kinosternid species) that were not included in the original turtle law (adopted by the General Assembly in 2003) from the increased pressure they may (and have been reported to) face now that the take of all other native species is prohibited. It also protects non-natives from sale and un-permitted possession, and thereby makes enforcement of the protection of our native turtles much simpler: officers will merely need to determine if the animal in question is a turtle, not if the animal in question is a specific species of turtle.

**Comment:** In part "b" commercial taking is defined to include several actions including possession and purchase/sale of "non-permitted" turtles. This wording, combined with wording in part "d" makes the rule function as follows: Large-scale collecting or killing of five or more turtles from the wild in any year is illegal. Collection Licenses will not be issued to exceed this limit. Section "b" also means that you may collect, take, etc. up to 4 individual turtles in a given year without being guilty of Commercial Taking. If you are not collecting turtles from the wild but were in possession of five or more turtles (either from the wild or captive-bred) when the turtle law went into effect, you may keep those turtles in your possession if you obtain a possession permit as described in "d." The words "non-permitted" in section "b" make the commercial taking definition apply to wild turtles and undocumented (non-permitted) turtles only. Therefore once you have acquired a possession permit for a particular turtle, what you do with it (possess it, transport it, sell it) does not qualify as Commercial Take. If you already have 4 un-permitted turtles from a previous year, and you wish to take (collect/buy/etc) another turtle in a...

**Comment:** By "not apply to the following" section "c" merely means that the individuals listed in 1-3 will be able to apply for and receive collection licenses for turtles in excess of 4 individuals (whereas other people may not be issued these licenses to exceed the collection limit of 4 individuals). These "1-3" individuals also may acquire possession permits to keep greater than 4 turtle specimens. Individuals listed in "4" and "5" of this section can not be issued collection licenses to exceed the collection limit, but are special cases in which other regulations will apply to their specific activities.

**Comment:** This date will be set by the WRC when the rule's adoption date is better known.

(2) Any offspring of such lawfully permitted specimens may be lawfully retained if reported to the Wildlife Resources Commission in annual Possession Permit reports.

**Comment:** Annual reports will be required that will detail the numbers and species of turtles in possession, the number acquired in the past year, the source of the acquisition, the disposition (death, sale, trade) of turtles no longer in possession, etc.

(3) Lawfully possessed specimens, and lawfully permitted offspring of any such specimens, may be sold to any (lawful buyer) in accordance with applicable federal and state laws and regulations.

**Comment:** The use of the term "lawful buyer" means that a buyer must be able to possess the animals in question (ie, he must have the necessary licenses and permits from the WRC and other federal agencies if required). It will be the responsibility of both the buyer and the seller to ensure that the other party in the transaction is legal. If you are a legal seller (you had the appropriate possession permit to possess the animal in question) but you sell to an unlawful buyer (someone that possesses more than 4 turtles and has no possession permit, for example) then you illegally sold your turtle. Likewise if you are a legal buyer (you have a possession permit for the 5 turtles already in your possession for example, or this is the first turtle you have ever acquired and therefore you do not need a possession permit since you are under the possession limit) but you purchase a turtle from someone that is an unlawful seller (he has more than 4 turtles and no possession permit, or you know that he just collected a tub full of box turtles from highways—an illegal action if he collected more than 4) then you illegally purchased the turtle.

(e) Any person who violates this section is guilty of a misdemeanor and is punishable as provided in G.S. 113-135.

(f) Violators are subject to a replacement cost per individual turtle that will equal the replacement cost for "species with no open season" as set forth in 15A NCAC 10B.0117(c) until such time as replacement costs for each genus of turtle in these families can be established by the Wildlife Resources Commission.

**Comment:** The dollar value on this replacement cost is \$54.00 per turtle.

In part “b” commercial taking is defined to include several actions including possession and purchase/sale of “non-permitted” turtles. This wording, combined with wording in part “d” makes the rule function as follows: Large-scale collecting or killing of five or more turtles from the wild in any year is illegal. Collection Licenses will not be issued to exceed this limit. Section “b” also means that you may collect, take, etc. up to 4 individual turtles in a given year without being guilty of Commercial Taking. If you are not collecting turtles from the wild but were in possession of five or more turtles (either from the wild or captive-bred) when the turtle law went into effect, you may keep those turtles in your possession if you obtain a possession permit as described in “d.” The words “non-permitted” in section “b” make the commercial taking definition apply to wild turtles and undocumented (non-permitted) turtles only. Therefore once you have acquired a possession permit for a particular turtle, what you do with it (possess it, transport it, sell it) does not qualify as Commercial Take. If you already have 4 un-permitted turtles from a previous year, and you wish to take (collect/buy/etc) another turtle in a subsequent year, you must first get a possession permit for the turtles you have, so that acquiring a fifth turtle will not put you over the magic number of 5 or more un-permitted turtles. If you are someone who has 4 or fewer pet turtles and you never plan to collect or acquire another, then you need not have any permits. The “any given year” portion of this section allows for the continued acquisition by hobbyists of additional turtles (max of 4 in a year if the hobbyist obtains appropriate possession permits) from the wild or from other sources if they so desire. It does not allow any one, permitted or otherwise to collect 5 or more turtles from the wild in a given year, however.