

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 481A.39, 481A.67 and 482.1, the Natural Resource Commission (Commission) hereby amends Chapter 86, “Turtles,” Iowa Administrative Code.

2016 Iowa Acts, House File 2357 (HF 2357), signed by Governor Branstad on March 23, 2016, specifically instructs the Commission to adopt rules establishing commercial and recreational seasons and daily catch limits on turtles. Iowa law requires the Commission, in partnership with the Department of Natural Resources (DNR), to manage the state’s turtle population for posterity.

Many surrounding Midwest states have determined their turtle populations can only be sustainably managed by entirely closing commercial harvest (e.g., North Dakota, South Dakota, Nebraska, Kansas, Illinois, and Indiana). The Commission considered this approach. However, as an interim measure and pending the results of HF 2357’s five-year study, the Commission has instead determined that commercial and recreational harvest can continue so long as egg-laying females are protected during most of their nesting season and with restrictive daily catch and possession limits. These amendments are structured accordingly.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 9, 2016, as **ARC 2802C**. The Commission held three public hearings on November 29, 2016. Twenty-six comments were received during the public comment period. Nineteen people spoke in favor of more restrictive turtle harvest regulations, and seven individuals were opposed to the amendments. Comments from those supporting stricter regulations ranged from supporting the proposed amendments to requesting a total ban on commercial harvest. Supporters believe that the science used shows the need for harvest restrictions and that the proposed amendments protect turtles and allow commercial harvest. Opposing comments stated that science does not support the amendments, that the new restrictions will put harvesters out of business or reduce their income, and that only rule changes mandated by HF 2357 should be considered. Opposing comments did not present any information to disclaim the underlying science used in this rule making, nor was specific information on job and income impacts provided. Accordingly, no changes from the Notice have been made.

Although the Commission does not anticipate a significant change in the number of licensed turtle harvesters, buyers, or helpers due to this rule making (or in the sale of recreational fishing licenses generally), there is the possibility of a negative impact on the commercial turtle harvest industry. There may be a loss of jobs and individual harvesters may experience a reduction in income because there will be fewer days to harvest turtles under the new season. The Commission has attempted to mitigate any job or income loss in the rule while still setting seasons and daily catch limits as required by HF 2357. The Commission is amending Chapter 86 so as to protect Iowa’s wild turtle population, held in trust for the public, for posterity; these amendments will ensure the long-term sustainability of Iowa’s commercial turtle harvest industry and protect jobs related to it into the future.

Nothing in this rule making applies to aquaculture operations already regulated pursuant to Iowa Code sections 481A.141 to 481A.145 or 571—Chapter 89. In addition, these amendments do not implement any requirements that may be imposed on commercial harvesters and buyers by the U.S. Department of State or U.S. Fish and Wildlife Service due to the proposed inclusion of wild spiny softshell, smooth softshell, and common snapping turtles in Appendix 3 of the Convention on the International Trade of Endangered Species (CITES).

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.4, and 482.11.

These amendments shall become effective on March 22, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 86.1(1) as follows:

86.1(1) ~~Permissive catch~~ *Species and season.* It shall be lawful to commercially and noncommercially (recreationally) take common snapping turtles, softshells, spiny softshell (Apalone

spinifera), smooth softshell (*Apalone mutica*), and painted (*Chrysemys picta*) turtles from July 16 to May 14. Common snapping turtles (*Chelydra serpentina*) may be taken commercially from July 16 to May 14, but may be taken recreationally year-round. ~~Possession of alligator snapping turtles is not permitted.~~ The taking of turtle eggs from wild nests is prohibited. Turtles shall not be harvested from gear set prior to midnight on July 15.

ITEM 2. Rescind subrule 86.1(3) and adopt the following **new** subrule in lieu thereof:

86.1(3) Daily catch and possession limits.

a. The following daily catch limits apply to commercial and recreational harvesters, while the possession limits apply only to commercial harvesters:

Turtle Species	Daily Catch Limit (commercial and recreational)	Possession Limit (commercial only)
Common snapping turtle	4	20
Spiny softshell and smooth softshell turtle, in aggregate	1	5
Painted turtle	1	5

b. The possession limit for recreational harvesters is a maximum of 100 pounds of live turtles or 50 pounds of dressed turtles pursuant to Iowa Code section 483A.28. A recreational harvester’s daily catch limit shall not exceed this possession limit.

ITEM 3. Rescind subrule 86.1(4) and adopt the following **new** subrule in lieu thereof:

86.1(4) Culling. It is unlawful to sort, cull, high-grade, or otherwise replace any turtle in possession.

ITEM 4. Renumber subrule **86.1(5)** as **86.1(7)**.

ITEM 5. Adopt the following **new** subrule 86.1(5):

86.1(5) Tags. All harvesters shall affix a weather-resistant gear tag above the waterline to each piece of gear. The gear tag must plainly show the name, address, and license number of the licensee.

ITEM 6. Adopt the following **new** subrule 86.1(6):

86.1(6) Gear attendance. All turtle traps shall be set with the top of the trap visible above the waterline at all times and shall be checked and completely emptied of catch at least once every 72 hours. When a turtle trap is checked, turtles shall either be taken into possession, up to the daily catch limit, or immediately released.

ITEM 7. Amend rule **571—86.1(481A,482)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 as amended by 2016 Iowa Acts, House File 2357, 482.1, 482.4, and 482.11.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/15/17.