

**Administrative Rules
GOVERNOR'S OFFICE PRECLEARANCE FORM**

Agency:	Natural Resource Commission and Iowa Department of Natural Resources (DNR)
IAC Citation:	IAC 571 – Chapter 86, “Turtles”
Agency Contact:	Martin Konrad, 725-8447, Martin.Konrad@dnr.iowa.gov
Statutory Authority:	Iowa Code §§ 481A.38, 481A.39, 482.1, 482.4, 482.11
Preclearance Requested Review Deadline:	February 12, 2015
<p><u>Purpose of Proposed Rule:</u> The purpose of the proposed rule is to establish a July 16 through December 31 sport and commercial harvest season on snapping, smooth softshell, spiny softshell, and painted turtles; and to implement the legislative requirement from 2012 that requires turtle harvesters to be responsible for their own gear tags.</p>	
<p><u>Need for Proposed Rule:</u></p> <p>The proposed rule would establish a season for the harvest of wild turtles in Iowa. This limited harvest season, which will apply to the harvest of all turtle species identified in the rule, is proposed to protect egg-laying females during most of their nesting season so populations can be managed for long-term sustainability. Currently, there is an unlimited season on the harvesting of turtles in Iowa.</p> <p>The limited season was recommended by a Committee of DNR’s professional biologists who are experienced in managing wild populations and who regularly communicate with other wildlife professionals in surrounding states. This Committee evaluated twenty-six years of reported Iowa wild turtle harvest statistics and wild turtle life history research literature to arrive at this recommendation. Based on the Committee’s findings, it is the DNR’s position that Iowa turtle populations cannot endure current levels of harvest and the proposed season is necessary to sustain future sport harvest and a commercial turtle industry.</p> <p>The Committee compiled its findings in a document entitled, “Iowa’s Commercial Turtle Harvest,” which is available upon request. The Committee determined the following:</p> <ul style="list-style-type: none"> • The number of turtle harvesters and total pounds of turtles harvested has significantly increased from 1987 to 2012. • Females do not reach reproductive maturity until they are about eight-years-old, meaning they must live longer before they can reproduce. • Female turtles lay eggs in the spring, typically in clutches of approximately 35 eggs. A typical nest has a 70% chance of being destroyed. Mortality of the eggs and young turtles is influenced most notably by predation, weather, flood, and impacts to habitat. • Neither gender is approaching their expected maximum size. Females are being harvested at roughly 80% of their historic maximum sizes; males, at roughly 55%. • Sampling found few-to-no small or intermediate-sized turtles in either gender, meaning there is little-to-no recruitment. The lack of small to intermediate sized turtles is an expected consequence of having too few large adults in a population. <p>Restricted harvest seasons, size limits, stocking programs, and total harvest closures are management</p>	

practices used by resource agencies across the country to manage wild populations. The Committee considered the total harvest closure of wild turtles and the creation of a turtle stocking program, but these alternatives were not chosen for the reasons set out in the Jobs Impact Statement. Later the DNR also considered length limits, but, again, for the reasons set out in the Jobs Impact Statement, this alternative was not selected. In the end, the DNR selected a restricted harvest season because of its proven effectiveness, simplicity, and enforceability in managing other wild populations.

The proposed season is a proactive approach to avert what happened to the commercial harvest of channel catfish and washboard mussels on the Mississippi River. Reviewing the history of management efforts on the commercial harvest of channel catfish and washboard mussel provide support for why the turtle harvest season is necessary and appropriate. Both species were severely overharvested. Management efforts implemented for channel catfish led to a successful recovery and a sustainable commercial fishery. Management efforts for washboard mussel were unsuccessful because commercial harvest combined with low reproduction survival rates, habitat loss, and an endemic disease led to the demise of the washboard mussel community in Iowa. Turtles and washboard mussels are similar in that they are both long-lived, have a slow rate of maturation, have low reproductive success rates, recruit low numbers of young to adult size, and face loss of available habitat.

An additional change to the subrule 86.1(3) is proposed to conform to Iowa Code section 482.4(3), which was amended in 2012 to make commercial turtle harvesters responsible for their own gear tags.

Stakeholder Engagement:

The DNR strived to include as many stakeholders as possible prior to initiating this rulemaking effort. DNR held four in-person meetings on January 28 and 29, 2014 in Muscatine and Des Moines. (Note: DNR rescheduled these meetings from their original dates to accommodate more stakeholders' attendance.) DNR invited all 2013 commercial turtle harvesters (156), turtle buyers (14), and commercial fishers (109) to attend the meetings. In addition, DNR invited twenty-five non-consumptive users. In the invitation letters DNR asked stakeholders to share meeting information with others as an avenue to inform, invite, and encourage even more stakeholder involvement.

The agenda for each stakeholder meeting was the same. DNR provided a background on the EO71 and rulemaking process; the purpose of the meeting (being to engage stakeholders on the potential impacts of the rule); and a discussion of the proposed rule. On several occasions, during the meetings, DNR encouraged turtle harvesters to provide income information in an effort to assist DNR with preparing a jobs impact statement. DNR extended the informal comment period through February 23, 2014 to allow for submission of additional comments and information than might be submitted or available at these meetings. DNR used the information received during this informal comment period to prepare a jobs impact statement and to evaluate alternatives to the proposed rule.

Through this process, the DNR received input from:

- 46 persons, including 38 consumptive and 8 non-consumptive users, who participated in the Muscatine and Des Moines meetings.
- 301 people emailing support for the season and 8 individuals who opposed the season.
- 26 phone calls; of these 6 supported the season, 16 stakeholders opposed the season, and 4 requested information so they could make an informed decision.

- 6 letters in support of the season and 5 letters in opposition to the season.
- 90% of the commenters (313) supported the proposed rule; 10% (29) opposed the rule.

DNR does not expect that the proposed season will have any material impact on Iowa's international trade with the Asian markets. This is likely why the DNR did not receive a single comment referencing international trade concerns.

A compilation of comments received during this stakeholder engagement and DNR's responses to the most significant comments are available.

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Natural Resource Commission and Iowa Department of Natural Resources (DNR)
IAC Citation:	IAC 571 – Chapter 86, “Turtles”
Agency Contact:	Martin Konrad, 725-8447, Martin.Konrad@dnr.iowa.gov
Statutory Authority:	Iowa Code §§ 481A.38, 481A.39, 482.1, 482.4, 482.11

Objective:	The purpose of the proposed rule is to establish a July 16 through December 31 sport and commercial harvest season on snapping, smooth softshell, spiny softshell, and painted turtles, and to update the rule to reflect legislation from 2012 that requires turtle harvesters to be responsible for their own gear tags.
Summary:	<p>The proposed rule would establish a July 16 through December 31 harvest season on snapping, smooth softshell, spiny softshell, and painted turtles. Currently, there is an unlimited season on the harvesting of turtles in Iowa.</p> <p>DNR is proposing this limited harvest season for turtles to protect egg-laying females during most of their nesting season so populations can be managed for long-term sustainability, which benefits the State of Iowa’s turtle populations and also ensures the future commercial harvest of turtles.</p> <p>The limited season was recommended by a Committee of DNR’s professional biologists whose task was to compile and review material for the purpose of determining the status of wild turtle populations. This Committee evaluated twenty-six years of reported Iowa turtle harvest statistics and wild turtle life history research literature to arrive at this recommendation. Based on the Committee’s findings, it is the DNR’s position that Iowa turtle populations cannot sustain current levels of harvest and the proposed season is necessary to sustain a long-term commercial turtle industry. The Committee compiled its findings in “Iowa’s Commercial Turtle Harvest,” a white paper available upon request.</p> <p>In addition, the change to subrule 86.1(3) is proposed to conform to Iowa Code section 482.4(3), which was amended in 2012 to make commercial turtle harvesters responsible for their own gear tags.</p>

2. JOB IMPACT ANALYSIS

<input type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
_____ No Job Impact on private sector jobs and employment opportunities in the State.

(If you make this determination, you must include the following statement in the preamble to the rule: "After analysis and review of this rulemaking, no impact on jobs has been found.")

Explanation:

X Fill in this box if impact meets either of these criteria:

Positive Job Impact on private sector jobs and employment opportunities in the State.

Negative Job Impact on private sector jobs and employment opportunities in the State.

Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:

The commercial turtle industry consists of turtle harvesters, turtle harvest helpers, and turtle buyers, all of whom must be licensed by the DNR to harvest and/or buy wild turtles in Iowa. According to DNR records, the following licenses were issued on average over the past three years:

- 168 harvesters
- 18 turtle harvest helpers
- 14 turtle buyers per year

Although the DNR does not anticipate a significant change in the number of licensed turtle harvesters, buyers, or helpers from this proposed rulemaking, there may be a potential negative impact on jobs in the commercial turtle harvest industry. Individual harvesters may experience a reduction in income because there will be fewer days to harvest turtles under the proposed season.

As a final point regarding the impact on jobs from this rulemaking, the purpose of DNR's proposed turtle season is to protect Iowa's wild turtle populations, which in turn will support the long-term sustainability of Iowa's commercial turtle harvesting industry. DNR believes that any short term negative jobs impact will eventually be outweighed by a vibrant commercial turtle harvesting industry well into the future.

Categories of jobs and employment opportunities that are affected by the proposed rule:

- Commercial turtle harvesters – self employed
- Commercial turtle harvester helpers – employed by a turtle harvester
- Commercial turtle buyer – self employed
- Seasonal employment by commercial turtle buyers

Number of jobs or potential job opportunities:

Unknown.

Regions of the state affected:

This proposed rule will have a statewide affect.

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write “Not Possible to Determine.”)

Stakeholders did not provide information on additional cost to them if the proposed rule were to be implemented. DNR believes that harvesters will need to purchase additional harvest gear if they were to increase netting effort to minimize loss of income during the proposed open season. The amount of additional gear required is dependent on the harvester, whether they would supplement efforts during an open season and how much gear they have. Because of these unknowns and variation, additional costs to the harvester cannot be estimated.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

Besides the proposed season, the Committee considered these other alternatives to sustain wild turtle populations and industry.

Total harvest closure: The most restrictive alternative is a complete closure to the harvest of wild turtles, common in many surrounding Midwestern states. Illinois, Wisconsin, Nebraska, South Dakota, Kansas, Michigan, and Indiana do not allow the commercial harvest of wild turtles. However, available information does not support the need for this approach.

Creation of a hatchling stocking program, including a state-managed hatching facility: This approach would require substantial initial capital investment to develop a state-run turtle hatching facility and then would require future additional management costs for the staff required to operate the facility, both of which would cause a significant fiscal impact to state government. The average annual revenue derived from the sale of commercial turtle licenses is \$19,200. The amount of revenue required just to manage such a facility, not including the outlay of capital investment to construct it, would exceed that amount. Moreover, there is no known research available suggesting what magnitude of stocking program would be needed to successfully sustain wild turtle populations.

Length Limits: All four harvest turtle species reach different sizes at sexual maturity and in some species one sex reaches a much larger size than the other. These characteristics therefore would require a separate length limit for each species and possibly separate limits for softshell turtles since the female reaches a much larger size than the male. Moreover, length limits would not afford the protection needed for egg laying females. Females need to be protected because they exhibit high-age at sexual maturity, have infrequent egg-laying events and low reproductive output, and have high nest and hatchling mortality. Length limits do not address these concerns.

Taking no action will leave turtle stock vulnerable in the state, meaning the long-term sustainability of Iowa’s commercial turtle harvest industry would likely be in jeopardy.

A more comprehensive analysis of these alternatives is provided in the “Iowa Commercial Turtle Harvest” report prepared by the Committee and referenced earlier in this document.

4. FISCAL IMPACT

Please see the Fiscal Impact Statement for an identification and description of costs the Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the proposed rule.

5.PREAMBLE

The information collected and included in this Jobs Impact Statement must be included in the preamble of the proposed rule, written in paragraph form. For rules that have no impact on jobs (see the first box in number 2 above), the following statement must be included in the preamble: “After analysis and review of this rulemaking, no impact on jobs has been found.”

**Administrative Rules
FISCAL IMPACT STATEMENT**

Agency: Natural Resource Commission and Iowa Department of Natural Resources (DNR)

IAC Citation: IAC 571 – Chapter 86. “Turtles”

Agency Contact: Martin Konrad, 725-8447, Martin.Konrad@dnr.iowa.gov

Summary of the Rule: The purpose of the proposed rule is to establish a July 16 through December 31 harvest season on snapping, smooth softshell, spiny softshell, and painted turtles, and to update the rule to reflect legislation from 2012 that requires turtle harvesters to be responsible for their own gear tags.

Fill in this box if the impact meets any of these criteria:

- No Fiscal Impact to the State.
 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal Impact cannot be determined.

Brief Explanation:

Revenues to state government from the sale of commercial turtle licenses average \$19,200 per year, and this is not expected to change because of the proposed rule. Additionally, existing staff that monitor the harvest of wild turtles, enforce existing wild turtle regulations, and issue commercial licenses will continue to do so without additional cost to state government. No additional funding or staff time is needed to implement or enforce the proposed rule.

Fill in this box if the impact meets this criteria:

- Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

Brief Explanation:

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
OTHER (Specify)	0\$	0\$
	<hr/>	<hr/>
TOTAL REVENUE	\$0	\$0
Expenditures:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
OTHER (Specify)	0\$	0\$
	<hr/>	<hr/>
TOTAL EXPENDITURES	\$0	\$0

NET IMPACT

This rule is required by State law or Federal mandate.

Please identify the state or federal law:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change: Existing staff that monitor the harvest of wild turtles, enforce existing wild turtle regulations, and issue commercial licenses will continue to do so without additional cost to state government. No additional funding or staff time is needed to implement or enforce the proposed rule.

Fiscal impact to persons affected by the rule: While the DNR does not anticipate this proposed season will result in any meaningful reduction of total license sales, DNR does believe a potential loss of harvesters' income under the proposed rule exists. This loss would be attributed to less total opportunity to harvest wild turtles due to the shortened season.

Based on historical records of the most active turtle harvesters in 2012, 24% of the snapping turtle harvest occurred during the proposed closed season whereas in 2013 this percentage was 58%. (DNR used snapping turtle harvest because it represents 84% of the harvest from 2008 to 2012). Overall, there was an 11% reduction in total turtle harvest between 2012 and 2013. Using an assumption that the proposed rule would reduce harvest by 25% (over twice the observed 11% reduction between 2012 and 2013) and using income figures provided by the stakeholders, the proposed season may result in lost gross income of approximately \$96,651 for all turtle harvesters combined. However, this impact would vary among the harvesters, as the amount harvested varies by individual. On an individual level, the potential income loss would be approximately \$5,420 for the top harvester and only \$1,454 for the lowest earner of the top twenty harvesters. Divided up evenly among all harvesters, this loss is about \$540/harvester.

(Note: 2012 recorded harvest information was used to estimate financial impacts to harvesters because this year represented the highest number of harvesters licensed by DNR and the highest recorded harvest and income reported. During 2012, 179 turtle harvesters reported harvesting 25,767 turtles of all species with a total weight of 240,313 pounds, worth a gross estimated \$386,603. This gross income represents an average of \$2,160 per licensed harvester.)

Some stakeholders estimated the proposed season would reduce their income by 50 to 70%, but none gave any supportive information or justification for these percent losses. Review of harvest reports, as indicated above, show a much lower impact. DNR also notes that harvesters could put forth more effort during the open season to overcome the reductions described above, which occurs in other hunting and fishing seasons. However, during stakeholder meetings, harvesters were insistent that they could not or would not be able to put forth more effort during a restricted season to minimize any loss of income. They gave no explanation as to why.

Stakeholder input indicates that the majority of income derived by most commercial harvesters is used to supplement other income sources. Fur harvesting, mast crop harvesting, or social security were income examples given during the stakeholder meetings. Turtle harvesting does not appear to be a single source of income.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6): No fiscal impact is expected for counties or other local governments because of this proposed rule.

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 481A.38, 481A.39, 482.1, 482.4, and 482.11, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 86, “Turtles,” Iowa Administrative Code.

The purpose of the proposed amendments is to establish a July 16 through December 31 harvest season on snapping, smooth softshell, spiny softshell, and painted turtles, and to update a rule to reflect legislation from 2012 (Senate File 2283, signed by Governor Branstad on May 25, 2012) that requires turtle harvesters to be responsible for their own gear tags. The limited harvest season for turtles is proposed to protect egg-laying females during most of their nesting season to allow populations to be managed for long-term sustainability. This benefits the State of Iowa’s turtle population and also ensures that the commercial harvesting of turtles can exist into the future. The limited season was recommended by a committee of Iowa Department of Natural Resource (Department) professional biologists (Committee) experienced in managing wild populations. The Committee evaluated 26 years of reported Iowa turtle harvest statistics and wild turtle life history research literature to arrive at its season recommendation. The Committee found that the current unlimited season was a major threat to Iowa’s wild turtle populations. The Committee’s findings were compiled and reported in “Iowa’s Commercial Turtle Harvest,” a white paper available upon request.

Although the Commission does not anticipate a significant change in the number of licensed turtle harvesters, buyers, or helpers from this proposed rule making, there may be a potential negative impact on jobs in the commercial turtle harvest industry. Individual harvesters

may experience a reduction in income because there will be fewer days to harvest turtles under the proposed season. The Commission, however, is proposing this season to protect Iowa's wild turtle population, which will also support the long-term sustainability of Iowa's commercial turtle harvesting industry and protect jobs related to it into the future. The complete jobs impact statement is available from the Department upon request.

Any person may submit written suggestions or comments on the proposed amendments through _____, 2015. Such written material should be submitted to Martin Konrad, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034, fax (515)725-8201, or by E-mail to Martin.Konrad@dnr.iowa.gov. Persons who have questions may contact Martin Konrad by E-mail or at (515)725-8447.

A public hearing where persons may present their views orally or in writing will be held *Month, day, 2015 at time pm* Wallace State Office Bldg., Conference Room XX, 502 E. 9th Street, Des Moines, Iowa.

At the meeting, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the proposed amendments. Any person who intends to attend the public hearing and has special requirements such as those related to mobility or hearing impairments should contact the Department to advise of any specific needs.

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

The following amendments are proposed.

ITEM 1. Amend subrule **86.1(3)** as follows:

86.1(3) Tags. Any unattended gear used to commercially take turtles shall have affixed a metal tag provided by the owner bearing the owner's name and address. In addition, commercial turtle fishers shall ~~purchase gear tags from the department of natural resources~~ provide and affix weather-resistant gear tags as required in Iowa Code sections 482.4 and 482.11 ~~and affix~~ to each turtle trap.

ITEM 2. Amend rule ~~567—86.1(481A)~~ by adopting the following **new** subrule:

86.1(6) Season. Turtle species listed in 86.1(1) may be harvested from July 16 to December 31. No turtles may be harvested from gear set prior to midnight on July 16. The limitations on harvest imposed by this subrule shall apply to commercial turtle harvesters and non-commercial harvesters except those who take and possess the turtles described in 86.1(1) for scientific purposes consistent with chapter 571—111.

Date

Chuck Gipp