

**Background Report**  
**Consent Agenda Item 6**  
**September 8-9, 2016**

Consent Item: ISMP Rules – Approval to Publish New Notices

The Commission approved draft language for Notice of Proposed Rules (NPR) to rules 68A-16.003 and 68A-27.003. After additional review of the proposed language and discussions with stakeholders, staff is requesting changes to the proposed language. The new add/delete language for the rules follows. Below is a summary of the changes staff has made since the version seen by the Commission.

Rule 68A-16.003

- The proposed title and language of the rule were changed to address both active and inactive nests.
- The structure of the rule was change to include two paragraphs to improve readability.
- The rule language was substantially changed from the previous version to clarify that the intent of the rule was to address both active and inactive nests, and to ensure the rule was not in conflict with other FWC rules related to migratory birds.

Rule 68A-27.003

- Paragraph (2)(a) was reworded to clarify that Commission-approved guidelines are not defined in Chapter 27 as implied in the earlier draft, but may be used to indicate conduct that does not need a permit.
- The scientific name of the Florida sandhill crane was changed to the name currently accepted for use by the American Ornithological Society.

**68A-16.003 Non-Listed Migratory Bird Nests**

For birds identified by the United States Departments of Interior or Commerce in 50 C.F.R. §10.13 (Migratory Birds) and not listed in Chapter 68A-27 or Rule 68A-16.002, F.A.C.,

(a) the possession, sale, purchase, barter, transport, import, export, or collection of an inactive or active nest (meaning a nest containing eggs or flightless young) or parts thereof are prohibited by the Commission without appropriate Federal authorization.

(b) notwithstanding the prohibitions in (a), on-site destruction of an inactive nest (meaning a nest that does not contain eggs or flightless young) or parts thereof is permitted by the Commission but may require Federal authorization.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New

---

**68A-27.003 Florida Endangered and Threatened Species List; Prohibitions**~~Designation of Endangered and Threatened Species; Prohibitions.~~

(1) No changes.

(2) State-designated Threatened species:

(a) No person shall take, possess, or sell any threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by Commission rule or by permit from the Commission or when such conduct is authorized in a management plan as defined in this Chapter and approved by the Commission, or as authorized in Commission-approved guidelines.

(b) The species in this subsection are hereby declared to be State-designated Threatened Species, and shall be afforded the protective provisions specified.

(c) Fish:

1. Blackmouth shiner (*Notropis melanostomus*),

2. Bluenose shiner (*Pteronotropis welaka*),

~~3~~2. Crystal darter (*Crystallaria asprella*),

~~4~~3. Key silverside (*Menidia conchorum*),

5. Saltmarsh topminnow (*Fundulus jenkinsi*),

6. Southern tessellated darter (*Etheostoma olmstedii maculaticeps*).

(d) Amphibians:

1. Florida bog frog (*Lithobates okaloosae*),

2. Georgia blind salamander (*Eurycea wallacei*).

(e) Reptiles:

1. Barbour's map turtle (*Graptemys barbouri*),

~~2~~4. Florida brownsnake (*Storeria victa*); lower Keys population only,

~~2~~ Peninsula ribbon snake (*Thamnophis sauritus saekeni*); lower Keys population only,

3. Florida Keys mole skink (*Plestiodon egregius egregius*),

4. Florida pine snake (*Pituophis melanoleucus mugitus*),

~~5~~3. Gopher tortoise (*Gopherus polyphemus*). The Gopher tortoise shall be afforded the protective provisions specified in this subparagraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

~~6~~4. Key ringneck snake (*Diadophis punctatus acricus*),

~~7~~5. Rim rock crowned snake (*Tantilla oolitica*),

~~8~~6. Short-tailed snake (*Stilosoma extenuatum*),

~~7~~ Striped mud turtle (*Kinosternon baurii*); lower Keys population only.

(f) Birds:

1. American oystercatcher (*Haematopus palliatus*),

2. Black skimmer (*Rynchops niger*),

3. Florida burrowing owl (*Athene cunicularia floridana*),

~~4~~4. Florida sandhill crane (~~*Grus*~~ *Antigone canadensis pratensis*),

~~5~~2. Least tern (~~*Sternula*~~ *Sterna antillarum*),

6. Little blue heron (*Egretta caerulea*),

7. Marian's marsh wren (*Cistothorus palustris marianae*),

8. Reddish egret (*Egretta rufescens*),

9. Roseate spoonbill (*Platalea ajaja*),

10. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*),

113. Snowy plover (*Charadrius nivosusalexandrinus*),

124. Southeastern American kestrel (*Falco sparverius paulus*),

13. Tricolored heron (*Egretta tricolor*),

14. Wakulla seaside sparrow (*Ammodramus maritimus juncicola*),

15. White-crowned pigeon (*Patagioenas leucocephala*),

16. Worthington's marsh wren (*Cistothorus palustris griseus*).

(g) Mammals:

1. Big Cypress fox squirrel (*Sciurus niger avicennia*),

2. Everglades mink (*Neovison vison evergladensis*).

3. Sanibel rice rat (*Oryzomys palustris sanibeli*),

4. Sherman's short-tailed shrew (*Blarina shermani*),

(h) Crustaceans:

1. Black Creek crayfish (*Procambarus pictus*),

2. Santa Fe crayfish (*Procambarus erythroptus*).

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003. Amended 12-16-03, 7-20-09, 11-8-10, 11-14-11, 8-23-12, 9-19-12, 6-10-15, \_\_\_\_\_*