

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners
From: Kipp Frohlich, Director, Habitat and Species Conservation
Date: February 21, 2019
Subject: Draft Rule – Regulations Related to Bird Traps

Purpose:

Obtain approval to create a new rule within Chapter 68A-16, Florida Administrative Code (F.A.C.) (Rules Relating to Birds) to regulate the use, placement, possession, and transport of bird traps.

Summary:

The Federal Migratory Bird Treaty Act and associated state rule (68A-16.001, F.A.C) prohibit the capture, possession, sale, purchase, and transportation of native birds in Florida. Despite these protections, illegal trapping of native birds has long been a concern in the state, particularly in south Florida, where trapping is thought to be widespread. For example, six individuals were charged in April 2018 with the trafficking of over 400 protected birds. Some of the cases involved severe animal cruelty, and some captured birds were injured or died. A similar law enforcement operation in the early-2000s led to the indictment of six individuals and three pet stores for selling and possessing protected birds. News releases dating back to 1984 point to painted and indigo buntings as the most common target species, although over 20 species were identified in the April 2018 indictment. Those engaged in illegal trapping of birds use a wide variety of bird traps, including specially-constructed cages, mist nets, noose traps, and adhesives. Food, other birds, or recordings of bird vocalizations are used to attract birds to the traps. Illegally-trapped birds, and the traps used to capture them, have been sold at pet stores and informal markets, and birds have been shipped to buyers across the country using boxes with hidden compartments.

Although it is illegal to capture, possess, or sell native birds under existing state rule, there currently are no regulations on the use, placement, possession, or transport of bird traps. In the last 2 years, FWC's Law Enforcement officers have confiscated more than 100 traps containing birds, however many more traps are found without birds. These untended traps are not a violation and are not confiscated, because officers cannot make a case unless they witness birds in the trap or persons with a bird in their possession. These bird traps can still contribute to the continued loss of native birds. Staff recommend establishing regulations regarding the use, placement, possession, and transport of bird traps to provide an additional tool to Law Enforcement officers in the conservation of native birds. The proposed rule language includes exceptions, such as for persons possessing a federal permit or falconry permit and those engaged in activities authorized under F.A.C. Rules 68A-9.010, (Taking of Nuisance Wildlife), 68A-9.012, (Taking of Wildlife on Airport Property) or 68A-12 (Rules Related to Game). Staff conducted targeted outreach to bird researchers, falconers, and nuisance wildlife trappers and incorporated their feedback in the draft rule language.

Staff Recommendation:

Approval to advertise the draft rule Chapter 68A-16.006, F.A.C. as detailed in the rule language provided.

Staff Contacts and/or Presenters:

Kipp Frohlich, Director, Division of Habitat and Species Conservation