

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners
From: Kipp Frohlich, Director, Habitat and Species Conservation
Date: July 17, 2019
Subject: Final Rule – Regulations Related to Bird Traps

Purpose:

Obtain final approval of a new rule within Chapter 68A-16, Florida Administrative Code (F.A.C.) (Rules Relating to Birds) to regulate the use, placement, and possession 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 widespread. 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. Traps used to capture wild birds are sold at pet stores and informal markets, and trapped birds have been illegally shipped to buyers across the country. There currently are no regulations on the use, placement, and possession of bird traps. In the last two years, Florida Fish and Wildlife Conservation Commission (FWC) Law Enforcement Officers have confiscated more than 100 traps containing birds, however many more traps are found without birds. These untended traps contribute to the continued loss of native birds but 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.

The proposed rule regulates the use, placement, and possession 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 for species protected under the Federal Endangered Species Act, a falconry permit, or a captive wildlife permit; those engaged in activities authorized under F.A.C. Rules 68A-9.012 (Taking of Wildlife on Airport Property) and 68A-12 (Rules Related to Game); and persons possessing a license or certain certifications under Chapter 482 Florida Statutes (Pest Control). Businesses registered with the State that sell or manufacture bird traps may possess bird traps for sale. The proposed rule describes a registration process for educational use and exhibition and the permitting requirements for other legal uses. For example, researchers seeking to use traps to capture non-listed and state threatened birds for scientific purposes will continue to obtain permits under Rules 68A-9.002 and 68A-27.007, F.A.C., respectively. Staff conducted outreach to bird researchers, falconers, nuisance wildlife trappers, pest control operators and other stakeholders, and staff incorporated their feedback in the draft rule language. Staff received permission to advertise the proposed rule at the February Commission meeting, and public hearings were subsequently conducted. Staff is now requesting to re-advertise the proposed final Rule 68A-16.006, F.A.C., with changes detailed in the presentation and the rule language provided in the briefing documents.

Staff Recommendation:

Approve the proposed rule language for both advertisement and final adoption as allowed by s.120.54(3) Florida Statutes, without further public hearing.

Staff Contacts and/or Presenters:

Kipp Frohlich, Director, Division of Habitat and Species Conservation