

DRAFT RULE
Bird Trap Regulations - 68A-16.006, F.A.C.
Agenda Item 5-A
July 17, 2019

Summary of Changes in this version: Rather than including an exception for poultry coops and lofts for domestic pigeons under (3), staff added language under the definition in (1) to clarify that poultry coops and lofts for domestic pigeons are not considered bird traps under this rule. Moved the requirement for labeling to (2), and renumbered the remaining sections. Deleted “transport,” “outdoors” and “the attempt to conduct these activities” from the prohibitions in (3) and added “allowing the placement of bird traps.” Updated the language in (3) to add exceptions for permitted wildlife facilities catching escaped birds and for persons possessing a license or certain certificates from the Florida Department of Agriculture and Consumer Services (FDACS) under Chapter 482, F.S., which governs pest control. An exception for possession was added for businesses registered with the Florida Department of State that manufacture and sell bird traps. Added a registration process for possession for educational and exhibition purposes. Added a permitting process for individuals that trap non-native nuisance birds but do not have a pest control license or certification from FDACS under Chapter 482.

Note: The web address for registration of bird traps for educational use or exhibition (4) will be included in the final rule prior to advertisement in the Florida Administrative Register.

NOTICE OF PROPOSED RULE - 68A-16.006, F.A.C.

RULE TITLE: Regulations Related to Bird Traps

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-16.006 Regulations Related to Bird Traps

(1) For the purpose of this rule, a bird trap is any device, material, substance or enclosure designed or used to catch and retain avian species, typically by allowing entry but not exit or by catching hold of a part of the body. Poultry coops and lofts for domestic pigeons are not bird traps under this rule.

(2) Bird traps must be clearly labeled with the Florida Fish and Wildlife Conservation Commission permit number or the exemption being utilized pursuant to subsection (3); and the name, address, and phone number of the person or company placing the trap. Traps without labeling are subject to removal by law enforcement.

(3) The use, placement, or possession of bird traps or allowing the placement of bird traps is prohibited without a permit issued pursuant to Rules 68A-27.007, 68A-9.002, or 68A-16.006(5), F.A.C., with the following exceptions:

(a) Persons possessing a federal permit authorizing the trapping of birds listed under the Federal Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., may use, place, or possess bird traps or allow bird traps to be placed for the purposes specified in the permit.

(b) Persons authorized to trap resident game birds under a state permit or under Chapter 68A-12, F.A.C., may use, place, or possess bird traps or allow bird traps to be placed for the purposes specified in the state permit or in Chapter 68A-12, F.A.C.

(c) Persons possessing a falconry permit may use, place, or possess bird traps or allow bird traps to be placed for the purposes specified in the permit. Persons possessing a falconry permit also may capture birds that are not resident game birds and that are not included in 50 C.F.R. §10.13 (November 1, 2013), List of Migratory Birds, to capture, feed, or train raptors possessed under the person’s falconry permit.

(d) Persons authorized to take wildlife at airports pursuant to 68A-9.012, F.A.C., may use, place, or possess bird traps or allow bird traps to be placed to conduct activities authorized under Rule 68A-9.012, F.A.C.

(e) Persons possessing a federal authorization to trap nuisance, depredating or injurious birds except migratory game birds and birds listed in Chapter 68A-27 or Rule 68A-16.002, F.A.C., may use, place, or possess bird traps or allow bird traps to be placed while conducting the authorized activities.

(f) Captive wildlife facilities holding a valid captive wildlife permit may use, place, or possess bird traps on the permitted property to capture escaped captive birds, provided the permit holder provides notification prior to placement and use of traps to the Florida Fish and Wildlife Conservation Commission Division of Law Enforcement of the number and species of escaped birds, along with the number and type of bird traps set.

(g) Persons or companies possessing one of the following licenses or certifications issued by the Florida Department of Agriculture and Consumer Services pursuant to Chapter 482, F.S., may use, place, or possess bird traps for the capture of birds that are not resident game birds and that are not included in 50 C.F.R. §10.13 (November 1, 2013), List of Migratory Birds:

1. Licenses issued pursuant to Section 482.071, F.S.

2. Certificates for general household pest control and lawn and ornamental pest control issued pursuant to subsection 482.111(2), F.S.

3. Limited certification for governmental pesticide applicators or private applicators in the structural category (Rule 5E-14, F.A.C.) issued pursuant to Section 482.155, F.S.

4. Limited certification for commercial wildlife management personnel issued pursuant to Section 482.157, F.S.

(h) Businesses or corporations registered with the Florida Department of State and engaged in the sale of bird traps may possess bird traps for the purposes of manufacture and sale and are exempt from subsection (2).

(4) The possession of bird traps indoors for educational or exhibition purposes is authorized, provided the bird trap is registered with Florida Fish and Wildlife Conservation Commission at [website to be inserted]. Registration under this subsection does not authorize any other use or placement of bird traps. Persons registering at [website to be inserted] shall provide their name, contact information, the number of traps being registered, whether it is being used for educational or for exhibition purposes and the address that each trap will be located.

(5) Persons not meeting the exceptions in subsection (3) may apply for a permit to use, place, or possess bird traps for the capture of birds that are not resident game birds and that are not included in 50 C.F.R. §10.13 (November 1, 2013), List of Migratory Birds.

(a) Applicants for permits to use, place, or possess bird traps or allow bird traps to be placed in accordance with this section shall submit a completed permit application form WIM 02 (07/19) which is adopted and incorporated herein by reference. Such form is available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-xxxx>, or by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Habitat and Species Conservation, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

(b) Applicants must be at least 18 years old.

(c) Permits shall be valid for one year from the date of issuance.

(d) Prior to use or placement of bird traps outdoors, permittees must notify Florida Fish and Wildlife Conservation Commission Division of Law Enforcement of the species to be targeted, number and types of traps to be set, permit number, and physical location of each trap.

(e) Prior to use or placement of bird traps, permittee must obtain written permission of the landowner or the landowner's designee.

(f) While conducting permitted activities, permittees must have a copy of the permit and a copy of the landowner permission readily available for inspection by Florida Fish and Wildlife Conservation Commission Division of Law Enforcement.

(g) Any incidentally-captured resident game birds or birds included in 50 C.F.R. §10.13 (November 1, 2013), List of Migratory Birds, shall be released immediately, unless the permittee possesses all necessary state or federal authorizations to capture such species.