

# Regulations Related to Bird Traps



Final Rule  
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Florida Fish and Wildlife Conservation Commission

Division: Habitat and Species Conservation

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*All photos in presentation courtesy of David Pharo, US Fish and Wildlife Service, and FWC staff.*

*Photo: Trap seized during enforcement actions, containing a blue jay, female painted bunting, and cardinals.*

## Proposed Rule

- 68A-16.006 - Regulations Related to Bird Traps
  - Regulates use, placement & possession, or allowing placement, of bird traps without a permit, with exceptions



Illegal trapping of native birds has long been a concern in the state, particularly in south Florida, where trapping is widespread. At the February Commission Meeting, staff recommended creating a new rule within Chapter 68A-16, F.A.C. (Rules Relating to Birds) to include regulations regarding the use, placement, and possession of bird traps or allowing bird traps to be placed. Poultry coops and lofts for domestic pigeons are not considered bird traps under this proposed rule.

*Photos: From left to right, traps found in natural habitat, baited for capturing birds; traps confiscated as part of a law enforcement action; bird trap with male indigo bunting.*

## Proposed Exceptions

- Federally-authorized to trap federally-listed species
- Authorized to trap game birds via permit or under Chapter 68A-12, F.A.C.
- Possessing a falconry permit
- Conducting activities for airport safety (Rule 68A-9.012)
- Federally-authorized to trap nuisance species
- Permitted wildlife facilities catching escaped birds
- Possessing a license or certain certificates under Florida Statute 482
- Businesses registered with the Florida Department of State that manufacture or sell bird traps



Proposed language includes exceptions for individuals that use traps for lawful purposes, including persons possessing federal authorizations to trap species listed under the Federal Endangered Species Act; persons authorized to trap game birds through a permit or under Chapter 68A-12, F.A.C.; persons possessing a falconry permit; authorized airport employees or representatives trapping birds for airport safety under Rule 68A-9.012, F.A.C.; persons possessing federal authorizations to trap nuisance, depredating, or injurious birds; permitted wildlife facilities catching escaped birds; and persons possessing a license or certain certificates from the Florida Department of Agriculture and Consumer Services under Florida Statute 482, which governs pest control. For businesses registered with the Florida Department of State, possession is allowed for the manufacture and sale of bird traps, and these businesses are also exempt from labeling requirements.

The final three exceptions were added in recent months based on feedback from zoos, pest control companies and nuisance wildlife control operators.

*Photos: FWC photos of a red-cockaded woodpecker being prepared for translocation by researchers and red-tailed hawk used in falconry; bird traps used for both of these activities are exceptions to the prohibitions of bird trap use.*

## Registration and Permitting Process

- Bird traps can be possessed indoors for educational or exhibition purposes if they are registered and labeled
- Permits for the use of bird traps will be issued to persons that do not meet any of the exceptions and do not have permits for capturing birds under an existing permit process
- Permits limit use of bird traps to persons trapping birds that are not resident game birds and that are not included in 50 C.F.R. §10.13 (List of Migratory Birds)
- Expected to be a small number of stakeholders
- Permit is no-cost



Some bird traps may have educational, historical or decorative value. In order to accommodate these uses of bird traps, a free registration is available; registered bird traps should be labeled and maintained indoors. Registration does not authorize the use or placement of bird traps.

All legal trapping of native birds falls under one of the exceptions or already requires a different permit under existing rules 68A-9.002 or 68A-27.007, F.A.C. For example, researchers already seek a Scientific Collecting Permit under existing rules to trap non-listed or state Threatened bird species. However, there may be some individuals that wish to trap non-native nuisance birds [birds that are not resident game birds and that are not included in 50 C.F.R. §10.13 (November 1, 2013)] that do not meet the exceptions and are not covered under existing rulemaking authority. The draft permit language contains a permitting process for these individuals that trap non-native nuisance birds but do not have a pest control license or certification from FDACs under Florida Statute 482 and do not meet any of the other exceptions in the draft rule. We anticipate that a relatively small number of stakeholders will need to apply.

## Rule Making Process & Public Comment

- Draft rule language provided at February Commission meeting
- Solicited input
  - News release
  - Three webinars
  - E-mail/GovDelivery
  - Targeted outreach to affected groups



The draft rule language was provided at the February 21 Commission Meeting. The proposed rule was published in the Florida Administrative Register in March, but withdrawn to allow more time for stakeholder input and to develop the registration and permitting components. Stakeholders were invited to comment through a news release after the February Commission Meeting, and staff has been taking comments throughout the rule development process. Additionally, staff collected public comment via three webinars in early April. Webinars were announced by e-mail to nuisance wildlife control operators, falconers, researchers, and zoo affiliates, and using GovDelivery. In late April and May, FWC staff conducted additional targeted outreach to ensure feedback from nuisance wildlife control and pest control operators, the Florida Department of Agriculture and Consumer Services, and two national domestic pigeon organizations.

*Photo: Trap seized during enforcement actions, containing painted buntings and indigo buntings.*

## Staff Recommendation

- Approve Final Rule 68A-16.006, F.A.C.



*If the rule is approved for both advertisement and final adoption, Commission staff will file the rules for adoption as allowed by s.120.54(3) Florida Statutes, without further public hearing.*



Today, staff is requesting Commission approval to advertise the proposed rule and file for adoption as soon as possible. If the rule is approved for both advertisement and final adoption, Commission staff will file the rules for adoption as allowed by s.120.54(3) Florida Statutes, without further public hearing.

*Photo: Pictures of male painted buntings in bird traps.*

The following slides are considered backup material and are not anticipated to be part of the actual presentation



## Background

- Federal law & state rule prohibit capture, possession, sale, purchase & transportation of native birds
- Illegal trapping of birds has long been a concern in Florida
- Painted & indigo buntings commonly targeted
- Over 20 species in a 2018 indictment



The Federal Migratory Bird Treaty Act and associated state rule 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. For example, a law enforcement operation led to the indictment of six individuals in April 2018 for trafficking over 400 protected birds. Some of the cases involved severe animal cruelty, and some captured birds were dead or injured. 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. Commonly targeted species include painted buntings and indigo buntings, but the 2018 indictment included more than 20 species.

*Photos, clockwise from top: male indigo bunting, female painted bunting, male painted bunting*

## Types of Traps

- Wide variety of trap types used



Illegal trappers use a wide variety of traps, such as those pictured, which can be baited with food, other birds, or recordings of bird vocalizations as attractants. Trappers also use nets that entangle birds and adhesives to capture birds. Most traps are able to capture multiple birds at one time, and they may be left unattended for long stretches, leading to death and injury of birds within the traps.

Photos: Examples of traps seized during enforcement actions

## The Problem

- Although rules protect birds, there are no state regulations for traps
- Untended traps found in the wild are not a violation, but contribute to the loss of native birds
  - More than 100 traps with birds have been confiscated by FWC law enforcement during the last 2 years
- Law Enforcement must witness a bird in the trap or in possession to make a case



Although it is illegal to capture, possess, or sell native birds under existing state rule, there currently are no regulations on the use, placement or possession of bird traps. In the last 2 years, FWC's Law Enforcement Officers have had more than 200 violations – instances where birds were found in traps – and have confiscated at least 100 of those traps. Many traps are also found without birds, which is not a violation, and these traps are not confiscated. Traps left in the wild may capture and continue to contribute to the loss of native birds, since officers are unable to make a case unless they witness birds in the trap or persons with a bird in their possession.

*Photo: Bird trap in a tree.*