

## Proposed amendments to the Florida Black Bear Conservation Rule

Staff is requesting final approval of proposed changes to the Florida Black Bear Conservation Rule (68A-4.009, F.A.C.):

1) Remove any references to the specific subspecies of the Florida black bear (*Ursus americanus floridanus*) from the rule, including the title. This change is necessary to:

A) Maintain consistency and avoid confusion because all other references to bears in F.A.C.s refer to black bears and do not refer to the specific subspecies Florida black bear, and

B) Clarify that any black bear in Florida is protected under the rule. A Florida black bear is physically indistinguishable from an American black bear or Louisiana black bear, which are the two other subspecies of black bears inhabiting the eastern United States. While we have never found anything but a Florida black bear in Florida through thousands of genetic samples analyzed, removing the subspecies reference from the rule would negate the need to analyze DNA from a bear to prove it is the subspecies and therefore is protected under this rule.

2) Clarify that actions taken in situations where a bear constitutes a public safety risk would not be in violation of this rule (e.g., scaring a bear out of a neighborhood using less-than-lethal methods).

4) Remove (2)(b) permit. By policy change, the FWC now allows partner agencies and other first responders who have been trained by the FWC to scare a bear out of a neighborhood using less-than-lethal methods without requiring a permit.

3) Add an option to the rule for FWC to issue permits to allow property owners or lessees to take a bear for damaging property as part of a bear depredation program. This is important to:

A) Provide a measure of redress for situations in which there are no feasible options the FWC can offer to resolve the property damage that is occurring.

B) Allow a landowner or lessee to be empowered to take action to directly reduce the property damage that is occurring after the FWC has unsuccessfully attempted to trap and remove the offending animal.

C) Specifically target bears that are causing conflicts. While most calls to FWC are not reporting bears damaging property, the bears that damage property have the potential to reduce public tolerance of bear conservation efforts and should not be tolerated.

4) Remove duplicative language from the rule:

A) 'injure' and 'wound' are both listed as prohibited actions and have similar enough

definitions that 'wound' should be removed.

B) 68A-4.009 defines take to include 'capturing', and we have listed 'trap' as a prohibited action, therefore we should remove the word 'trap' as it is duplicative with 'capture'

C) Remove the paranthetical reference '(as that term is defined in Rule 68A-1.004, F.A.C.)' because that is the default definition of take unless the rule defines take itself, and therefore the reference is unnecessary. 68A-1.004(79) states 'The term shall include taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater fish, or their nests or eggs by any means whether or not such actions result in obtaining possession of such wildlife or freshwater fish or their nests or eggs.'

5) Add a new subsection (3) to clarify that people do not need a permit if they are attempting to scare a bear away from people using non-lethal methods and in situations approved by FWC, which are described in guidelines on MyFWC/Bear.

6) Renumber subsection (3) to (4) to accommodate new subsection.

The current language (~~striketrough~~), and proposed language, (underline) follow.

#### **68A-4.009 Florida Black Bear Conservation Rule**

(1) No person shall take, ~~(as that term is defined in Rule 68A-1.004, F.A.C.),~~ possess, injure, shoot, ~~wound, trap,~~ collect, or sell Florida black bears (*Ursus americanus floridanus*) or their parts or ~~to~~ attempt to engage in such conduct except as authorized by Commission rule or by permit from the Commission.

(2) The Commission will issue permits authorizing intentional take of bears when it determines such authorization furthers scientific or conservation purposes which will benefit the survival potential of the species or to reduce property damage caused by bears. For purposes of this rule, ~~a scientific or conservation purpose shall mean~~ activities that are eligible for a permit further the conservation or survival of the species, includinginclude:

(a) Collection of scientific data needed for conservation or management of the species;  
~~and~~

~~(b) Removing bears from situations that constitute a human safety risk or a risk to the well being of the bear.;~~ Taking bears that are causing property damage when no non-lethal options can provide practical resolution to the damage, and the Commission is unable to capture the bear.

(3) The Commission authorizes members of the public to take a bear in an attempt to scare a bear away from people using methods considered non-lethal. Staff shall authorize specific methods and situations that qualify for this authorization at <http://MyFWC.com/bear/>.

~~(3)~~(4) The Commission will provide technical assistance to land owners and comments to permitting agencies in order to minimize and avoid potential negative human-bear interactions

*or impacts of land modifications on the conservation and management of black bears. The Commission will base its comments and recommendations on the goals and objectives of the approved Florida Black Bear Management Plan. The plan can be obtained at <http://MyFWC.com/bear/>.*

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV., Sec. 9, Fla. Const., 379.1025 FS. History—New 8-23-12.*