

**IN THE DISTRICT COURT OF APPEAL  
FIFTH DISTRICT, STATE OF FLORIDA**

Case No. 5D21-0233  
Lower Case No. 2016-CA-007634-O

DAVID W. FOLEY, JR., and JENNIFER T. FOLEY,  
*Appellants,*

v.

ORANGE COUNTY,  
*a political subdivision of the State of Florida, and,*  
ASIMA AZAM, TIM BOLDIG, FRED BRUMMER,  
RICHARD CROTTY, FRANK DETOMA, MILDRED  
FERNANDEZ, MITCH GORDON,  
TARA GOULD, CAROL HOSSFELD, TERESA  
JACOBS, RODERICK LOVE, ROCCO RELVINI,  
SCOTT RICHMAN, JOE ROBERTS,  
MARCUS ROBINSON, TIFFANY RUSSELL, BILL  
SEGAL, PHIL SMITH, *and* LINDA STEWART,  
*individually and together, in their personal  
capacities,*  
*Appellees.*

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**APPENDIX TO APPELLANTS'  
MOTION FOR JUDICIAL NOTICE  
OF PAST AND PRESENT RULES OF THE  
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION**

Appellants  
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**68-1.001 Adoption of Uniform Rules of Procedure; Subject Matter Index; Official Reporter.**

(1) The Uniform Rules of Procedure, Chapter 28, F.A.C., shall be the procedural rules of the Fish and Wildlife Conservation Commission.

(2) The Commission designates Florida Administrative Law Reports (FALR) as its official reporter for purposes of publishing and indexing by subject matter all Commission orders rendered pursuant to exercise of authority granted to the Commission by state statute.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla.Const., 20.331(9) FS. History—New 7-19-06, Amended 1-8-08.*

**68-1.010 General Regulations Relating to Licenses, Permits and Other Authorizations.**

(1) Applications for any license, permit or other authorization issued by the Commission shall be denied based upon any of the following grounds:

(a) Submission by the applicant of materially false information in the application or other supporting documentation relating to the license, permit, or other authorization.

(b) Failure of the applicant to meet eligibility requirements or criteria for issuance of the license, permit or other authorization.

(2) Applications for any license, permit or other authorization issued by the Commission shall, when the factors enumerated in subsection (5) warrant denial, be denied based upon any of the following grounds:

(a) Applicant has received an adjudication other than acquittal or dismissal of any provision of Chapter 379, F.S., or rules of the Commission, or similar laws or rules in another jurisdiction that relate to the subject matter of the application sought.

(b) Submission by the applicant of materially false information in any previously submitted application or supporting documentation relating to the application.

(c) Failure by the applicant to comply with the provisions of subsection (3) in any previously issued license, permit or other authorization.

(3) Those persons issued any license, permit or other authorization by the Commission shall:

(a) Maintain complete and correct written records as required by Commission license, permit, other authorization or regulations.

(b) Submit complete and correct reports as required by Commission license, permit, other authorization or regulations.

(c) Open records and facilities of operation under the license, permit, or other authorization, to inspection by an authorized representative of the Commission.

(d) Fully comply with the conditions set forth for operations under a license, permit or other authorization.

(e) Fully comply with Chapter 379, F.S., and rules of the Commission.

(4) When a person issued any license, permit or other authorization by the Commission fails to comply with any of the provisions of subsection (3), the Commission shall suspend, revoke, or deny a request for renewal of any license, permit or other authorization based on the factors in subsection (5) below. In addition, the Commission shall subject to consideration of the factors listed in subsection (5) hereof, suspend, revoke, or deny renewal of any license, permit or other authorization issued by the Commission if the licensee or permittee defaults on his appearance bond, or receives a disposition other than dismissal or acquittal of a violation of Chapter 379, F.S., or the rules of the Commission, or if such violation is disposed of under Section 921.187, F.S., regardless of adjudication. A plea of nolo contendere shall be considered a violation for purposes of disciplinary action imposed under Chapter 379, F.S., and the rules of the Commission.

(5) Except for the denial of an application pursuant to subsection (1), the following factors shall be considered by the Commission in determining whether to deny, suspend, revoke or deny renewal of any license, permit or other authorization:

(a) The severity of the conduct;

(b) The danger to the public created or occasioned by the conduct;

(c) The existence of prior violations of Chapter 379, F.S., or the rules of the Commission;

(d) The length of time a licensee or permittee has been licensed or permitted;

(e) The effect of denial, suspension, revocation or non-renewal upon the applicant, licensee, or permittee's existing livelihood;

(f) Attempts by the applicant, licensee or permittee to correct or prevent violations, or the refusal or failure of the applicant, licensee or permittee to take reasonable measures to correct or prevent violations;

(g) Related violations by an applicant, licensee or permittee in another jurisdiction;

(h) The deterrent effect of denial, suspension, revocation or non-renewal;

(i) Any other mitigating or aggravating factors that reasonably relate to public safety and welfare or the management and protection of natural resources for which the Commission is responsible.

(6) The provisions of this rule shall not be construed so as to prohibit, limit, or otherwise affect any civil action or criminal prosecution, so as to limit the ability of the Commission to enter into binding stipulations with affected parties in accordance with Section 120.57(3), F.S., or so as to affect the authority of a court or the Commission to require forfeiture of any license, permit or other authorization issued pursuant to Chapter 379, F.S., as provided by law.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const., 379.1025 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.408 FS. History—New 3-24-13.*

### **68-1.010 General Regulations Relating to Licenses, Permits and Other Authorizations.**

The following shall apply to all licenses, permits or other authorizations in addition to requirements specific to individual licenses.

(1) The Commission shall deny applications for any license, permit or other authorization based upon any one or more of the following grounds:

(a) Submission by the applicant of false, misleading, or inaccurate information in the application or in any supporting documentation provided by the applicant or on behalf of the applicant relating to the license, permit, or other authorization, or omission of any information which has a false, misleading or inaccurate effect.

(b) Failure of the applicant to meet eligibility requirements or criteria for issuance of the license, permit or other authorization.

(c) Authorization to conduct the activities requested in the application will endanger the health, safety or welfare of the public, wild animal life, fresh water aquatic life or marine life.

(d) Applicant has received a disposition other than acquittal or dismissal of any provision of chapters 369, 379 or 828, F.S., or rules of the Commission, or other similar laws or rules in this or any jurisdiction that relate to the subject matter of the license, permit or authorization sought.

(e) Failure by the applicant at any time to comply with chapters 369, 379 or 828, F.S., or the rules of the Commission or other laws or rules relating to the subject matter of the license, permit, or other authorization sought.

(f) Submission by the applicant of materially false information in any previously submitted or pending application or supporting documentation relating to the application.

(g) Failure to comply with any final order issued by the Commission, or pay fines or license fees due to the Commission.

(2) The Commission shall revoke or deny the renewal of any license, permit or other authorization based on any one or more of the following grounds:

(a) The licensee, permittee or other holder of authorization has received a disposition other than acquittal or dismissal of any provision of chapters 369, 379 or 828, F.S., or rules of the Commission, or other similar laws or rules in this or any jurisdiction that relate to the subject matter of the license, permit or authorization.

(b) The licensee, permittee or other holder of authorization failed at any time to comply with chapters 369, 379 or 828, F.S., or the rules of the Commission or other laws or rules relating to the subject matter of the license, permit, or other authorization.

(c) The licensee, permittee or other holder of authorization has submitted materially false information in any previously submitted or pending application or supporting documentation relating to the application, or documentation or reports required by the license, permit or authorization.

(d) The licensee, permittee or other holder of authorization is conducting activities under the license, permit or authorization in a manner that endangers the health, safety or welfare of the public, wild animal life, fresh water aquatic life or marine life.

(3) Based upon consideration of aggravating or mitigating factors in an individual case, except for explicit statutory maximum and minimum penalty requirements, Commission may deviate from the licensure actions in subsections (1) and (2), above. The Commission shall consider as aggravating or mitigating factors the following:

(a) The severity of the applicant, licensee, or permittee's conduct;

(b) The danger to the public created or occasioned by the conduct;

(c) The existence of prior violations of chapters 369, 379 or 828, F.S., rules of the Commission or other laws or rules relating to the subject matter of the license, permit, or other authorization sought;

(d) Attempts by the applicant, licensee or permittee to correct or prevent violations, or the refusal or failure of the applicant, licensee or permittee to take reasonable measures to correct or prevent violations;

(e) Related violations by the applicant, licensee or permittee in another jurisdiction;

(f) Any other mitigating or aggravating factors that reasonably relate to public safety and welfare or the management and protection of natural resources for which the Commission is responsible.

(4) When denial of a license, permit or other authorization is required under the provisions of subsection (1) but the license, permit or other authorization was issued in error, the Commission shall, without consideration of the factors in subsection (3), revoke the license, permit or authorization.

(5) When a licensee, permittee or other holder of authorization by the Commission no longer meets the eligibility requirements or criteria for the license, permit or authorization, the Commission shall, without consideration of the factors in subsection (3), revoke the license, permit or authorization.

(6) The licensee, permittee or other holder of authorization by the Commission shall:

(a) Maintain complete and correct written and/or electronic records as required by Commission license, permit, other authorization or regulations.

(b) Submit complete and correct reports as required by Commission license, permit, other authorization or regulations.

(c) Open records and facilities of operation under the license, permit, or other authorization, to inspection by an authorized representative of the Commission.

(d) Comply with the conditions set forth under a license, permit or other authorization.

(e) Comply with chapters 369 and 379, F.S., and rules of the Commission.

(7) The provisions of this rule shall not be construed so as to prohibit, limit, or otherwise affect any civil action or criminal prosecution, so as to limit the ability of the Commission to enter into binding stipulations with affected parties in accordance with section 120.57(3), F.S., or so as to affect the authority of a court or the Commission to require forfeiture of any license, permit or other authorization issued pursuant to chapter 369 or 379, F.S., as provided by law.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const., 379.1025 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.408 FS. History—New 3-24-13, Amended 2-7-19.*

**68A-1.002 Regulation of Wild Animal Life and Freshwater Aquatic Life in the State.**

All freshwater aquatic life in the waters within the jurisdiction of the State of Florida, whether such waters or the lands upon which such waters occur are privately owned or otherwise, is subject to the regulation of the Commission. All wild animal life within the jurisdiction of the State of Florida, whether such wild animal life is privately owned or otherwise, is subject to the regulation of the Commission. The Commission shall regulate migratory birds consistent with the laws of the United States governing the conservation and protection of all migratory birds.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-21-82, Formerly 39-1.02, Amended 4-12-98, Formerly 39-1.002.*

#### **68A-1.004 Definitions.**

The following definitions are for the purpose of carrying out the provisions of the rules of the Fish and Wildlife Conservation Commission relating to wild animal life and freshwater aquatic life. As used herein, the singular includes the plural. The following shall be construed respectively to mean:

- (1) Airboat – Any boat, sled, sea skiff or swamp boat pushed, pulled or propelled by airpower generated by a motor of more than 25 horsepower.
- (2) Alligator exhibit – A facility in which alligators are confined in such a manner that the general public may view the reptiles, with or without fee.
- (3) Alligator farm – A facility in which alligators, hatchlings and eggs have been lawfully reduced to private control, confinement and possession and from which alligators, their hides, meat and products may be sold.
- (4) Alligator hatchling – Any alligator that is less than nine inches in length measured in a straight line along the belly from the tip of the snout to the rear margin of the cloacal vent.
- (5) All-terrain vehicle – An engine-powered vehicle with wheels or tracks of less than a 60-inch wheelbase measured from the center of the forward wheel or hub to the center of the rearmost wheel or hub.
- (6) Amphibians – All members of the class Amphibia (for example frogs, toads, mudpuppies, newts and salamanders).
- (7) Antlered deer – Any deer having one or more antlers at least five inches in length visible above the hairline.
- (8) Antlerless deer – Any deer, except a spotted fawn, that is without antlers or whose antlers are less than five inches in length visible above the hairline.
- (9) Antler point – Any antler projection that is at least one inch in length.
- (10) Archery season – The calendar period during which certain game may be taken only by the use of a bow.
- (11) Artificial bait – Any fish lure that is not a natural food for fish.
- (12) Artificially propagated game – Game that is hatched or born and raised in captivity. The term “artificially propagated” is synonymous with the term “pen raised.”
- (13) Bag limit – The maximum number of individual specimens of fish or wildlife which may lawfully be taken or possessed by one person in a specified time.
- (14) Birds – The various forms of wildlife belonging to the class Aves, having both feathers and wings.
- (15) Bird sanctuary – An area established for the protection of birds and other wildlife in which hunting is prohibited in developed areas in the interest of safety, unless otherwise provided by specific regulation of the Commission.
- (16) Black bass – Any bass included in the genus *Micropterus*.
- (17) Bow – A device consisting of flexible material having a string connecting its two ends for the purpose of discharging arrows; which propels arrows only by the energy stored by the drawing of the device; which has a minimum draw weight of 35 pounds; which is hand-held, hand-drawn and hand-released; which is not equipped with a device that can mechanically hold the bowstring in the drawn (ready to fire) position; and which may include mechanical bowstring release devices provided they are only hand-held.
- (18) Bush hook – A single line with a single hook attached to a tree, bush, shore or other structure.
- (19) Captive wildlife – Any wildlife, specifically birds, mammals, reptiles, and amphibians maintained in captivity for exhibition, sale, personal use, propagation, preservation, rehabilitation, protection or hunting purposes.
- (20) Closed season – The calendar period during which the taking of freshwater fish or wildlife is prohibited.
- (21) Commission – The Fish and Wildlife Conservation Commission, established pursuant to Article IV, Section 9, Florida Constitution.
- (22) Common carrier – Railroad companies, airlines, water carriers, express companies, stage or bus companies, persons or companies operating stages, buses or airplanes, or any such person, firm, or corporation certified as a common carrier by the appropriate state or federal agency.
- (23) Critical Incident – Any condition which results in the release or escape of captive wildlife from its enclosure, cage, leash, or other constraint.
- (24) Critical wildlife area – An area established by the Commission which is regulated to minimize the adverse impact on wildlife due to man-caused disturbance or destruction.
- (25) Crossbow – A device consisting of a bow affixed to a stock for discharging quarrels, bolts, or arrows and which utilizes a non-hand-held locking mechanism to maintain the device in a drawn or ready-to-discharge condition.



(26) Crossbow season – The calendar period in a zone during which certain game may be taken only by the use of a bow or crossbow when authorized by Commission rules.

(27) Daylight hours – The time of day from one-half hour before sunrise until one-half hour after sunset.

(28) Disaster – A sudden calamitous event that causes great damage, loss or destruction. Examples include a hurricane, tornado or other severe storm, flood, wildfire, or any other similar natural disaster, terrorist act, biological or radiological event, or any other similar man made disaster.

(29) Executive director – The administrative head of the Commission.

(30) Falconry – The sport of taking quarry by means of a trained raptor.

(31) Fawn deer – Any native deer with visible spots.

(32) Florida Endangered and Threatened Species – species of fish or wild animal life, subspecies or isolated populations of species or subspecies, whether vertebrate or invertebrate, that are native to Florida which are endangered and threatened under Commission rule as either:

(a) Federally-designated Endangered and Threatened species by virtue of designation as endangered or threatened by the United States Departments of Interior or Commerce under the Endangered Species Act, 16 U.S.C. § 1531, et seq. and rules thereto; or

(b) As a State-designated Threatened species. Florida Endangered and Threatened species retain their status regardless of subsequent changes in scientific nomenclature or subsequent identification of species or subspecies within the species listed.

(33) Freshwater fish – All of the species that are indigenous to fresh water.

(34) Freshwater game fish:

(a) The following members of the Genus *Micropterus*:

1. Largemouth bass (*Micropterus salmoides*).

2. Shoal bass (*Micropterus cataractae*).

3. Suwannee bass (*Micropterus notius*).

4. Spotted bass (*Micropterus punctulatus*).

(b) The following members of the Genus *Pomoxis*:

1. Black crappie (*Pomoxis nigromaculatus*).

2. White crappie (*Pomoxis annularis*).

(c) The following fishes commonly called panfish:

1. Bluegill (*Lepomis macrochirus*).

2. Redear (*Lepomis microlophus*).

3. Redbreast (*Lepomis auritus*).

4. Flier (*Centrarchus macropterus*).

5. Warmouth (*Lepomis gulosus*).

6. Longear (*Lepomis megalotis*).

7. Mud sunfish (*Acantharchus pomotis*).

8. Shadow bass (*Ambloplites ariommus*).

9. Spotted sunfish (*Lepomis punctatus*).

(d) Freshwater white bass (*Morone chrysops*).

(e) Striped bass (*Morone saxatilis*).

(f) White bass-striped bass hybrid and its reciprocal known locally as sunshine bass.

(g) All members of the genus *Cichla* commonly known as peacock bass including the butterfly peacock (*Cichla ocellaris*) and speckled peacock (*Cichla temensis*).

(35) Fish management area – A pond, lake, or other body of water established for the management of freshwater fish, on which public fishing or other outdoor recreation is permitted in accordance with regulations specifically provided for each individual area.

(36) Furbearers – Raccoon, opossum, skunk, nutria, beaver, coyote, fox, bobcat, otter, mink, weasel, and round-tailed muskrat.

(37) Game – Game mammals and game birds.

(38) Game birds – Wild turkey, quail, rails, snipe, woodcock, ducks, geese, brant, dove, coot, common moorhen, and non-native species generally considered game such as pheasant, chukar partridge, and coturnix quail.

(39) Game farm – An area or establishment where game is produced by artificial propagation.

(40) Game mammals – Deer, gray squirrel, rabbits, and non-native species generally considered game such as elk, antelope and

buffalo.

(41) Gun – Shotgun, rifle, pistol, revolver, air gun, gas gun, blow gun, bow, crossbow, or any other device mechanically propelling an arrow, spear, or other projectile.

(42) Legal game – Antlered deer, gray squirrel, rabbit, quail, rail, snipe, woodcock, duck, dove, geese, coot and common moorhen during open seasons established for each species by Rule 68A-13.003, 68A-13.004 or 68A-13.008, F.A.C., unless otherwise stipulated for a particular species in a regulation established for a specific wildlife management area, wildlife and environmental area, public small game hunting area or public use areas.

(43) Light – Any artificial light for use in taking wildlife or freshwater fish.

(44) Mammals – Wildlife belonging to the class Mammalia, having hair and feeding their young on milk.

(45) Migratory birds – All birds included in the Migratory Bird Treaty Act, 16 U.S.C. 703-711.

(46) Migratory game birds – Ducks, geese, brant, rail or marsh hen, coot, common moorhen, snipe, woodcock and doves.

(47) Muzzleloading gun – A firearm that cannot be loaded from the breech and is fired by wheel lock, flintlock, percussion cap, or centerfire primer.

(48) Muzzleloading gun season – The calendar period in a zone during which certain game may be taken only by the use of a bow, crossbow, or muzzleloading gun when authorized by Commission rules.

(49) Non-game fish – All freshwater fish species, except grass carp, not listed in subsection 68A-1.004(36), F.A.C., as freshwater game fish.

(50) Non-performing wildlife – Wildlife which is exhibited to the public in a mobile cage or enclosure and is not removed from such enclosure for regular exercise or performing activities.

(51) Non-protected birds – Birds for which no closed season or bag limit is established.

(52) Non-protected mammals – Mammals for which no closed season or bag limit is established.

(53) Nuisance wildlife – Wildlife that causes or is about to cause property damage, presents a threat to public safety, or wildlife causing an annoyance within, under or upon a building.

(54) Open season – The calendar period during which freshwater fish or wildlife may be lawfully taken.

(55) Performing wildlife – Wildlife that is rehearsed, controlled, or monitored by a trainer and can accomplish a consistent routine conducted under the discipline of the trainer.

(56) Permanent blind – anything that provides shelter, cover, or place of concealment for a person, but does not include any rooted vegetation or a shelter, cover, or place of concealment remaining in place only while the person is present.

(57) Person – The word “person” as used in these rules shall have the same meaning as in Section 1.01, F.S.

(58) Personal pet – Wildlife maintained in captivity primarily for personal use or enjoyment.

(59) Possession – The word “possession” whenever used in these rules shall mean any one of the following:

(a) Manual possession.

(b) Physical possession.

(c) Control or custody.

(d) Possession in one’s clothing, attire or equipment.

(e) Possession in or about a vessel, vehicle or beast of burden under one’s custody or control, including but not limited to compartments, drawers, pockets, trunks, and similar places in and about such vessel, vehicle, or beast of burden.

(60) Possession limit – The maximum number of individual specimens of freshwater fish or wildlife which may be lawfully possessed.

(61) Prepared alligator meat – Alligator meat that is cooked or cured in a manner allowing it to be consumed by humans without further preparation.

(62) Private lands – Lands not owned by, or under any contractual use agreement with, any governmental body.

(63) Private hunting preserve – An area designated and licensed by an individual or concern on which artificially propagated game is taken.

(64) Private pond – Any man-made body of water that is located entirely within the property of the owner of the water body and has no surface water connection to public waters.

(65) Raptor – A bird which is a member of the Accipitridae (except the bald eagle) or Falconidae family; or a great horned owl.

(66) Regions – The following geographical portions of the state:

(a) Southwest Region: Charlotte, DeSoto, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk and Sarasota counties.

(b) North Central Region: Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Suwannee, Taylor and Union counties.

(c) Northwest Region: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton and Washington counties.

(d) South Region: Broward, Collier, Dade, Glades, Hendry, Martin, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

(e) Northeast Region: Brevard, Flagler, Indian River, Lake, Marion, Orange, Osceola, Putnam, Seminole, Sumter, St. Johns and Volusia counties.

(67) Relative – An individual who is related as: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half brother, or half sister.

(68) Reptiles – All members of the class Reptilia (for example, alligators, caimans, crocodiles, turtles, lizards and snakes).

(69) Reptiles of Concern – As designated by the Commission, any member of the class Reptilia, including subspecies, taxonomic successors or hybrids thereof, which due to its nature, has habits or the potential to impact the environment, may be possessed and housed only in accordance with the regulations provided for reptiles of concern.

(70) Resident game birds – Wild turkey and quail.

(71) Restricted hunting area – An area established in which hunting is prohibited in developed areas in the interest of safety unless otherwise provided by specific permit.

(72) Rough fish – Common carp, gars, gizzard shad, threadfin shad, suckers, tilapia and bowfin.

(73) Sell – The transfer of property or other things to a buyer for an agreed price. The term shall include all lesser acts related thereto, such as attempting to sell, offering to sell, to barter, exchange, or trade.

(74) Set line – See bush hook.

(75) Small game – Game species other than deer, wild hog or wild turkey.

(76) Small game season – The calendar period during which small game may be taken, provided that migratory game birds may be taken only during seasons established under Rules 68A-13.003 and 68A-13.008, F.A.C.

(77) Snare – A trapping device consisting of a noose designed to capture wildlife.

(78) Snatch hook – Any device which includes one or more hooks used for the purpose of hooking fish other than in the mouth. A gaff hook used for landing fish taken by hook and line or rod and reel shall not be included in the meaning of the term.

(79) Special season – The calendar period during which specified game species may be hunted only by the use of a designated hunting device at a time other than the general hunting season for that species.

(80) Spring turkey season – The designated spring period during which only gobblers or bearded turkeys may be taken.

(81) Steel trap – Any mechanical device (other than a snare, household mousetraps or devices commonly used to take household and lawn nuisance rodents) designed and used to take wildlife by seizing and holding a part of the body.

(82) Take – 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.

(83) To close – To prohibit the taking of wildlife or freshwater fish.

(84) To open – To permit the taking of wildlife or freshwater fish during the open season.

(85) Total length – In freshwater fish means the straight line distance from the most forward point of the head with the mouth closed to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

(86) Transport – Shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.

(87) Triploid grass carp – Freshwater fish also called white amur, belonging to the family Cyprinidae and known scientifically as *Ctenopharyngodon idella*, which have been genetically altered to contain three sets of chromosomes, thus rendering them functionally sterile. Only such fish as have been determined to be triploid by the producer using scientifically accepted methods and verified by the use of a Coulter Counter by the Commission or by the U.S. Fish and Wildlife Service are included in this definition.

(88) Trotline – A multiple hook and line device consisting of a main line to which shorter lines are attached at intervals.

(89) Untanned skin – Any skin or hide that has not been processed beyond the fleshed, salted or stretched stage.

(90) Venomous reptile – All members of the class Reptilia including their taxonomic successors, subspecies, or any hybrid thereof, regardless of surgical alteration, determined to have the potential to cause serious human injury due to the toxic effects of its

venom or poison. Including all venomous reptiles of the class Reptilia belonging to the families Elapidae, Crotalidae, Viperidae, and Hydrophiidae; all reptiles in the genus *Heloderma*; and all reptiles in the family Colubridae belonging to the genera: *Rhabdophis*, *Boiga*, *Dispholidus*, *Thelatornis*, and *Atractapsis*.

(91) Wild hog – A hog that is free-roaming and which cannot be legally claimed as a domestic hog in private ownership.

(92) Wildlife – All wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.

(93) Wildlife and environmental area – Endangered or environmentally unique habitats which shall have as their primary management objective the protection and conservation of their endangered or unique resources. Outdoor recreation will be specifically provided for in regulations established for each area when such use does not conflict with the primary management objectives.

(94) Wildlife management area – An area of private or public ownership established for the management of wildlife or freshwater fish on which hunting, fishing or other outdoor recreation may be permitted only at such times and under such regulations as are specifically provided for each individual area.

Wildlife management area – Such an area upon which the users are subject to the management area stamp requirements of Section 379.354, F.S., excluding lands owned by the United States of America, Department of Defense.

(95) Wildlife refuge – An area within which the taking of wildlife is prohibited and the taking of freshwater fish is prohibited when so provided by the order establishing the refuge.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-15-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-1.04, Amended 6-1-86, 5-10-87, 10-8-87, 3-1-88, 4-13-88, 4-27-89, 4-11-90, 7-1-92, 4-20-93, 3-1-94, 7-1-94, 4-1-96, 11-23-97, 7-1-98, 6-23-99, Formerly 39-1.004, Amended 7-1-00, 5-1-01, 5-1-03, 7-1-04, 5-26-05, 7-1-06, 4-1-07, 7-1-08, 10-23-08, 7-1-10, 11-8-10.*

#### **68A-1.004 Definitions.**

The following definitions are for the purpose of carrying out the provisions of the rules of the Fish and Wildlife Conservation Commission relating to wild animal life and freshwater aquatic life. As used herein, the singular includes the plural. The following shall be construed respectively to mean:

- (1) Airboat – Any boat, sled, sea skiff or swamp boat pushed, pulled or propelled by airpower generated by a motor of more than 25 horsepower.
- (2) Alligator exhibit – A facility in which alligators are confined in such a manner that the general public may view the reptiles, with or without fee.
- (3) Alligator farm – A facility in which alligators, hatchlings and eggs have been lawfully reduced to private control, confinement and possession and from which alligators, their hides, meat and products may be sold.
- (4) Alligator hatchling – Any alligator that is less than nine inches in length measured in a straight line along the belly from the tip of the snout to the rear margin of the cloacal vent.
- (5) All-terrain vehicle – An engine-powered vehicle with wheels or tracks of less than a 60-inch wheelbase measured from the center of the forward wheel or hub to the center of the rearmost wheel or hub.
- (6) Amphibians – All members of the class Amphibia (for example frogs, toads, mudpuppies, newts and salamanders).
- (7) Antlered deer – Any deer having one or more antlers at least five inches in length visible above the hairline.
- (8) Antlerless deer – Any deer, except a spotted fawn, that is without antlers or whose antlers are less than five inches in length visible above the hairline.
- (9) Antler point – Any antler projection that is at least one inch in length.
- (10) Artificial bait – Any fish lure that is not a natural food for fish.
- (11) Artificially propagated game – Game that is hatched or born and raised in captivity. The term “artificially propagated” is synonymous with the term “pen raised.”
- (12) Bag limit – The maximum number of individual specimens of fish or wildlife which may lawfully be taken or possessed by one person in a specified time.
- (13) Birds – The various forms of wildlife belonging to the class Aves, having both feathers and wings.
- (14) Bird sanctuary – An area established for the protection of birds and other wildlife in which hunting is prohibited in developed areas in the interest of safety, unless otherwise provided by specific regulation of the Commission.
- (15) Black bass – Any bass included in the genus *Micropterus*.
- (16) Bow – A device consisting of flexible material having a string connecting its two ends for the purpose of discharging arrows; which propels arrows only by the energy stored by the drawing of the device; which is hand-held, hand-drawn and hand-released; which is not equipped with a device that can mechanically hold the bowstring in the drawn (ready to fire) position; and which may include mechanical bowstring release devices provided they are only hand-held.
- (17) Bush hook – A single line with a single hook attached to a tree, bush, shore or other structure.
- (18) Captive wildlife – Any wildlife, specifically birds, mammals, reptiles, and amphibians maintained in captivity for exhibition, sale, personal use, propagation, preservation, rehabilitation, protection or hunting purposes.
- (19) Closed season – The calendar period during which the taking of freshwater fish or wildlife is prohibited.
- (20) Commission – The Fish and Wildlife Conservation Commission, established pursuant to Article IV, Section 9, Florida Constitution.
- (21) Common carrier – Railroad companies, airlines, water carriers, express companies, stage or bus companies, persons or companies operating stages, buses or airplanes, or any such person, firm, or corporation certified as a common carrier by the appropriate state or federal agency.
- (22) Critical Incident – Any condition which results in the release or escape of captive wildlife from its enclosure, cage, leash, or other constraint.
- (23) Critical wildlife area – An area established by the Commission which is regulated to minimize the adverse impact on wildlife due to man-caused disturbance or destruction.
- (24) Crossbow – A device consisting of a bow affixed to a stock for discharging quarrels, bolts, or arrows and which utilizes a non-hand-held locking mechanism to maintain the device in a drawn or ready-to-discharge condition.
- (25) Cub bear – A bear that is less than 100 pounds whole (ungutted) or less than 75 pounds eviscerated (gutted) weight.
- (26) Daylight hours – The time of day from one-half hour before sunrise until one-half hour after sunset.

(27) Disaster – A sudden calamitous event that causes great damage, loss or destruction. Examples include a hurricane, tornado or other severe storm, flood, wildfire, or any other similar natural disaster, terrorist act, biological or radiological event, or any other similar manmade disaster.

(28) Executive director – The administrative head of the Commission.

(29) Falconry – The sport of taking quarry by means of a trained raptor.

(30) Fawn deer – Any native deer with visible spots.

(31) Florida Endangered and Threatened Species – species of fish or wild animal life, subspecies or isolated populations of species or subspecies, whether vertebrate or invertebrate, that are native to Florida which are endangered and threatened under Commission rule as either:

(a) Federally-designated Endangered and Threatened species by virtue of designation as endangered or threatened by the United States Departments of Interior or Commerce under the Endangered Species Act, 16 U.S.C. §1531, et seq. and rules thereto, or

(b) As a State-designated Threatened species. Florida Endangered and Threatened species retain their status regardless of subsequent changes in scientific nomenclature or subsequent identification of species or subspecies within the species listed.

(32) Freshwater fish – All of the species that are indigenous to fresh water.

(33) Freshwater game fish:

(a) The following members of the Genus *Micropterus*:

1. Largemouth bass (*Micropterus salmoides*).

2. Shoal bass (*Micropterus cataractae*).

3. Suwannee bass (*Micropterus notius*).

4. Spotted bass (*Micropterus punctulatus*).

5. Choctaw bass (*Micropterus haiaka* (nom. prov.))

(b) The following members of the Genus *Pomoxis*:

1. Black crappie (*Pomoxis nigromaculatus*).

2. White crappie (*Pomoxis annularis*).

(c) The following fishes commonly called panfish:

1. Bluegill (*Lepomis macrochirus*).

2. Redear (*Lepomis microlophus*).

3. Redbreast (*Lepomis auritus*).

4. Flier (*Centrarchus macropterus*).

5. Warmouth (*Lepomis gulosus*).

6. Longear (*Lepomis megalotis*).

7. Mud sunfish (*Acantharchus pomotis*).

8. Shadow bass (*Ambloplites ariommus*).

9. Spotted sunfish (*Lepomis punctatus*).

(d) Freshwater white bass (*Morone chrysops*).

(e) Striped bass (*Morone saxatilis*).

(f) White bass-striped bass hybrid and its reciprocal known locally as sunshine bass.

(g) All members of the genus *Cichla* commonly known as peacock bass including the butterfly peacock (*Cichla ocellaris*) and speckled peacock (*Cichla temensis*).

(34) Fish management area – A pond, lake, or other body of water established for the management of freshwater fish, on which public fishing or other outdoor recreation is permitted in accordance with regulations specifically provided for each individual area.

(35) Furbearers – Raccoon, opossum, skunk, nutria, beaver, coyote, fox, bobcat, otter, mink, weasel, and round-tailed muskrat.

(36) Game – Game mammals and game birds.

(37) Game birds – Wild turkey, quail, rails, snipe, woodcock, ducks, geese, brant, dove, coot, common gallinule, and non-native species generally considered game such as pheasant, chukar partridge, and coturnix quail.

(38) Game farm – An area or establishment where game is produced by artificial propagation.

(39) Game mammals – Deer, gray squirrel, bear, rabbits, and non-native species generally considered game such as elk, antelope and buffalo.

(40) Gun – Shotgun, rifle, pistol, revolver, air gun, gas gun, blow gun, bow, crossbow, or any other device mechanically

propelling an arrow, spear, or other projectile.

(41) Legal game – Antlered deer, gray squirrel, rabbit, quail, rail, snipe, woodcock, duck, dove, geese, coot and common gallinule during open seasons established for each species by Rule 68A-13.003, 68A-13.004 or 68A-13.008, F.A.C., unless otherwise stipulated for a particular species in a regulation established for a specific wildlife management area, wildlife and environmental area, public small game hunting area or public use areas.

(42) Light – Any artificial light for use in taking wildlife or freshwater fish.

(43) Mammals – Wildlife belonging to the class Mammalia, having hair and feeding their young on milk.

(44) Migratory birds – All birds included in the Migratory Bird Treaty Act, 16 U.S.C. 703-711.

(45) Migratory game birds – Ducks, geese, brant, rail or marsh hen, coot, common gallinule, snipe, woodcock and doves.

(46) Muzzleloading gun – A firearm designed to have projectiles loaded through the muzzle and is fired by wheel lock, flintlock, percussion cap, or centerfire primer.

(47) Non-game fish – All freshwater fish species, except grass carp, not listed in subsection 68A-1.004(32), F.A.C., as freshwater game fish.

(48) Non-performing wildlife – Wildlife which is exhibited to the public in a mobile cage or enclosure and is not removed from such enclosure for regular exercise or performing activities.

(49) Non-protected birds – English sparrow and starling.

(50) Non-protected mammals – armadillo, black or norway rat, and house mouse.

(51) Nuisance wildlife – Wildlife that causes or is about to cause property damage, presents a threat to public safety, or wildlife causing an annoyance within, under or upon a building.

(52) Open season – The calendar period during which freshwater fish or wildlife may be lawfully taken.

(53) Performing wildlife – Wildlife that is rehearsed, controlled, or monitored by a trainer and can accomplish a consistent routine conducted under the discipline of the trainer.

(54) Permanent blind – anything that provides shelter, cover, or place of concealment for a person, but does not include any rooted vegetation or a shelter, cover, or place of concealment remaining in place only while the person is present.

(55) Person – The word “person” as used in these rules shall have the same meaning as in Section 1.01, F.S.

(56) Personal pet – Wildlife maintained in captivity primarily for personal use or enjoyment.

(57) Possession – The word “possession” whenever used in these rules shall mean any one of the following:

(a) Manual possession.

(b) Physical possession.

(c) Control or custody.

(d) Possession in one’s clothing, attire or equipment.

(e) Possession in or about a vessel, vehicle or beast of burden under one’s custody or control, including but not limited to compartments, drawers, pockets, trunks, and similar places in and about such vessel, vehicle, or beast of burden.

(58) Possession limit – The maximum number of individual specimens of freshwater fish or wildlife which may be lawfully possessed.

(59) Pre-charged pneumatic air gun – A commercially-manufactured air gun that is charged from an external high compression source such as an air compressor, air tank, or external hand pump and is specifically designed to propel a bolt, arrow, or other projectile commonly used for hunting.

(60) Prepared alligator meat – Alligator meat that is cooked or cured in a manner allowing it to be consumed by humans without further preparation.

(61) Private lands – Lands not owned by, or under any contractual use agreement with, any governmental body.

(62) Private hunting preserve – An area designated and licensed by an individual or concern on which artificially propagated game is taken.

(63) Private pond – Any man-made body of water that is located entirely within the property of the owner of the water body and has no surface water connection to public waters.

(64) Raptor – A bird which is a member of the Accipitridae (except the bald eagle) or Falconidae family; or a great horned owl.

(65) Regions – The following geographical portions of the state:

(a) Southwest Region: Charlotte, DeSoto, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk and Sarasota counties.

(b) North Central Region: Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette,

Levy, Madison, Nassau, Suwannee, Taylor and Union counties.

(c) Northwest Region: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton and Washington counties.

(d) South Region: Broward, Collier, Dade, Glades, Hendry, Martin, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

(e) Northeast Region: Brevard, Flagler, Indian River, Lake, Marion, Orange, Osceola, Putnam, Seminole, Sumter, St. Johns and Volusia counties.

(66) Relative – An individual who is related as: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half brother, or half sister.

(67) Reptiles – All members of the class Reptilia (for example, alligators, caimans, crocodiles, turtles, lizards and snakes).

(68) Reptiles of Concern – As designated by the Commission, any member of the class Reptilia, including subspecies, taxonomic successors or hybrids thereof, which due to its nature, has habits or the potential to impact the environment, may be possessed and housed only in accordance with the regulations provided for reptiles of concern.

(69) Resident game birds – Wild turkey and quail.

(70) Restricted hunting area – An area established in which hunting is prohibited in developed areas in the interest of safety unless otherwise provided by specific permit.

(71) Rough fish – Common carp, gars, gizzard shad, threadfin shad, suckers, tilapia and bowfin.

(72) Sell – The transfer of property or other things to a buyer for an agreed price. The term shall include all lesser acts related thereto, such as attempting to sell, offering to sell, to barter, exchange, or trade.

(73) Set line – See bush hook.

(74) Small game – Game species other than deer, bear or wild turkey.

(75) Small game season – The calendar period during which small game may be taken, provided that migratory game birds may be taken only during seasons established under Rules 68A-13.003 and 68A-13.008, F.A.C.

(76) Snare – A trapping device consisting of a noose designed to capture wildlife.

(77) Snatch hook – Any device which includes one or more hooks used for the purpose of hooking fish other than in the mouth. A gaff hook used for landing fish taken by hook and line or rod and reel shall not be included in the meaning of the term.

(78) Special season – The calendar period during which specified game species may be hunted only by the use of a designated hunting device at a time other than the general hunting season for that species.

(79) Spring turkey season – The designated spring period during which only gobblers or bearded turkeys may be taken.

(80) Steel trap – Any mechanical device (other than a snare or a device commonly used to take nuisance moles, pocket gophers or household rodents) that is designed and used to take wildlife by seizing and holding a part of the body.

(81) Take – 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.

(82) To close – To prohibit the taking of wildlife or freshwater fish.

(83) To open – To permit the taking of wildlife or freshwater fish during the open season.

(84) Total length – In freshwater fish means the straight line distance from the most forward point of the head with the mouth closed to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

(85) Transport – Shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.

(86) Triploid grass carp – Freshwater fish also called white amur, belonging to the family Cyprinidae and known scientifically as *Ctenopharyngodon idella*, which have been genetically altered to contain three sets of chromosomes, thus rendering them functionally sterile. Only such fish as have been determined to be triploid by the producer using scientifically accepted methods and verified by the use of a Coulter Counter by the Commission or by the U.S. Fish and Wildlife Service are included in this definition.

(87) Trotline – A multiple hook and line device consisting of a main line to which shorter lines are attached at intervals.

(88) Untanned skin – Any skin or hide that has not been processed beyond the fleshed, salted or stretched stage.

(89) Venomous reptile – All members of the class Reptilia including their taxonomic successors, subspecies, or any hybrid thereof, regardless of surgical alteration, determined to have the potential to cause serious human injury due to the toxic effects of its venom or poison. Including all venomous reptiles of the class Reptilia belonging to the families Elapidae, Crotalidae, Viperidae, and



Hydrophiidae; all reptiles in the genus *Heloderma*; and all reptiles in the family Colubridae belonging to the genera: *Rhabdophis*, *Boiga*, *Dispholidus*, *Thelatornis*, and *Atractapsis*.

(90) Wild hog – A hog that is free-roaming and which cannot be legally claimed as a domestic hog in private ownership.

(91) Wildlife – All wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.

(92) Wildlife and environmental area – Endangered or environmentally unique habitats which shall have as their primary management objective the protection and conservation of their endangered or unique resources. Outdoor recreation will be specifically provided for in regulations established for each area when such use does not conflict with the primary management objectives.

(93) Wildlife management area – An area of private or public ownership established for the management of wildlife or freshwater fish on which hunting, fishing or other outdoor recreation may be permitted only at such times and under such regulations as are specifically provided for each individual area.

Wildlife management area – Such an area upon which the users are subject to the management area stamp requirements of Section 379.354, F.S., excluding lands owned by the United States of America, Department of Defense.

(94) Wildlife refuge – An area within which the taking of wildlife is prohibited and the taking of freshwater fish is prohibited when so provided by the order establishing the refuge.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-15-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-1.04, Amended 6-1-86, 5-10-87, 10-8-87, 3-1-88, 4-13-88, 4-27-89, 4-11-90, 7-1-92, 4-20-93, 3-1-94, 7-1-94, 4-1-96, 11-23-97, 7-1-98, 6-23-99, Formerly 39-1.004, Amended 7-1-00, 5-1-01, 5-1-03, 7-1-04, 5-26-05, 7-1-06, 4-1-07, 7-1-08, 10-23-08, 7-1-10, 11-8-10, 1-1-11, 4-9-13, 7-29-15, 5-11-16, 7-1-18, 7-1-21.*

### **68A-6.003 Permit Requirements and Exceptions.**

(1) Except as otherwise provided in this Title, no person shall possess any native or non-native wildlife in captivity except as authorized by permit issued in accordance with Section 379.3761 or 379.3762, F.S., and as provided in this chapter.

(2) Persons possessing any captive wildlife for purposes of public display or sale shall obtain a permit as specified in Section 379.3761, F.S.

(3) Class I wildlife shall not be possessed for personal use, except as follows:

(a) Any Class I wildlife possessed for personal use on August 1, 1980, shall be eligible for a permit in accordance with the provisions for Class II wildlife. Any Class II wildlife possessed as personal use wildlife in accordance with Section 379.3762, F.S., that is uplisted to Class I upon the effective date of Rule 68A-6.002, F.A.C., shall be eligible for a permit in accordance with the provisions of Class II wildlife. No other Class I wildlife shall be transferred or kept for personal use.

1. All Class I wildlife possessed for personal use in accordance with the provisions for Class II Wildlife, shall be permanently identified by means of tattoo, brand, passive integrated transponder (PIT tag), photographic identification, or other method that clearly and permanently identifies that particular specimen so as to be distinguished from other specimens of the same species.

a. For photographic identification the photograph of the specimen must include sufficient distinguishing characteristics (marks, scars, and patterns, etc.) to enable that particular specimen to be distinguished from other specimens of the same species.

b. Record of identification including PIT tag numbers where applicable, along with information about the specimen being identified (species, method of identification, specimen name or number, gender and age) must be maintained in the possessor's records for as long as the specimen is possessed. Such records shall be made available for inspection, upon request, of commission personnel. A copy of such record shall be provided to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, upon annual renewal of the license issued in accordance with Section 379.3761, F.S., and authorizing possession of such wildlife.

2. Effective Date: All permanent identification requirements in this rule shall not take effect until January 1, 2010.

(b) Persons possessing Class I wildlife for personal use shall comply with all provisions of this chapter relating to the personal use of wildlife.

(4) Persons possessing Class II wildlife as personal use wildlife shall purchase a permit as provided in Section 379.3762, F.S.

(5) Persons possessing Class III wildlife as personal use wildlife shall obtain a no-cost permit from the Executive Director.

(6) Any person engaging in the business of breeding or the purchase or sale of exotic birds or birds customarily kept as pets shall be licensed as provided in Section 379.3761, F.S.

(7) The provisions of this chapter shall not apply to entities operating solely as research facilities, which are registered and regulated as such in accordance with Animal Welfare Act (7 U.S.C. 2131, et. seq.) and regulations promulgated thereunder, provided the following requirements are met:

(a) Such facilities must maintain on premises a detailed research proposal which shall state with particularity the research objectives, methodology, and study duration, and outline planned safeguards to assure proper containment of the wildlife. Maintain an annual record of progress toward the research project objectives. Such research proposal and record of progress shall be available for inspection upon request of Commission personnel.

(b) Such facilities housing wildlife must maintain such wildlife in cages or enclosures which meet the structural requirements as specified in Rules 68A-6.010 and 68A-6.011, F.A.C.

(8) The provisions of this chapter shall not apply to persons possessing the following non-native wildlife species exclusively for the purpose of production of meat, skins or hides, feathers or progeny thereof, and not for personal possession or public display or exhibition:

- (a) Ostrich
- (b) Cassowary
- (c) Rhea
- (d) Emu
- (e) Bison

(9) No permit shall be required for the sale of poultry, hamsters, guinea pigs, domestic rats and mice, gerbils, or chameleons (Anolis).

(10) Fox, skunks, bats, raccoons, or whitetail deer taken from the wild shall not be possessed as personal use wildlife and shall be possessed only in accordance with permits issued under Rules 68A-9.002, 68A-9.006, F.A.C., or Section 379.3761, F.S.

(11) No permit shall be required to possess the following wildlife for personal use, unless possession of a species is otherwise regulated by other rules of the Commission:

- (a) Reptiles or amphibians (nonvenomous, unprotected)
- (b) Gerbils, hedgehogs
- (c) Honey possums, sugar gliders
- (d) Rats and mice
- (e) Moles; shrews
- (f) Rabbits
- (g) Squirrels; chipmunks
- (h) Ferrets (domestic; European)
- (i) Guinea pigs
- (j) Hamsters
- (k) Prairie dogs
- (l) Chinchillas
- (m) Shell parakeets
- (n) Canaries
- (o) Lovebirds
- (p) Cockatiels
- (q) Parrots
- (r) Finches
- (s) Myna birds
- (t) Toucans
- (u) Doves; ringed, ruddy, and diamond
- (v) Button quail

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3761, 379.3762 FS. History—New 8-1-79, Amended 6-21-82, Formerly 39-6.03, Amended 6-1-86, 7-1-90, 7-1-92, 2-1-98, Formerly 39-6.003, Amended 1-1-08, 1-8-08, 8-27-09, 11-8-10, 12-6-10, 9-30-19.*

**68A-6.004 Possession of Class I, II, and III Wildlife: Permit Application Criteria.**

(1) Permits to possess wildlife in captivity, issued pursuant to Section 379.3761 or 379.3762, F.S., and the provisions of this chapter, shall authorize the keeping of captive wildlife, of the type and number specified in applications approved by the Commission, in accordance with law and Commission rules. Captive wildlife maintained under permit shall, unless otherwise authorized, be maintained only at the facility specified in the permit application and approved by the Commission.

(2) Qualification requirements for a permit to possess Class I or Class II wildlife:

All applicants shall qualify for permits as follows:

(a) Age Requirement: Applicants to possess Class I or Class II wildlife shall be at least 18 years of age.

(b) Applicants shall not have been convicted of any violation of captive wildlife regulations or venomous reptile or reptile of concern regulations involving unsafe housing of wildlife or that could potentially endanger the public; any violation involving the illegal commercialization of wildlife; any violation involving cruelty to animals; or any violation involving importation of wildlife within three (3) years of the date of application.

(c) Experience Requirement for Class I permits:

1. Applicants shall demonstrate no less than one (1) year of substantial practical experience (to consist of no less than 1000 hours) in the care, feeding, handling and husbandry of the species for which the permit is sought, or other species, within the same biological family (except crocodylians which shall be in the same biological order; ratites which shall be in the same biological sub-order; and cougars, panthers or cheetahs which shall remain at the genus level), which are substantially similar in size, characteristics, behavior, habits, care and nutritional requirements to the species for which the permit is sought.

2. For purposes of demonstrating compliance, applicants shall submit documentation of such experience, including:

a. A description of the specific experience acquired.

b. The dates and times the experience was obtained and the specific location(s) where acquired.

c. References of no less than two (2) individuals, no more than one of which may be a relative of the applicant, having personal knowledge of the applicant's stated experience. One of these references must be licensed by the commission for wildlife of the same family and the same or higher class for which the applicant is seeking authorization or a representative of a professional organization or governmental institution. Examples of such organizations or institutions include, but are not limited to, universities, public service agencies, zoological associations, herpetological societies and veterinarians.

d. Additional documentation may include records of prior permits for the keeping of captive wildlife, employment records, and any other competent documentation of the requisite experience.

3. Documented educational experience in zoology or other relevant biological sciences, obtained at the college or technical school level or above, may substitute for up to six months or 500 hours of the required experience.

4. Providing false information to document the applicant's experience, by the applicant or any reference, is prohibited as provided in Sections 837.012 and 837.06, F.S.

(d) Experience and examination requirements for Class II permits:

1. Applicants may qualify for a permit for Class II wildlife by documenting one year of experience (to consist of no less than 1000 hours) as defined in subparagraphs 68A-6.004(2)(c)1.-4., F.A.C., above. If the applicant is unable to document such experience, as an alternative, the applicant may take a written examination. The successful completion of a written examination for the particular species or family, administered by the Division of Law Enforcement, together with the documentation of not less than 500 hours of substantial practical experience (with documentation and compliance procedures as noted in subparagraphs 68A-6.004(2)(c)1.-4., F.A.C., above) in the care, feeding, handling and husbandry of the species or family for which the permit is sought may be substituted for the one-year/1,000-hour requirement. Upon receipt of an application, the Commission shall notify the applicant of the time and

place of the next examination. Applicant scoring at least 80 percent correct on the examination shall be deemed as meeting the examination requirement for the particular species or family.

2. The above requirements shall not apply to applicants for permits to possess ostriches, rheas, emus, cassowaries or coyotes when possessed for purposes other than public exhibition or personal use.

3. The above requirements shall not apply to applicants for permits to possess species of the family *Bovidae* in accordance with Sections 379.3711 and 379.3712, F.S.

(e) Any licensed corporation applying for a permit or authorized to possess Class I or Class II wildlife must have qualified personnel responsible for the care of such wildlife. The corporation must provide documentation of experience for at least one person. Such person shall comply with the requirements defined in subparagraphs 68A-6.004(2)(c)1.-4. and (d)1., F.A.C., above. Such documentation of experience shall be submitted to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, and subject to approval upon initial application and upon each instance of change in qualified person.

(f) Any person authorized pursuant to Section 379.3761, F.S., to exhibit or sell Class I wildlife shall obtain and maintain a current and valid USDA license, where applicable, pursuant to the Animal Welfare Act and Animal Welfare Regulations of Title 9 CFR (effective January 2017, which is hereby incorporated by reference at <http://www.flrules.org/Gateway/reference.asp?No=Ref-11137>). Such USDA license shall be obtained within 180 days of initial licensing by the Florida Fish and Wildlife Conservation Commission. Failure to obtain and maintain a current and valid USDA license may result in denial or revocation of any Class I authorizations issued by the Florida Fish and Wildlife Conservation Commission.

(3) No permit shall be issued to any person to possess Class III wildlife for exhibition, sale or personal use unless such person can meet the following requirements:

(a) Be 16 years of age or older.

(b) Application for permits to possess Class III wildlife for personal use shall include the satisfactory completion of a questionnaire developed by the Commission that assesses the applicant's knowledge of general husbandry, nutritional, and behavioral characteristics. Such information shall be documented on the Personal Use Application and Questionnaire form FWCDLE\_621 (01/07), (effective January 2017, which is adopted and incorporated herein by reference <http://www.flrules.org/Gateway/reference.asp?No=Ref-11138>). Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at [www.myfwc.com/permits](http://www.myfwc.com/permits).

(c) Applicants for permits to possess capuchin, spider, or woolly monkeys shall meet the age, experience and examination requirements for authorization to possess Class II wildlife.

(d) Be able to provide satisfactory caging facilities as required in the standard caging requirements of this Chapter, within 30 days of notification of tentative approval for a permit.

(e) Ensure that the conditions under which the wildlife will be held shall not constitute a threat to the public or to the animal.

(4) Except as otherwise provided, applicants for permits to possess wildlife in captivity shall specify the location of the facility at which the wildlife shall be kept or possessed. Prior to the issuance of a permit for Class I, Class II, or Class III capuchin, spider or woolly monkeys such facility shall be inspected and approved by Commission personnel prior to the issuance of the permit.

(5) Disaster and Critical Incident Plans: Applicants for permits to possess wildlife in captivity as authorized pursuant to Section 379.3761 or 379.303, F.S., or the provisions of this chapter shall document in writing a course of action to be taken in preparation for disasters or critical incidents. Such course of action shall be documented on the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE\_619 (06/09) (effective June 2009, which is adopted and incorporated herein by reference <http://www.flrules.org/Gateway/reference.asp?No=Ref-11136>). Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at [www.myfwc.com/permits](http://www.myfwc.com/permits). This form shall consist

of two parts. Part A of form FWCDLE\_619 shall be submitted at the time of initial application or renewal; and Part B shall be retained in the permittee's files at the facility location and be made available for inspection upon request of Commission personnel and the director of the local emergency management agency for the county where the facility is located.

(a) Provisions of this subsection shall apply to permittees maintaining captive wildlife in Florida.

(b) For permittees where the facility is located out of state, the provisions of this subsection shall apply when such permittee is in travel status with Class I or Class II wildlife. In this instance Part B must accompany the Class I or Class II wildlife while in travel status in Florida and shall describe the course of action to be taken in the event of a critical incident or natural disaster in Florida.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304 FS. History—New 8-1-79, Amended 6-22-80, 6-4-81, Formerly 39-9.03, Amended 6-21-82, Formerly 39-6.04, Amended 5-10-87, 4-13-88, 7-1-90, 9-1-90, 4-14-92, 2-1-98, Formerly 39-6.004, Amended 1-1-08, 8-27-09, 9-30-19.*

**68A-6.005 Commercialization of Wildlife; Bonding or Financial Responsibility Guarantee.**

(1) Because the possession of wildlife in accordance with Section 379.3761, F.S., is commercial in nature any person permitted to possess wildlife per Section 379.3761, F.S., except hobbyist possessors of Class III wildlife, shall demonstrate consistent and sustained commercial activity in the form of exhibition or sale of such authorized wildlife. For the purposes of this section a “hobbyist” is defined as one whose primary purpose for possession of such Class III wildlife is personal enjoyment but may occasionally exhibit or sell such wildlife. Consistent and sustained commercial activity may be demonstrated by the following examples of business procedures including, but not limited to:

- (a) A regular media advertising campaign, or Internet website;
- (b) Signs, billboards or flyers advertising commercial wildlife services or operations;
- (c) Regular business hours during which the premises is open for commercial activity;
- (d) Written business is conducted on printed letterhead, indicating the name of the company or business;
- (e) Documented exhibition of wildlife to the public, with or without a charge;
- (f) Sale of wildlife including any lesser acts thereof as defined in Rule 68A-1.004, F.A.C.

(2) It is unlawful to exhibit venomous reptiles to the public without having posted a performance bond as listed below.

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission shall be submitted at the time of initial license application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the performance bond expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850)414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600. The terms of the performance bond shall include the following:

- 1. The exhibitor shall indemnify and save harmless the injured party if an injury occurs or other damage results from exhibited reptiles.
- 2. The exhibitor shall fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.
- 3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) In lieu of a surety bond, a person may submit a cash bond to the Florida Fish and Wildlife Conservation Commission to satisfy the performance bond requirement. Such payment shall be in the sum of \$10,000 and may be in the form of cash, cashier’s check, or certified check. In the instance of a check, such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit venomous reptiles.

(c) The performance bond will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

- 1. An injury occurs or other damage results from exhibited reptiles and the exhibitor fails to indemnify and save harmless the injured party, or
- 2. The exhibitor fails to fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

(d) The exhibition of venomous reptiles in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000 is prohibited.

(3) It is unlawful to possess Class I wildlife without having guaranteed financial responsibility. The following methods of payment will satisfy the financial responsibility requirement:

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000, in compliance with and as noted in paragraph 68A-6.005(2)(a), F.A.C., above. The terms of the performance bond shall include the following:

1. The possessor shall indemnify and save harmless the injured party if an injury to the public occurs, including accidental death, or other property damage occurs from the Class I wildlife.

2. The possessor shall indemnify and save harmless the Florida Fish and Wildlife Conservation Commission for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of Class I wildlife.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) Cash, cashier's check, or certified check in the sum of \$10,000. In the instance of a check such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the possessor of Class I wildlife in instances of non-issuance or denial of the initial license application; or the possessor has submitted a request for refund to include a notarized statement that they no longer possess Class I wildlife.

(c) Irrevocable letter of credit issued by a bank, savings and loan, credit union or other similar state or federally chartered financial institution, payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000.

(d) In lieu of the \$10,000 financial responsibility guarantee any person possessing Class I wildlife may maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate as shall protect the possessor of Class I wildlife from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. The insurance policy shall be for a duration of not less than the duration of the licensing period. A current Certificate of Insurance evidencing proof of insurance maintained by the possessor of Class I wildlife in such amounts as required by this section, including terms, coverage and expiration date, shall be submitted at the time of initial application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the insurance policy expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850)414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

(e) The performance bond or financial responsibility guarantee in the sum of \$10,000, or any portion thereof, will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury to the public, including accidental death, or other property damage results from Class I wildlife and the possessor of such Class I wildlife fails to indemnify and save harmless the injured party, or

2. Class I wildlife is taken into custody or seized by commission personnel. In instances where Class I wildlife is seized or taken into custody by the Commission the permittee shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of the wildlife.

(f) The possession of Class I wildlife in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000, or a financial responsibility guarantee in the sum of \$10,000, or a current and valid comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate is prohibited.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304 FS. History—New 8-1-79, Amended 6-22-80, 6-4-81, Formerly 39-9.03, Amended 6-21-82, Formerly 39-6.05, Amended 5-10-87, 2-1-98, Formerly 39-6.005, Amended 8-27-09, 6-7-10, 9-30-19.*



**68A-6.006 Dealing in Exotic or Pet Birds: Records.**

(1) Any person engaging in the business of breeding or the purchase or sale of exotic birds or birds customarily kept as pets shall be licensed as provided in Section 379.3761, F.S.

(2) Any person who sells or transfers any live non-native bird to another shall maintain documentation for a period of 24 months following such sale or transfer. Such documentation shall include:

(a) The name and complete address of the recipient.

(b) The date of sale or transfer.

(c) The number and species of birds sold.

(3) All records of sales or transfers shall be open to inspection by Commission personnel and to authorized agents of state or federal public health agencies.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 379.303, 379.304, 379.3762 FS. History—New 6-21-82, Formerly 39-6.06, 39-6.006.*

**68A-6.009 General Regulations Governing Possession of Captive Wildlife.**

(1) No person shall maintain captive wildlife in any unsafe or unsanitary condition, or in a manner which results in threats to the public safety, or the maltreatment or neglect of such wildlife.

(2) Caging Requirements:

(a) All wildlife possessed in captivity shall, except when supervised and controlled in accordance with subsection (3) hereof, be maintained in cages or enclosures constructed and maintained in compliance with the provisions of this chapter.

(b) Cages or enclosures housing captive wildlife shall be sufficiently strong to prevent escape and to protect the caged animal from injury, and shall be equipped with structural safety barriers to prevent any physical contact with the caged animal by the public, except for contacts as authorized under subsection 68A-6.016(1), F.A.C. Structural barriers may be constructed from materials such as fencing, moats, landscaping, or close-mesh wire, provided that materials used are safe and effective in preventing public contact.

(c) All cages or enclosures less than 1,000 square feet shall be covered at the top to prevent escape (except paddocks, reptile enclosures and habitats specified below). Class I or Class II wildlife shall not be kept in uncovered enclosures that are less than 1,000 square feet, except as specified in this chapter. All outdoor enclosures for non-native venomous reptile species and reptiles of concern shall be topped with close-meshed wire or an equivalent barrier to provide additional security as specified in Rule 68A-6.0171, F.A.C.

(d) Caging considered unsafe or otherwise not in compliance herewith shall be reconstructed or repaired within 30 days after notification of such condition. In the event such condition results in a threat to human safety or the safety of the wildlife maintained therein, the wildlife maintained therein shall, at the direction of the Commission, be immediately placed in an approved facility, at the expense of the permittee, owner, or possessor, until such time as the unsafe condition is remedied. In instances where wildlife is seized or taken into custody by the Commission, said permittee, owner, or possessor of such wildlife shall be responsible for payment of all expenses relative to the animal's capture, transport, boarding, veterinary care, or other costs associated with or incurred due to such seizures or custody. Such expenses shall be paid by said permittee, owner, or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of Chapter 379 or 828, F.S., or rules of the Commission, or if such violation is disposed of under Section 921.187, F.S. Failure to pay such expenses shall be grounds for revocation or denial of permits to such individuals to possess wildlife.

(3) Sanitation and Nutritional Requirements:

(a) Sanitation, water disposal, and waste disposal shall be in accordance with all applicable local, state, and federal regulations.

(b) Water: Clean drinking water shall be provided daily. Any water containers used shall be clean. Reptiles and amphibians that do not drink water from containers and those in an inactive season or period shall be provided water in a manner and at such intervals as to ensure their health and welfare. All pools, tanks, water areas and water containers provided for swimming, wading or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff.

(c) Food: Food shall be of a type and quantity that meets the nutritional requirements for the particular species, and shall be provided in an unspoiled and uncontaminated condition. Clean containers shall be used for feeding.

(d) Waste: Fecal and food waste shall be removed daily from inside, under, and around cages and stored or disposed of in a manner which prevents noxious odors or pests. Cages and enclosures shall be ventilated to prevent noxious odors.

(e) Cleaning and maintenance: Hard floors within cages or enclosures shall be cleaned a minimum of once weekly. Walls of cages and enclosures shall be spot cleaned daily. The surfaces of housing facilities, including perches, shelves and any furniture-type fixtures within the facility, shall be cleaned weekly, and

shall be constructed in a manner and made of materials that permits thorough cleaning. Cages or enclosures with dirt floors shall be raked a minimum of once every three days and all waste material shall be removed. Any surface of cages or enclosures that may come into contact with animal(s) shall be free of excessive rust that prevents the required cleaning or that affects the structural strength. Any painted surface that may come into contact with wildlife shall be free of peeling or flaking paint.

(4) In addition to the standard caging requirements set forth in this chapter, Class I and Class II animals shall be caged in accordance with the following requirements:

(a) All cages or enclosures of Class I and Class II wildlife, and Class III capuchin, spider and woolly monkeys, except paddocks, approved open air habitats, or outdoor reptile enclosures shall be equipped with a safety entrance. A safety entrance is defined as a protected, secure area that can be entered by a keeper that prevents animal escape and safeguards the keeper, or a device that can be activated by a keeper that prevents animal escape and safeguards entry. Such entrances shall include: A double-door mechanism, interconnecting cages, a lock-down area, or other comparable devices, subject to Commission approval, that will prevent escape and safeguard the keeper. Safety entrances shall be constructed of materials that are of equivalent strength as that prescribed for cage construction for that particular species.

(b) All cages or enclosures constructed of chain link or other approved materials shall be well braced and securely anchored at ground level to prevent escape by digging or erosion. Cages shall be constructed using metal clamps, ties or braces of equivalent strength as the material required for cage construction for the particular species. Cages or enclosures using the ground as flooring must meet the following requirements:

1. For enclosures housing wildlife that exhibits a behavior of digging or burrowing:

Enclosures shall have a footer or bottom apron constructed of concrete, chainlink or equivalent strength material as specified in this rule for the housing of such wildlife. The footer must be a depth of 3 feet. In the instance of a bottom apron, the bottom apron must be securely attached to the bottom of the enclosure fencing or wall and extend inward into the enclosure a minimum of 3 feet. The bottom apron must be buried to prevent injury to the captive wildlife in the enclosure.

2. For enclosures affected by erosion:

Measures must be taken to stop the erosion. Such measures may include, but are not limited to, a footer or bottom apron as described above or other measures capable of ensuring the structural integrity of the enclosure and preventing the escape of the captive wildlife.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 9-30-19.*

**68A-6.0022 Possession of Class I, II, or III Wildlife in Captivity: Permit Requirements.**

(1) Permits to possess wildlife in captivity, issued pursuant to Section 379.3761 or 379.3762, F.S., and the provisions of this chapter, shall authorize the keeping of captive wildlife, of the type and number specified in applications approved by the Commission, in accordance with law and Commission rules. Captive wildlife maintained under permit shall, unless otherwise authorized, be maintained only at the facility specified in the permit application and approved by the Commission.

(2) No permit shall be required to possess the following wildlife for personal use, unless possession of a species is otherwise regulated by other rules of the Commission:

- (a) Reptiles or amphibians (nonvenomous, unprotected)
- (b) Gerbils, hedgehogs
- (c) Honey possums, sugar gliders
- (d) Shell parakeets
- (e) Rats and mice
- (f) Canaries
- (g) Moles; shrews
- (h) Rabbits
- (i) Squirrels; chipmunks
- (j) Ferrets (domestic; European)
- (k) Lovebirds
- (l) Guinea pigs
- (m) Cockatiels
- (n) Hamsters
- (o) Parrots
- (p) Finches
- (q) Myna birds
- (r) Toucans
- (s) Doves; ringed, ruddy, and diamond
- (t) Button quail
- (u) Prairie dogs
- (v) Chinchillas

(3) No permit shall be required for the sale of poultry, hamsters, guinea pigs, domestic rats and mice, gerbils, or chameleons (Anolis).

(4) No permit shall be issued to any person to possess Class III wildlife for exhibition, sale or personal use unless such person can meet the following requirements:

(a) Be 16 years of age or older.

(b) Application for permits to possess Class III wildlife for personal use shall include the satisfactory completion of a questionnaire developed by the Commission that assesses the applicant's knowledge of general husbandry, nutritional, and behavioral characteristics. Such information shall be documented on the Personal Use Application and Questionnaire form FWCDLE\_621 (01/07), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at [www.myfwc.com/permits](http://www.myfwc.com/permits).

(c) Applicants for permits to possess capuchin, spider, or woolly monkeys shall meet the age, experience and examination requirements for authorization to possess Class II wildlife.

(d) Be able to provide satisfactory caging facilities as required in the standard caging requirements, Rule 68A-6.004, F.A.C., within 30 days of notification of tentative approval for a permit.

(e) Ensure that the conditions under which the wildlife will be held shall not constitute a threat to the public or to the animal.

(5) Qualification requirements for a permit to possess Class I or Class II wildlife:

All applicants shall qualify for permits as follows:

(a) Age Requirement: Applicants to possess Class I or Class II wildlife shall be at least 18 years of age.

(b) Applicants shall not have been convicted of any violation of captive wildlife regulations or venomous reptile or reptile of

concern regulations involving unsafe housing of wildlife or that could potentially endanger the public; any violation involving the illegal commercialization of wildlife; any violation involving cruelty to animals; or any violation involving importation of wildlife within three (3) years of the date of application.

(c) Experience Requirement for Class I permits:

1. Applicants shall demonstrate no less than one (1) year of substantial practical experience (to consist of no less than 1000 hours) in the care, feeding, handling and husbandry of the species for which the permit is sought, or other species, within the same biological family (except crocodylians which shall be in the same biological order; ratites which shall be in the same biological sub-order; and cougars, panthers or cheetahs which shall remain at the genus level), which are substantially similar in size, characteristics, behavior, habits, care and nutritional requirements to the species for which the permit is sought.

2. For purposes of demonstrating compliance, applicants shall submit documentation of such experience, including:

a. A description of the specific experience acquired.

b. The dates and times the experience was obtained and the specific location(s) where acquired.

c. References of no less than two (2) individuals, no more than one of which may be a relative of the applicant, having personal knowledge of the applicant's stated experience. One of these references must be licensed by the commission for wildlife of the same family and the same or higher class for which the applicant is seeking authorization or a representative of a professional organization or governmental institution. Examples of such organizations or institutions include, but are not limited to, universities, public service agencies, zoological associations, herpetological societies and veterinarians.

d. Additional documentation may include records of prior permits for the keeping of captive wildlife, employment records, and any other competent documentation of the requisite experience.

3. Documented educational experience in zoology or other relevant biological sciences, obtained at the college or technical school level or above, may substitute for up to six months or 500 hours of the required experience.

4. Providing false information to document the applicant's experience, by the applicant or any reference, is prohibited as provided in Sections 837.012 and 837.06, F.S.

(d) Experience and examination requirements for Class II permits:

1. Applicants may qualify for a permit for Class II wildlife by documenting one year of experience (to consist of no less than 1000 hours) as defined in subparagraphs 68A-6.0022(5)(c)1.-4., F.A.C., above. If the applicant is unable to document such experience, as an alternative, the applicant may take a written examination. The successful completion of a written examination for the particular species or family, administered by the Division of Law Enforcement, together with the documentation of not less than 500 hours of substantial practical experience (with documentation and compliance procedures as noted in subparagraphs 68A-6.0022(5)(c)1.-4., F.A.C., above) in the care, feeding, handling and husbandry of the species or family for which the permit is sought may be substituted for the one-year/1,000-hour requirement. Upon receipt of an application, the Commission shall notify the applicant of the time and place of the next examination. Applicant scoring at least 80 percent correct on the examination shall be deemed as meeting the examination requirement for the particular species or family.

2. The above requirements shall not apply to applicants for permits to possess ostriches, rheas, emus, cassowaries or coyotes when possessed for purposes other than public exhibition or personal use.

3. The above requirements shall not apply to applicants for permits to possess American alligators in accordance with Section 379.3751, F.S.

4. The above requirements shall not apply to applicants for permits to possess species of the family *Bovidae* in accordance with Sections 379.3711 and 379.3712, F.S.

(e) Any licensed corporation applying for a permit or authorized to possess Class I or Class II wildlife must have qualified personnel responsible for the care of such wildlife. The corporation must provide documentation of experience for at least one person. Such person shall comply with the requirements defined in subparagraphs 68A-6.0022(5)(c)1.-4. and (d)1., F.A.C., above. Such documentation of experience shall be submitted to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, and subject to approval upon initial application and upon each instance of change in qualified person.

(f) Any person authorized pursuant to Section 379.3761, F.S., to exhibit or sell Class I wildlife shall obtain and maintain a current and valid USDA license, where applicable, pursuant to the Animal Welfare Act and Animal Welfare Regulations of Title 9 CFR. Such USDA license shall be obtained within 180 days of initial licensing by the Florida Fish and Wildlife Conservation Commission. Failure to obtain and maintain a current and valid USDA license may result in denial or revocation of any Class I authorizations issued by the Florida Fish and Wildlife Conservation Commission.

(6) Except as otherwise provided, applicants for permits to possess wildlife in captivity shall specify the location of the facility at which the wildlife shall be kept or possessed. Prior to the issuance of a permit for Class I, Class II, or Class III capuchin, spider or woolly monkeys such facility shall be inspected and approved by Commission personnel prior to the issuance of the permit.

(7) Disaster and Critical Incident Plans: Applicants for permits to possess wildlife in captivity as authorized pursuant to Sections 379.3761 or 379.303, F.S., or the provisions of this chapter shall document in writing a course of action to be taken in preparation for disasters or critical incidents. Such course of action shall be documented on the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE\_619 (06/09), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at [www.myfwc.com/permits](http://www.myfwc.com/permits). This form shall consist of two parts. Part A of form FWCDLE\_619 shall be submitted at the time of initial application or renewal; and Part B shall be retained in the permittee's files at the facility location and be made available for inspection upon request of Commission personnel and the director of the local emergency management agency for the county where the facility is located.

(a) Provisions of this subsection shall apply to permittees maintaining captive wildlife in Florida.

(b) For permittees where the facility is located out of state, the provisions of this subsection shall apply when such permittee is in travel status with Class I or Class II wildlife. In this instance Part B must accompany the Class I or Class II wildlife while in travel status in Florida and shall describe the course of action to be taken in the event of a critical incident or natural disaster in Florida.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3761, 379.3762 FS. History—New 7-1-90, Amended 7-1-90, 7-1-91, 2-1-98, Formerly 39-6.0022, Amended 4-30-00, 1-1-08, 8-27-09, 7-8-10.*

**68A-6.0023 General Regulations Governing Possession of Captive Wildlife; Public Contact; Transfer of Wildlife and Record Keeping Requirements.**

(1) No person shall maintain captive wildlife in any unsafe or unsanitary condition, or in a manner which results in threats to the public safety, or the maltreatment or neglect of such wildlife.

(2) Caging Requirements:

(a) All wildlife possessed in captivity shall, except when supervised and controlled in accordance with subsection (3) hereof, be maintained in cages or enclosures constructed and maintained in compliance with the provisions of Rules 68A-6.003, 68A-6.004 and 68A-6.007, F.A.C.

(b) Cages or enclosures housing captive wildlife shall be sufficiently strong to prevent escape and to protect the caged animal from injury, and shall be equipped with structural safety barriers to prevent any physical contact with the caged animal by the public, except for contacts as authorized under subsection (3) of this rule. Structural barriers may be constructed from materials such as fencing, moats, landscaping, or close-mesh wire, provided that materials used are safe and effective in preventing public contact.

(c) All cages or enclosures less than 1,000 square feet shall be covered at the top to prevent escape (except paddocks, reptile enclosures and habitats specified below). Class I or Class II wildlife shall not be kept in uncovered enclosures that are less than 1,000 square feet, except as specified in Rule 68A-6.004, F.A.C. All outdoor enclosures for non-native venomous reptile species and reptiles of concern shall be topped with close-meshed wire or an equivalent barrier to provide additional security as specified in Rule 68A-6.007, F.A.C. For the purpose of this section, the following definitions apply:

1. Paddocks: Areas enclosed by fencing, railing or other Commission-approved structures which allow animals to graze or browse.

2. Reptile enclosures: Areas encompassed by smooth walls or other Commission-approved materials which provide safe keeping of venomous and non-venomous snakes, crocodilians and other reptiles.

3. Open air habitats or moated areas: Areas enclosed by Commission-approved fences, walls, or moats which provide safe keeping of species specified in Rule 68A-6.004, F.A.C.

(d) Caging considered unsafe or otherwise not in compliance herewith shall be reconstructed or repaired within 30 days after notification of such condition. In the event such condition results in a threat to human safety or the safety of the wildlife maintained therein, the wildlife maintained therein shall, at the direction of the Commission, be immediately placed in an approved facility, at the expense of the permittee, owner, or possessor, until such time as the unsafe condition is remedied. In instances where wildlife is seized or taken into custody by the Commission, said permittee, owner, or possessor of such wildlife shall be responsible for payment of all expenses relative to the animal's capture, transport, boarding, veterinary care, or other costs associated with or incurred due to such seizures or custody. Such expenses shall be paid by said permittee, owner, or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of Chapter 379 or 828, F.S., or rules of the Commission, or if such violation is disposed of under Section 921.187, F.S. Failure to pay such expenses shall be grounds for revocation or denial of permits to such individuals to possess wildlife.

(3) Unconfined captive wildlife shall be maintained under rigid supervision and control, so as to prevent injuries to members of the public. No captive wildlife shall be tethered outdoors unsupervised. To provide for public safety, all wildlife shall be tethered or controlled in such a manner as to prevent physical contact with the public and a structural safety barrier, as provided in paragraph (2)(b) above, must be present to prevent physical contact with unconfined Class I or Class II wildlife except in instances where public contact is allowed in paragraph (3)(a) below.

(a) Public contact and exhibition.

1. General: All Class I, II or III wildlife that will be used for contact with the public shall have been evaluated by the exhibitor to insure compatibility with the uses intended. All wildlife shall be exhibited in a manner that prevents injuries to the public and the wildlife. The exhibitor shall take reasonable sanitary precautions to minimize the possibility of disease or parasite transmission which could adversely affect the health or welfare of citizens or wildlife. When any conditions exists that results in a threat to human safety, or the welfare of the wildlife, the animal(s) shall, at the direction of a Commission officer, be immediately removed from public contact for an interval necessary to correct the unsafe or deficient condition.

2. Class I wildlife shall only be permitted to come into physical contact with the public in accordance with the following:

a. Full contact: For the purpose of this section, full contact is defined as situations in which an exhibitor or employee handler maintains proximate control and supervision, while temporarily surrendering physical possession or custody of the animal to another. Full contact with Class I wildlife is authorized only as follows:

I. Class I cats (Felidae only) that weigh not more than twenty-five (25) pounds;  
II. Chimpanzees, orangutans, and gorillas that are not less than six (6) months of age and weigh not more than twenty-five pounds;

III. Gibbons and siamangs not less than four (4) months of age and not more than two (2) years of age;

IV. Elephants as approved in Rule 68A-6.0042, F.A.C.

b. Incidental contact: For the purpose of this section, incidental contact is defined as situations in which an exhibitor or employee handler maintains control, possession and supervision of the animal while permitting the public to come into contact with it. Incidental contact with Class I wildlife is authorized only as follows:

I. Class I carnivores except cheetahs and cougars that weigh not more than 40 pounds;

II. Chimpanzees, orangutans, and gorillas that are not less than six (6) months of age and weigh not more than 40 pounds;

III. Gibbons and siamangs that are not less than four (4) months of age: no maximum poundage or age limit;

IV. Elephants;

V. Incidental contact with other Class I wildlife must be approved in writing by the Commission prior to the use of the wildlife for incidental contact with the public. Factors to be considered when approving such contact are found in subparagraph (3)(a)1.

3. Public contact or handling intervals for Class I wildlife shall be limited as to frequency, intensity, and duration so that such handling will not adversely affect the health, welfare, or safety of the animals, nor expose the public to injury.

(4) Any condition which results in wildlife escaping from its enclosure, cage, leash, or other constraint, or which results in injury to any person, shall be considered a violation of subsection 68A-6.0023(1), F.A.C., hereof.

(5) Sanitation and Nutritional Requirements:

(a) Sanitation, water disposal, and waste disposal shall be in accordance with all applicable local, state, and federal regulations.

(b) Water: Clean drinking water shall be provided daily. Any water containers used shall be clean. Reptiles and amphibians that do not drink water from containers and those in an inactive season or period shall be provided water in a manner and at such intervals as to ensure their health and welfare. All pools, tanks, water areas and water containers provided for swimming, wading or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff.

(c) Food: Food shall be of a type and quantity that meets the nutritional requirements for the particular species, and shall be provided in an unspoiled and uncontaminated condition. Clean containers shall be used for feeding.

(d) Waste: Fecal and food waste shall be removed daily from inside, under, and around cages and stored or disposed of in a manner which prevents noxious odors or pests. Cages and enclosures shall be ventilated to prevent noxious odors.

(e) Cleaning and maintenance: Hard floors within cages or enclosures shall be cleaned a minimum of once weekly. Walls of cages and enclosures shall be spot cleaned daily. The surfaces of housing facilities, including perches, shelves and any furniture-type fixtures within the facility, shall be cleaned weekly, and shall be constructed in a manner and made of materials that permits thorough cleaning. Cages or enclosures with dirt floors shall be raked a minimum of once every three days and all waste material shall be removed. Any surface of cages or enclosures that may come into contact with animal(s) shall be free of excessive rust that prevents the required cleaning or that affects the structural strength. Any painted surface that may come into contact with wildlife shall be free of peeling or flaking paint.

(6) No person shall possess any wildlife requiring a permit for personal use, or any wildlife for sale or exhibition, without documentation of the source and supplier of such wildlife. Possessors of such wildlife must maintain an accurate record of changes in inventory including acquisitions and sales or transfers of all wildlife. Possessors of Class I or Class II wildlife must also maintain an accurate record of all births and deaths. Such records shall be open to inspection upon request by commission personnel.

(a) Records of births or deaths must include the date of the birth or death and the quantity and species of each birth or death. For the purposes of this section "birth" shall be defined as the initial hatch or live birth date for the clutch or litter.

(b) Records of acquisition must include the date of acquisition; quantity and species of wildlife acquired; name and complete address of the supplier and permit or license identification number of the supplier where applicable.

(7) It shall be unlawful for any person to buy, sell, or transfer any wildlife to or from an unpermitted entity within Florida. No person shall sell or transfer wildlife without documenting such sale or transfer. The record of sale or transfer must be entered in the transferor's records and made available for inspection upon request of Commission personnel for a period of three years after the sale or transfer.

(a) Records of sale or transfer shall include the date of sale or transfer; quantity and species of wildlife sold or transferred; name and complete address of the recipient; and permit or license identification number of the recipient where applicable.



(b) Records of sale or transfer are not required for wildlife that may be possessed for personal use without a permit as specified in paragraphs 68A-6.0022(2)(a)-(v), F.A.C., unless such record keeping requirements are otherwise regulated by other rules of the Commission.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.1025, 379.303, 379.304 FS. History—New 7-1-90, Amended 2-1-98, Formerly 39-6.0023, Amended 8-27-09.*

**68A-6.0024 Commercialization of Wildlife; Bonding or Financial Responsibility Guarantee.**

(1) Because the possession of wildlife in accordance with Section 379.3761, F.S., is commercial in nature any person permitted to possess wildlife per Section 379.3761, F.S., except hobbyist possessors of Class III wildlife, shall demonstrate consistent and sustained commercial activity in the form of exhibition or sale of such authorized wildlife. For the purposes of this section a “hobbyist” is defined as one whose primary purpose for possession of such Class III wildlife is personal enjoyment but may occasionally exhibit or sell such wildlife. Consistent and sustained commercial activity may be demonstrated by the following examples of business procedures including, but not limited to:

- (a) A regular media advertising campaign, or Internet Web site;
- (b) Signs, billboards or flyers advertising commercial wildlife services or operations;
- (c) Regular business hours during which the premises is open for commercial activity.
- (d) Written business is conducted on printed letterhead, indicating the name of the company or business;
- (e) Documented exhibition of wildlife to the public, with or without a charge;
- (f) Sale of wildlife including any lesser acts thereof as defined in Rule 68A-1.004, F.A.C.

(2) It is unlawful to exhibit venomous reptiles to the public without having posted a performance bond as listed below.

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission shall be submitted at the time of initial license application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the performance bond expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury occurs or other damage results from exhibited reptiles.

2. The exhibitor shall fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) In lieu of a surety bond, a person may submit a cash bond to the Florida Fish and Wildlife Conservation Commission to satisfy the performance bond requirement. Such payment shall be in the sum of \$10,000 and may be in the form of cash, cashier’s check, or certified check. In the instance of a check, such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit venomous reptiles.

(c) The performance bond will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury occurs or other damage results from exhibited reptiles and the exhibitor fails to indemnify and save harmless the injured party; or

2. The exhibitor fails to fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

(d) The exhibition of venomous reptiles in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000 is prohibited.

(3) It is unlawful to possess Class I wildlife without having guaranteed financial responsibility. The following methods of payment will satisfy the financial responsibility requirement:

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000, in compliance with and as noted in paragraph 68A-6.0024(1)(a), F.A.C., above. The terms of the performance bond shall include the following:

1. The possessor shall indemnify and save harmless the injured party if an injury to the public occurs, including accidental death, or other property damage occurs from the Class I wildlife.

2. The possessor shall indemnify and save harmless the Florida Fish and Wildlife Conservation Commission for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of Class I wildlife.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) Cash, cashier's check, or certified check in the sum of \$10,000. In the instance of a check such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the possessor of Class I wildlife in instances of non-issuance or denial of the initial license application; or the possessor has submitted a request for refund to include a notarized statement that they no longer possess Class I wildlife.

(c) Irrevocable letter of credit issued by a bank, savings and loan, credit union or other similar state or federally chartered financial institution, payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000.

(d) In lieu of the \$10,000 financial responsibility guarantee any person possessing Class I wildlife may maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate as shall protect the possessor of Class I wildlife from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. The insurance policy shall be for a duration of not less than the duration of the licensing period. A current Certificate of Insurance evidencing proof of insurance maintained by the possessor of Class I wildlife in such amounts as required by this section, including terms, coverage and expiration date, shall be submitted at the time of initial application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the insurance policy expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301.

(e) The performance bond or financial responsibility guarantee in the sum of \$10,000, or any portion thereof, will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury to the public, including accidental death, or other property damage results from Class I wildlife and the possessor of such Class I wildlife fails to indemnify and save harmless the injured party; or

2. Class I wildlife is taken into custody or seized by commission personnel. In instances where Class I wildlife is seized or taken into custody by the Commission the permittee shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of the wildlife.

(f) The possession of Class I wildlife in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000, or a financial responsibility guarantee in the sum of \$10,000, or a current and valid comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate is prohibited.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304, 379.305, 379.373, 379.374 FS. History—New 2-1-08, Amended 8-27-09, 6-7-10, 12-6-10.*

## CERTIFICATE OF SERVICE

Appellants certify that on November 2, 2021, the foregoing was electronically filed with the Clerk of the Court using the e-Filing Portal, and electronically served to the following:

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David W. Foley, Jr.



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Jennifer T. Foley

Date: November 2, 2021

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