

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BEAR WARRIORS UNITED, Inc.,

Case No.

Petitioner,

vs.

FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION,

Respondent.

PETITION TO DETERMINE THE INVALIDITY OF
PROPOSED RULE 68A-12.012, F.A.C.

Pursuant to sections 120.52(8), 120.54, 120.56(2), 120.569, and 120.57(1), Florida Statutes, and rule 28-106.201, F.A.C., BEAR WARRIORS UNITED, Inc., (“Bear Warriors”) a Florida non-profit corporation, that advocates to protect and preserve Florida’s black bears, *Ursus americanus floridanus*, as well as all of Florida’s natural resources and wildlife, files this Petition to Determine the Invalidity for Proposed Rule 68A-12.012, F.A.C., challenging the proposed rule by the Florida Fish and Wildlife Conservation Commission (“FWC”)¹ FWC’s proposed rule that seeks to allow for a black bear hunt in Florida is wrong for the following reasons:

- The proposed rule is invalid because it gives the FWC executive director, or designee, unbridled authority to issue permits to kill bears annually without any guidance or scientific facts. The FWC’s proposed action here is based on stale facts from a 2014-2015 bear population study and is directly contrary to FWC’s own 2019 Bear Management Plan and staff recommendations.

¹ Proposed Rule 68A-12.012, F.A.C., is attached as Exhibit 1.

- The proposed rule is invalid because it impermissibly delegates the FWC’s important decision about continued bear hunts to an executive director or designee, not the seven constitutionally appointed and affirmed members, thus, removing the public’s right to be heard; and
- The FWC’s Notice of Proposed Rule failed to materially follow the law concerning rule-making by not providing the public with FWC’s supporting methodology or scientific facts to support its decision, and wrongly limited and misinformed the public about how to provide public comments on the proposed rule.

FWC’s proposed rule giving one individual the discretion to permit annual bear hunts without a scientific basis for wildlife management threatens the existence of a unique species of Florida wildlife and our quality of life.

I. Identification of Parties and Counsel

1. Bear Warriors is a Florida not-for-profit corporation established in 2016 that advocates for the protection and preservation of Florida wildlife, specifically, the Florida black bear. Bear Warriors’ signature campaign is the promotion of the peaceful coexistence of people and wildlife. Bear Warriors’ Executive Director and co-founder is Katrina Shadrix, who is an avid outdoors person and environmental conservationist.

2. Bear Warriors is represented by Thomas Crapps, Esq. Meenan P.A., 300 S. Duval Street, Ste. 410, Tallahassee, Florida 32301; (850) 425-4000; tom@meenanolawfirm.com; and Raquel Levy, Atlantic Law Center, 1335 Ridgewood Ave., Holly Hill, Florida 32117; (386) 793-2020; raquel@atlanticlawcenter.com.

3. Respondent is the Florida Fish and Wildlife Conservation Commission (“FWC”), 620 South Meridian Street, Tallahassee, Florida 32399, is created by Article IV, section 9, Florida Constitution, and directed to “establish procedures to ensure adequate due process in the exercise

of its regulatory and executive functions. The legislature may enact laws in aid of the commission . . .”

II. Substantial Interests and Standing

4. Bear Warriors United, is a Florida non-profit corporation whose mission is the conservation, well-being, and preservation of bears and other species and their habitats. Throughout their existence, Bear Warriors has participated in a range of advocacy and educational initiatives that foster the harmonious coexistence of people and wildlife. Bear Warriors advocate to create a sustainable Florida black bear population with genetic diversity to ensure the long-term survival of this key wildlife species. Bear Warriors consists of more than 30 members and advocates for the protection of bears and environmental conservation. Any one of their members would be substantially adversely affected by the proposed rules. Bear Warriors' efforts have included providing Volusia County with hundreds of bear-proof garbage can straps to reduce conflict between bears foraging for food and people. Bear Warriors' substantial interests are affected by the Florida Fish and Wildlife Conservation's proposed rule, which directly contravenes Florida law and will result in irreparable harm to Florida's black bear population. Bear Warriors has participated in public workshops and public hearings regarding the development and adoption of the proposed rules. Members of the organization will experience deep emotional harm from the needless slaughter of hundreds of Black Bears. Members and donors of the organization expect Bear Warriors to do everything possible to oppose hunting and will not doubt suffer loss of membership and funding if it fails to do so. Bear Warriors was recently granted standing in the landmark case *See Bear Warriors United, Inc. v. Lambert*, No. 6:22-cv-2048, 2025 U.S. Dist. LEXIS 72771 (M.D. Fla. Apr. 11, 2025). Consequently, the Bear Warriors has standing to bring this administrative challenge to the FWC's proposed rule.

III. Receipt of Notice of Proposed Agency Action

5. FWC published its Notice of Proposed Rule on June 13, 2025, Volume 51, Issue 115 of the Florida Administrative Register concerning the following proposed rule 68A-12.012, F.A.C., Regulations Governing Bear Hunting. The FWC scheduled a final public hearing on proposed Rule 68A-12.012, F.A.C., that will occur on August 13, 2025.

IV. Background and Statement of Facts

6. In 1998, Florida voters created the FWC so “that sound research, science, and management techniques should prevail over politics when it comes to wildlife conservation and management.”²

7. Sound science supported FWC’s enactment of its threatened and endangered species rule, rule 68A-27, F.A.C., and initially identified the Florida black bear as a threatened species of special concern.³

8. FWC’s Threatened and Endangered Species rule required the FWC to undertake “biological status review and management plans” for species currently listed as threatened and species of special concern in Florida, including the Florida black bear.⁴

9. On June 8 and 9, 2011, FWC, following its review, approved a motion to de-list the Florida Black Bear as a threatened species of special concern, subject to formal approval of the Bear Management Plan.⁵ Among the purposes of the Bear Management Plan it to “provide guidance to conserve the species so that they will not again need to be listed.”⁶

² D. Ben-Davi and C. Henderson, “Protecting Florida’s Natural Resources,” Fla. Bar Jrn. Vol. 72 No. 9, Oct. 1998. Undersigned gratefully notes that Commissioner Henderson’s public comments submitted to the FWC on August 8, 2025, concerning proposed rule 68A-12.012, F.A.C., set out the framework of this Petition. A copy of the public comments are attached as Exhibit 2.

³ Florida Fish and Wildlife Conservation Commission. Florida black bear management plan. 2012, piii.

⁴ Florida Fish and Wildlife Conservation Commission. Florida black bear management plan. 2012, piii.

⁵ Minutes of Fish and Wildlife Conservation Commission, June 8-9, 2011.

⁶ R. 68A-27.0012(6), F.A.C.

10. On June 27-28, 2013, FWC formally amended its rule to de-list the Florida black bear,⁷ approved a Bear Conservation Rule,⁸ and approved the Black Bear Management Plan.⁹

11. The Bear Conservation Rule made the Black Bear Management Plan official policy, providing that “The Commission will base its comments and recommendations on the goals and objectives of the approved Florida Black Bear Management Plan.” The goal of the Florida Black Bear Management Plan is “to maintain sustainable black bear populations in suitable habitats throughout Florida for the benefit of the species and people.”¹⁰

12. In 2015, the FWC allowed, for the first time in decades, a hunt in which hunters killed 304 Florida black bears in 48 hours.¹¹ Although the overall quota of 320 bears killed was not exceeded, the harvest objectives in certain bear management units was exceeded.¹² The FWC stopped the hunt after two days.

13. On December 11, 2019, the FWC updated and approved the Bear Management Plan.¹³ The updated Plan included 2017 population numbers that was intended to “serve as the blueprint for statewide black bear management for the next 10 years.”¹⁴ In effect, the Bear Management Plan is an agency statement of general applicability and meets the definition of a “rule” under the Administrative Procedure Act.

⁷ R 68 A-27.003, F.A.C.

⁸ R. 68-A-4.009, Black Bear Conservation.

⁹ Florida Fish and Wildlife Conservation Commission, Florida black bear management plan found at: [Bear Management Plan](#)

¹⁰ Bear Management Plan, Executive Summary.

¹¹ An excellent discussion of the 2015 Florida black bear hunt and its devastating outcome is contained in public comments submitted by Speak Up for Wildlife submitted to the FWC on July 4, 2025. Speak Up for Wildlife’s public comments are attached as Exhibit 3 and incorporated with this Petition challenging the proposed rule.

¹² See Speak Up for Wildlife, Exhibit 3, pg. 11 of 24.

¹³ [Florida Black Bear Management Plan](#).

¹⁴ [Florida Black Bear Management Plan](#) at pg. 3.

14. In the FWC's December 2024, FWC's staff presented a five-year implementation update on the Bear Management Plan and reported on the status of non-lethal bear conflict mitigation efforts. The FWC staff recommended no further action.

15. FWC Commissioners, however, directed staff to develop options for a potential bear hunt; hence, Proposed Rule 68A-12.012, F.A.C.

V. Invalid Provisions

16. Proposed Rule 68A-12.012 (1)(a) through (c), F.A.C., provides the following:

(1) Establishment of Bear Harvest Zones and the number of Bear Harvest Permits:

(a) The executive director, or designee, shall by establishment order set Bear Harvest Zones. Bear Harvest Zones are areas delineated for a sustainable bear harvest based on such things as habitat characteristics, accessibility, and estimated bear densities. (b) A Bear Harvest Zone will only be established within Bear Management Units having a bear population estimate over 200. (c) The number of Bear Harvest Permits issued shall be established annually by the Executive Director, or designee, and shall be based upon parameters specific to each Bear Management Unit to ensure a sustainable population using the following:

1. Bear population and demographic estimates;
2. Documented total mortality of adult female bears; and 3. Bear hunting success rates.

VI. Statement of specific statutes and reasons for invalidity of proposed Rule 68A-12.012, F.A.C., under section 120.52(8), Florida Statutes, and explanation for relief.

17. First, proposed Rule 68A-12.012(1)(a)-(c), F.A.C., is an invalid exercise of delegated legislative authority because it goes beyond the powers, functions and duties delegated by the legislature, and specifically enlarges, modifies and contravenes specific provisions of law found in section 20.331, Florida Statutes, by giving the FWC's decision making to its executive director or designee.

18. Article IV, section 9, Florida Constitution, which created the FWC, directs the FWC “establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.”

19. The FWC adopted “due process” rules 68-1.008(b) and (c), F.A.C., defining both procedural and substantive due process. Procedural due process is defined as including “a meaningful opportunity to be heard and a fair, impartial decision-making authority,” and substantive due process refers to the “constitutional protections provided by the due process clause of the Florida and Federal Constitution. Therefore, substantive due process applies with respect to the decisions, orders and adjudication of government.” At the heart of “due process” is the ability of a substantially affected person to have notice and opportunity to be heard on administrative policy decisions.

20. The proposed rule impermissibly removes the ability to be heard and have decisions made by the FWC. Rather than having the constitutionally created commission’s seven appointed members wrestling with the difficult questions, the proposed rule delegates the decision of annually establishing bear hunting zones and bear harvest quotas to the executive director or designee. By removing the bear hunt decision to the “executive director or designee,” the public is denied the due process to be heard concerning the issue and to have the constitutionally appointed officers make the decision.

21. Furthermore, the conclusion that Proposed Rule 68A-12.012(1)(a)-(c), F.A.C., is an impermissible delegation of the FWC’s power to its “executive director, or designee” is further supported by section 20.331(3), Florida Statutes, which created the position of “executive director” within the FWC. Specifically, the statute provides, in part, that the executive director “shall supervise, direct, coordinate, and administer all activities necessary to fulfill the commission’s

constitutional and statutory responsibilities” that are not expressly reserved to the FWC by law.¹⁵ The statutory language does not grant the “executive director or designee” the authority to make decisions regarding the sustainable management of the bear population. That decision necessarily includes policy and decisions to be made by the FWC.

22. The support for the conclusion that only the FWC may make the decision regarding the sustainable management of the bear population is found in rule 68-1.009, F.A.C. In rule 68-1.009, F.A.C., the FWC delegated administrative and executive matters to its executive director in its incorporation and reference to “The Delegations of Authority by the Fish and Wildlife Conservation Commission to the Executive Director (dated October 2020) is hereby incorporated by reference and available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-12526>.” The delegation grants the executive director the authority to issue executive order granted the executive director the authority to issue executive orders “when necessary to manage or regulate fish and wildlife,” limited to exigent circumstances. The FWC’s delegation provides:

The Executive Director may perform other administrative actions, such as, but not limited to, issuing executive orders pursuant to section 120.81(5), F.S., issuing executive orders when necessary to manage or regulate fish and wildlife in exigent circumstances, issuing executive orders in response to declarations of emergency by the Governor, and other administrative actions_as may be necessary to supervise, direct, conduct, and administer the operations of the Commission pursuant to its duties under Article IV, Section 9, Florida Constitution, or as authorized or required by law.¹⁶

Consequently, the FWC has not delegated its authority to manage wildlife populations outside of exigent circumstances.

23. Next, proposed Rule 68A-12.012(1)(a)-(c), F.A.C., is an invalid exercise of delegated legislative authority because the rule is vague, as well as arbitrary or capricious.¹⁷

¹⁵ R. 68-1.009, F.A.C.

¹⁶ <http://www.flrules.org/Gateway/reference.asp?No=Ref-12526> at ¶ 22.

¹⁷ Section 120.52(8)(d), and (e), Florida Statutes.

24. Proposed Rule 68A-12.012(1)(c)1.-3., F.A.C., provides that the executive director or designee shall establish the number of “bear harvest permits” to “ensure a sustainable population using the following:

1. Bear population and demographic estimates;
2. Documented total mortality of adult female bears; and
3. Bear hunting success rates.”

25. The proposed rule is impermissibly vague because it fails to establish adequate standards for the decision in determining annually the number of permits to issue, and vests unbridled discretion for the executive director. The proposed rule fails to set any criteria or methodology that the executive director or designee are to use in measuring or determining any of the three listed factors to be considered in determining a “sustainable population.”

26. For example, the factor of determining “bear population and demographic estimates” is woefully vague and unsupported by any current scientific evidence, as shown by the FWC’s ignoring its own Bear Management Plan and staff recommendations in proposing the rule.

27. The 2019 Bear Management Plan “prioritizes conflict prevention, habitat protection, and the implementation of BearWise community programs, and it expressly encourages the Commission to use its statutory and constitutional powers to influence land use and development decisions in bear habitat.”¹⁸ The Bear Management Plan “does identify regulated hunting as one of several long-term goals, but only in the context of site-specific, data-supported circumstances – not as a first-line management approach.”¹⁹

28. The facts show that the proposed rule and planned December 2025 hunt rely on population data that is obsolete. The FWC’s own 2019 Bear Management Plan included 2017 population numbers that was intended to “serve as the blueprint for statewide black bear

¹⁸ Speak Up for Wildlife, public comments filed with FWC on July 4, 2025, regarding proposed rule, pg. 12.

¹⁹ *Id.*

management for the next 10 years.”²⁰ The 2019 Bear Management Plan’s population estimate is based on a 2017 estimated average population for four subpopulations in 2014-15.²¹ The next statistically valid population abundance assessment is not expected to be available under 2030, following a second round of statewide genetic mark-recapture surveys.²² Consequently, no peer-reviewed population estimates have been published since 2017, which studied the 2014-2015 black bear population that was relied upon in the 2019 Bear Management Plan.

29. As set out in the background portion of this Petition, the FWC staff, in December 2024 Commission meeting, presented a five-year implementation update to the Bear Management Plan and reported on the status of non-lethal bear conflict mitigation efforts. The FWC staff did not recommend a bear hunt.

30. The proposed rule contradicts the 2019 Bear Management Plan and results in the FWC flying blind as to the black bear population in making decisions.

31. Without adequate up-to-date information about Florida’s black bear population and how the subpopulations are impacted by habitat fragmentation in each bear management unit, the proposed rule gives the executive director unbridled discretion to determine the number of harvest permits and the number of “bear harvest zones.”

32. Moreover, because the proposed rule fails to define or adopt any scientific methodology for measuring or reviewing the three factors of: Bear population and demographic estimates; documented total mortality of adult female bears; and bear hunting success rates. Consequently, this proposed rule sanctions and creates an annual decision by the executive director concerning bear hunts that is arbitrary or capricious because it is not supported by facts, logic or reason.

²⁰ Florida Fish and Wildlife Conservation Commission, 2019 Florida Black Bear Management Plan, pg. 3.

²¹ Speak Up For Wildlife, July 4, 2015, public comments, pg. 12, and footnote 65.

²² *Id.* at 12, footnote 66, citing FWC Black Bear Management Plan at 40, Table 7.

33. The failure to make the bear hunt decisions based on scientific facts is further demonstrated by the specific legislative creation of the Division of Hunting and Game Management in section 20.331(7)(d), Florida Statutes. Section 20.331(7)(d), Florida Statutes, provides:

(d) Division of Hunting and Game Management such powers, duties, responsibilities, and functions as are necessary to facilitate the responsible and sustained use of wild animal life resources. **The division must develop scientifically based recommendations that support effective regulation and sound management of game wild animal life resources.** The division must also coordinate the development and management of public hunting opportunities and provide hunter safety training and certification.

34. The legislature expressly requires that the Division of Hunting and Game Management “develop scientifically based recommendations that support effective regulation and sound management of game wild animal life.” Consequently, any decision about bear hunts must be made with the Division of Hunting and Game Management based on scientific based recommendations.

35. In contrast to the legislature’s directive, the FWC’s proposed rule is not grounded on any scientifically based recommendation and is set at the whims of the executive director or designee. Clearly, the proposed rule is an invalid exercise of delegated legislative authority as defined by section 120.52(8), Florida Statutes.

36. Finally, the proposed rule also is an invalid exercise of delegated legislative authority because the FWC failed to materially follow the applicable rule making procedures or requirements.²³ Specifically, in its Notice of Proposed Rule, FWC violated the statutory duty of providing due process for input from the public in three regards:

- a. First, the FWC Notice of Proposed Rule improperly restricted public comments that limited the comments to 8000 characters or less, or

²³ §120.52(8)(a), Fla. Stat.

approximately 3 pages. Moreover, this limited public comments link appears to be a University of Central Florida social science opinion poll, as opposed to comments made to the FWC.

- b. Second, during the six virtual meetings held to date, the FWC has not provided the scientific support or methodology to support the proposed rule; and
- c. Third, and finally, the FWC's Notice wrongly informed the public that the deadline to submit public comments was July 4, 2025, in contravention of section 120.54(3)(c)1., Florida Statute, that allows public comment submitted to the agency between the date of publication of the notice and the end of the final public hearing.

37. These errors violate due process by wrongly restricting and limiting the public participation concerning this important issue and the decision to allow bear hunts. These errors in following the due process requirements set out by the legislature are material and result in the proposed rule being an invalid exercise of delegated legislative responsibility.

VII. Statement of Relief

Based on the foregoing, the Petitioner Bear Warriors United, Inc., respectfully requests that the Division of Administrative Hearings take the following action:

- 1. Set the case for a formal administrative hearing concerning the challenge to the proposed rule;
- 2. Order the Florida Fish and Wildlife Conservation Commission to take no action in issuing bear harvest permits under Proposed Rule 68A-12.012, F.A.C., until final resolution of the administrative challenge;
- 3. Enter a Final Order finding proposed Rule 68A-12.012, F.A.C., is an invalid exercise of delegated legislative authority under section 120.52(8), Florida Statutes; and
- 4. Enter all other relief, including awarding attorneys' fees and costs under section 120.595(2), and (4), Florida Statutes, if appropriate.

Respectfully submitted this 15th day of August, 2025.

/S/Thomas P. Crapps
Thomas P. Crapps
FBN 0878928
tom@meenanlawfirm.com
Meenan P.A.
300 S. Duval Street, Suite 410
Tallahassee, Florida 32301
Tel (850) 425-4000

Raquel Levy
Atlantic Law Center
1335 Ridgewood Ave.
Holly Hill, Florida 32117
FBN 88702
Raquel@atlanticlawcenter.com
Attorneys for Bear Warriors United, Inc.

CERTIFICATE OF SERVICE

A true and correct copy of this Petition to Determine Invalidity of Proposed Rule was served electronically on the Florida Fish and Wildlife Conservation Commission Acting General Counsel Rhonda Parnell, Esq., at: Rhonda.Parnell@myfwc.com; Agency Clerk at <https://myfwc.com/about/inside-fwc/legal/>; and by service of process on this 15th day of August, 2025; and electronically filed directly with the Florida Division of Administrative Hearings.

/S/Thomas P. Crapps

Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NOS.:RULE TITLES:

68A-12.002 General Methods of Taking Game and Crows; Prohibitions

68A-12.003 Protection of Certain Deer and Turkey; Tagging of Deer, Bear, and Turkey; Deer and Wild Turkey Harvest Reporting; Evidence of Legal Harvest or Sex Required

68A-12.004 Possession or Sale of Birds or Mammals; Taxidermy Operations and Mounting Requirements

68A-12.007 Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting

68A-12.012 Regulations Governing Bear Hunting

PURPOSE AND EFFECT: The purpose of the proposed rule amendments are to update and create new hunting regulations for black bear hunting in Florida and to clarify regulations relating to harvest reporting and possession of deer and turkey. The effect of the proposed rule amendments will be to provide for a highly regulated, sustainable hunting opportunity for black bears and to clarify regulations.

SUMMARY: The proposed rule amendments modify existing rules and create a new rule to establish regulations for black bear hunting in Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission's regular meeting August 13-14, 2025, 8:30 a.m. to 5:00 p.m., each day.

PLACE: Florida Public Safety Institute, 85 Academy Drive, Havana, Florida, 32333.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Morgan Richardson, Hunting and Game Management Division Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-3831.

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-12.002 General Methods of Taking Game and Crows; Prohibitions.

(1) through (8) No change.

(9)(a) Game feeding stations may be maintained for the purpose of propagating quail, wild turkey, and other wild game under natural conditions.

(b) Non-migratory game may be taken in proximity to game feeding stations which are maintained with feed (corn, wheat, grain or any other food substance deposited by other than normal agricultural harvesting or planting)

EXHIBIT 1

throughout the year provided that each feeding station shall have been maintained at least six months prior to the taking of game in proximity thereof. Wild turkey may not be taken if the hunter is less than 100 yards from a game feeding station when feed is present. ~~Bear may not be taken if the hunter or the bear is less than 100 yards from a game feeding station when feed is present.~~

(c) through (d) No change.

PROPOSED EFFECTIVE DATE: September 1, 2025

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-4-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-12.02, Amended 6-1-86, 4-11-90, 4-14-92, 4-20-93, 3-1-94, 3-30-95, 4-1-96, 12-28-98, Formerly 39-12.002, Amended 7-1-05, 7-1-06, 7-1-08, 10-23-08, 1-1-11, 7-1-13, 12-23-14, 7-29-15, 7-1-18, 7-1-19, 7-1-20, 7-1-23, 7-1-24, 9-1-25.

68A-12.003 Protection of Certain Deer and Turkey; Tagging of Deer, ~~Bear~~, and Turkey; Deer and Wild Turkey Harvest Reporting; Evidence of Legal Harvest or Sex Required.

(1) Wild Turkey:

(a) through (b) No change.

(c) Harvest reporting requirements shall apply to any person who harvests a wild turkey. Wild turkeys harvested out of state, under permits issued pursuant to Chapter 68A-9, F.A.C., and captive-reared turkeys harvested on licensed Game Farms and Hunting Preserves shall be exempt from harvest reporting requirements.

1. through 4. No change.

5. Once a harvested wild turkey is reported through the Commission's harvest reporting system and prior to that wild turkey being transferred to another party, the wild turkey, or portions or parts thereof, shall be labeled by the harvester with their first and last name and the harvest reporting confirmation number. Such labeling shall remain on the wild turkey, or portions or parts thereof, until final processing or until stored at the domicile of its possessor. ~~A processor shall maintain the aforementioned labeling, or as an alternative to maintaining labeling, may use a log book and numbering or other tracking system. Said log book shall contain the same information required of the aforementioned label. If a log book is used, it shall be kept on the processor's premises for inspection by Law Enforcement Officers of the Commission.~~

(2) Deer:

(a) No change.

(b) Harvest reporting requirements shall apply to any person who harvests a deer, except for the following: non-native deer, deer harvested out of state, deer killed by a motor vehicle, deer harvested under permits issued pursuant to Chapter 68A-9, F.A.C., and deer harvested on a licensed Game Farm or Licensed Private Hunting Preserve.

1. through 4. No change.

5. Once a harvested deer is reported through the Commission's harvest reporting system and prior to that deer being transferred to another party, the deer, or portions or parts thereof, shall be labeled by the harvester with their first and last name and the harvest reporting confirmation number. Such labeling shall remain on the deer, or portions or parts thereof, until final processing or until stored at the domicile of its possessor. ~~A processor shall maintain the aforementioned labeling, or as an alternative to maintaining labeling, may use a log book and numbering or other tracking system. Said log book shall contain the same information required of the aforementioned label. If a log book is used, it shall be kept on the processor's premises for inspection by Law Enforcement Officers of the Commission.~~

(3) Bear:

(a) ~~Positive evidence of sex identification in the form of testicles, penis, penis sheath, udder or vulva shall remain naturally attached to the carcass of all bear taken and shall remain attached until the bear is checked at a Commission designated check station.~~

(b) ~~No bear shall be dismembered until checked at a Commission designated check station. Bear may be dismembered in the camp or field after being checked at a Commission designated check station but each portion shall have a tag affixed to it identifying the name, address, and FWC Recreational Licensing Issuance Services Customer ID number of the person who killed it.~~

PROPOSED EFFECTIVE DATE: September 1, 2025

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 5-

68A-12.004 Possession or Sale of Birds or Mammals; Taxidermy Operations and Mounting Requirements.

(1) No change.

(2) Wildlife Game legally taken may be stored in public cold storage, refrigerators, freezers or coolers, or a processing facility ~~ice houses or ice boxes~~ when packaged or labeled and clearly marked with the owner's name and, if a license is required, license number or ~~FWC issued~~ customer ID number.

(a) Any harvested deer, or portions or parts thereof, subject to the provisions of paragraph 68A-12.003(2)(c), F.A.C., respectively, shall also have the Commission's harvest reporting system confirmation number recorded on the label, and any deer, or portions or parts thereof, legally taken out-of-state shall also have the telephone number of the person taking or acquiring such deer and the state of harvest recorded on the label. Such labeling shall remain on the deer, or portions or parts thereof, until final processing or until stored at the domicile of its possessor. ~~As an alternative to labeling, the owner of any public cold storage, refrigerators, ice houses or ice boxes may use a log book and numbering or other tracking system. The log book shall contain the same information required of the aforementioned label. The log book shall be kept on the premises for inspection by Law Enforcement Officers of the Commission.~~

(b) Any harvested turkey, or portions or parts thereof, subject to the provisions of paragraph 68A-12.003(1)(c), F.A.C., respectively, shall also have the Commission's harvest reporting system confirmation number recorded on the label.

(c) As an alternative to labeling, the owner, operator, or lessee of public cold storage, refrigerators, freezers or coolers, or a processing facility may use a logbook and numbering or other tracking system. The logbook shall contain the same information required of the label. The logbook shall be kept on the premises for inspection by Commission Law Enforcement and retained while the wildlife, or parts thereof, recorded therein are on the premises.

~~(d)(b)~~ The owner, operator, or lessee of public cold storage, refrigerators, freezers or coolers, ~~ice houses or ice boxes~~ or a ~~taxidermy~~ or processing facility are not subject to possession limits described in Division 68A Chapter 68A-13, F.A.C., for any wildlife game legally taken or acquired by another and stored in their facility.

(3) through (10) No change.

(11) Taxidermy operations and mounting requirements:

(a) Any person engaged in taxidermy shall label all carcasses (whole specimens), untanned hides, and uncured animal parts of fish and wildlife, possessed or received with the name of the person taking or acquiring such fish or wildlife, the person's address, and date taken or acquired. ~~In addition, any deer subject to the provisions of paragraph 68A-12.003(2)(c), F.A.C., shall have the Commission's harvest reporting system confirmation number recorded on the label, and any deer, or portions or parts thereof, legally taken out of state shall have the telephone number of the person taking or acquiring such deer and the state of harvest recorded on the label. As an alternative to labeling, persons engaged in taxidermy may choose to use a log book and numbering or tracking system. The log book shall contain the same information required of the aforementioned label. The carcass, untanned hide, or uncured animal part shall be assigned a number, which shall be affixed to the specimen so as to be readily identifiable and traceable to the log book information. The log book shall be kept on the taxidermist's premises for inspection by Law Enforcement Officers of the Commission.~~

(b) Any harvested deer subject to the provisions of paragraph 68A-12.003(2)(c), F.A.C., shall also have the Commission's harvest reporting system confirmation number recorded on the label, and any deer, or portions or parts thereof, legally taken out-of-state shall have the telephone number of the person taking or acquiring such deer and the state of harvest recorded on the label.

(c) Any harvested turkey, or portions or parts thereof, subject to the provisions of paragraph 68A-12.003(1)(c), F.A.C., respectively, shall also have the Commission's harvest reporting system confirmation number recorded on the label.

(d) As an alternative to labeling, persons engaged in taxidermy may choose to use a log book and numbering or tracking system. The logbook shall contain the same information required of the label. The carcass, untanned hide,

or uncured animal part shall be assigned a number, which shall be affixed to the specimen so as to be readily identifiable and traceable to the log book information. The logbook shall be kept on the taxidermist's premises for inspection by Commission Law Enforcement and retained while the fish or wildlife, or parts thereof, recorded therein are on the premises.

(e) The owner, operator, or lessee of a taxidermy facility is not subject to possession limits described in Division 68A, F.A.C., for any wildlife legally taken or acquired by another and stored in their facility.

(b) through (d) renumbered (f) through (h) No change.

~~(i)(e)~~ No permit shall be required for the mounting of carcasses, green hides, or uncured parts of:

1. No change.

2. Specimens of game mammals (except black bear), game birds, fox squirrel, otter, bobcat or mink that were killed on roads or highways.

(12) The sale or purchase of ~~the any bear~~ carcass or any part thereof ~~of any species of bear~~ is prohibited. The sale or purchase of any ~~taxidermied taxidermal~~ specimen of a black bear is prohibited. The sale or purchase of a ~~taxidermied taxidermal~~ specimen of any other species of bear is prohibited unless it was legally taken or acquired and has attached thereto a tag bearing the name and address of the possessor and the date when and the specific place where it was taken or acquired. In addition the possessor of any ~~taxidermied specimen taxidermal specimen~~ of any bear shall have in ~~their his~~ possession documentation that the specimen was legally taken, acquired, or exported from the state or country of origin. The possession or transportation of any carcass or untanned skin of any ~~species of~~ bear is prohibited unless it was legally taken or acquired and has attached thereto a Commission bear ~~harvest~~ tag or a tag bearing the name and address of the possessor, the species, and the date when and specific place where it was taken or acquired. In addition the possessor of the carcass or untanned skin shall have in ~~their his~~ possession documentation that it was legally taken, acquired or exported from the state or country of origin.

PROPOSED EFFECTIVE DATE: September 1, 2025

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-4-81, 6-21-82, 7-5-84, Formerly 39-12.04, Amended 5-10-87, 6-8-87, 4-20-94, 8-7-97, Formerly 39-12.004, Amended 7-29-15, 1-11-17, 7-1-19, 7-4-21, 7-1-22, 8-2-22, 7-17-23, 9-1-25.

68A-12.007 Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting.

(1) All dogs used for taking or attempting to take, trailing, pursuing, or molesting wildlife shall wear a collar or tag which shall legibly display the name and address of the owner of the dog. No person shall use any dog to take or attempt to take, trail, pursue or molest wildlife unless such dog is wearing a collar or tag displaying the information required above. Removing, tampering, or otherwise interfering with any collar or tag (including remote tracking and behavior correction devices) of a dog used for hunting without the owner's permission is prohibited.

All dogs not under physical restraint that are used for pursuing deer, bear, wild hog, fox, or coyote must be equipped and monitored with devices that allow remote tracking and behavior correction, except dogs used to pursue wild hog, fox or coyote during sanctioned mounted field trial events. The device(s) must be attached by a collar or similar means and must be used to deter dog egress from authorized areas or ingress into unauthorized areas. The remote tracking device(s) must include Global Positioning System (GPS) or telemetry tracking and the behavior correction device(s) must be designed to remotely correct dog behavior through auditory or physical stimulation.

(2) No change.

(3)(a) The purpose and intent of this subsection is to implement registration requirements for use of dogs to take deer or bear on private lands.

(b) Registration –

1. No person shall use dogs to take, attempt to take, trail, pursue or molest deer or bear on any privately-owned property unless such property has been registered with the Commission as set forth under this subsection. Privately-owned property shall be registered by the landowner(s), lessee, or other person designated by the landowner(s) via written permission as required under subsection (2), of this section. Individuals may register an aggregate of private lands including different ownerships under one registration. No more than one registration shall be in effect for each parcel of land at any given time. Registration shall not be required for use of dogs on leashes for trailing wounded game.

2. Applications for registering private lands for taking deer or bear with dogs shall be on such form as prescribed by the Commission and shall include: a written description of the property boundaries and map showing property boundaries; total acreage of the property; name, street or physical address, and telephone numbers for the applicant and the landowner; a copy of a lease for hunting rights or written permission as required under subsection (2), of this section, where the landowner is not the applicant, and other information pertaining to the proposed activity necessary for registration issuance and enforcement of this rule.

(c) Requirements –

1. Each registration issued pursuant to this subsection shall include a registration number. In addition to requirements under subsection (1), of this section, no person shall use any dog for taking, attempted taking, trailing, pursuing or molesting deer or bear unless such dog is wearing a collar or attachment to the collar legibly displaying the entire registration number specific to the registered property where said use of the dog is occurring.

2. No person using any dog for taking or attempting to take, trailing, pursuing, or molesting deer or bear shall allow a dog off the registered property, whether intentionally or negligently.

3. No person shall participate in taking, attempted taking, trailing, pursuing or molesting deer or bear on any privately-owned property unless such person is in possession of a copy of the registration for said privately-owned property.

(4) through (5) No change.

(6) Deer and bear dogs may be trained during the closed season for taking deer when such dogs are constantly attached to a leash or rope in the hands of the trainer. Deer and bear dogs may be allowed to run free for training purposes only during the period beginning 35 days prior to the first day of the antlered deer season and closing 19 days thereafter, except in Zone D when the period shall begin the last Saturday of October and continue for 19 days thereafter. Taking wildlife with any gun while training deer or bear dogs is prohibited.

(7) through (8) No change.

(9) While archery or muzzleloading gun hunting during special seasons the taking of deer, bear, or wild hog by the use or aid of dogs is prohibited.

(10) No change.

~~(11) Taking bear by aid of a dog is prohibited except that dogs on leash may be used for trailing shot bear.~~

PROPOSED EFFECTIVE DATE: September 1, 2025

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 6-21-82, 7-27-83, 7-5-84, 7-1-85, Formerly 39-12.07, Amended 4-11-90, 3-1-94, 7-1-94, 9-7-97, Formerly 39-12.007, Amended 12-9-99, 8-22-04, 7-17-05, 7-1-08, 7-1-10, 7-29-15, 7-1-20, 7-1-23, 7-1-24, 9-1-25.

68A-12.012 Regulations Governing Bear Hunting.

No individual shall harvest bears from the wild within the state of Florida except as provided herein. The Commission finds that Florida's bear population can sustain bear harvest. Accordingly, as set forth herein, the Commission creates a limited-entry hunting opportunity for appropriate bear populations in current Bear Management Units, as defined in Rule 68A-4.009, F.A.C. This rule sets the criteria for how Bear Harvest Zones will be established, the criteria for determining the number of special-use bear harvest permits that will be issued per Bear Harvest Zone, the requirements of permit holders, and the creation of a Private Lands Bear Harvest Program.

(1) Establishment of Bear Harvest Zones and the number of Bear Harvest Permits:

(a) The executive director, or designee, shall by establishment order set Bear Harvest Zones. Bear Harvest Zones are areas delineated for a sustainable bear harvest based on such things as habitat characteristics, accessibility, and estimated bear densities.

(b) A Bear Harvest Zone will only be established within Bear Management Units having a bear population estimate over 200.

(c) The number of Bear Harvest Permits issued shall be established annually by the Executive Director, or designee, and shall be based upon parameters specific to each Bear Management Unit to ensure a sustainable population using the following:

1. Bear population and demographic estimates;
2. Documented total mortality of adult female bears; and
3. Bear hunting success rates.

(2) Application, selection, issuance of Bear Harvest Permits, and restrictions:

(a) Individuals may apply for a Bear Harvest Permit through the Commission's online licensing system (available at: <https://GoOutdoorsFlorida.com>). The Commission shall give notice of the designated application times and dates each year electronically at: <https://www.MyFWC.com/Bear>.

1. Applicants may submit more than one application. Applicants will be chosen for a Bear Harvest Permit for a specific Bear Harvest Zone by random drawing.

2. Applicants must pay a non-refundable application fee, as established by paragraph 68A-9.007(2)(b), F.A.C., per application submitted. Applicants selected in the random drawing must pay the permit fee, as established by paragraph 68A-9.007(2)(b), F.A.C., for the issuance of a Bear Harvest Permit by the deadline indicated on the invoice. Selected applicants who fail to pay the fees by the deadline forfeit their permit to the next applicant selected for that specific Bear Harvest Zone.

3. Permits will be limited to one Bear Harvest Permit per individual.

4. Applicants must:

a. Be 18 years of age or older by October 1 of the application year; and,

b. Have complied with all tagging and reporting requirements associated with any bear harvest permit issued to the applicant in any year.

(b) Successful applicants shall be awarded a Bear Harvest Permit through the Commission's licensing system.

(c) One bear harvest tag shall be issued with each Bear Harvest Permit.

1. Bear harvest tags issued under this subsection shall remain the property of the Commission until affixed as provided herein.

2. Only a Bear Harvest Permit holder may possess a bear harvest tag.

3. Unused bear harvest tags shall be returned by the permit holder to the Commission no later than 14 days after the expiration date of the Bear Harvest Permit. It shall be a violation of this section for any individual to possess unused bear harvest tags beyond 14 days after the expiration date of the Bear Harvest Permit.

(d) Bear Harvest Permits shall be valid for use in a specific Bear Harvest Zone and prohibited from use on any Private Lands Bear Harvest Program property as described in subsection (6), below.

(e) Bear Harvest Permits and their associated harvest tags, supplied by the Commission, are nontransferable.

(f) No more than 10% of Bear Harvest Permits awarded shall be to non-residents.

(3) Bear hunting requirements:

(a) Individuals taking bears under a Bear Harvest Permit must be licensed and permitted pursuant to Section 379.354, F.S., unless exempt under section 379.353, F.S.

(b) Unpermitted guests may participate in the taking of bears as follows:

1. When the Bear Harvest Permit holder is present on the property where the take of bear is occurring.

2. Guest hunters must be licensed and permitted as required by section 379.354, F.S., unless exempt pursuant to section 379.353, F.S.

3. The guest(s) and Bear Harvest Permit holder must share the Bear Harvest Permit bag limit.

4. The Bear Harvest Permit holder shall be responsible for ensuring that all parties comply with the bag limit.

5. One guest hunter is allowed per Bear Harvest Permit holder hunting without dogs.

6. Up to nine guest hunters are allowed per Bear Harvest Permit holder hunting with dogs.

(c) The open season for harvesting bears shall begin no earlier than October 1 and end no later than December 31. Season dates will be established annually, and pursuant to subsection 120.81(5), F.S., the Commission shall give notice of the annual season dates electronically at: <https://www.MyFWC.com/Bear>.

(d) The general methods and prohibitions for take of bear are as provided in Rule 68A-12.002, F.A.C.

(e) Use of dogs:

1. Dogs on leash may be used for trailing a shot bear.

2. Effective July 1, 2026, dogs may be used to pursue bears during the bear dog training seasons established in subsection 68A-12.007(6), F.A.C.

3. Effective July 1, 2027, dogs may be used to pursue bears during the bear dog training seasons established in subsection 68A-12.007(6), F.A.C., and under a Bear Harvest Permit.

4. The use of dogs to pursue bears shall comply with the requirements of Rule 68A-12.007, F.A.C.

5. No more than six dogs at any one time may be used to pursue bears.

6. Dogs may be used to pursue bears on privately-owned property only if the property has been registered as provided in subsection 68A-12.007(3), F.A.C.

(f) Bears may only be taken in the Bear Harvest Zone as specified in the Bear Harvest Permit.

(g) The daily, possession, and season bag limit is one bear per Bear Harvest Permit but at no time shall an individual harvest a bear under more than one Bear Harvest Permit per season.

(4) Bear harvest tagging, reporting, and sampling requirements.

(a) A harvested bear shall be tagged with the issued bear harvest tag prior to moving the bear from the point of recovery. The tag shall be locked and attached through the skin of the carcass. The harvest tag shall remain locked and attached to the carcass until the bear is reported using the Commission's harvest reporting system and shall remain locked and attached to the bear skin until the skin is tanned, taxidermy mounted or exported from the state. The harvest tag may not be altered to compromise the locking mechanism in any way and shall be used only once.

(b) The possession of any bear not tagged as prescribed herein is prohibited, and such bear shall be subject to seizure and forfeiture to the Commission under the provisions of section 379.3311, F.S.

(c) Harvest reporting requirements shall apply to any individual who harvests a bear under this Rule and does not apply to bears taken under Rule 68A-4.009, F.A.C., or under permits issued pursuant to Rule 68A-9.002, F.A.C.

1. Each bear harvested shall be reported using the Commission's harvest reporting system (available at: <https://GoOutdoorsFlorida.com> and through the Fish|Hunt Florida app on Apple and Android devices) under the customer ID number of the individual who harvested the bear. Reporting must occur within 24 hours of harvest, prior to final processing, prior to the bear or any portions or parts thereof being transferred to another party, and prior to leaving the state.

2. Upon report, the Commission's harvest reporting system will provide a confirmation number.

3. After reporting through the Commission's harvest reporting system, but prior to that bear being transferred to any other party, the bear, or portions or parts thereof, must be labeled with the first and last name of the harvester and the harvest reporting confirmation number. Such labeling shall remain on the bear, or portions or parts thereof, until final processing or until stored at the domicile of its possessor.

(d) All harvested bears are subject to inspection and collection of biological samples by Commission representatives for purposes of harvest sustainability and conservation of the bear resource.

(5) Bear processing and parts.

(a) For any harvested bear, evidence of legal harvest must be possessed, and the identifying information of the harvester must be provided as described herein. For the purposes of this subsection, evidence of legal harvest is in the form of testicles, penis, penis sheath, mammary glands, or vulva that shall remain naturally attached to the carcass, and the identifying information of the harvester is their first and last name and either their customer ID number or their harvest reporting confirmation number.

(b) A harvested bear may be transferred whole or divided and transferred in portions or parts from the harvester to other individuals in the field or camp. If transferred whole, the possessor must retain evidence of legal harvest and the bear harvest tag locked and attached to the carcass per paragraph (4)(a), above, and provide the identifying information of the harvester. If transferred in portions or parts, the harvester must retain evidence of legal harvest and the bear harvest tag locked and attached through the skin per paragraph (4)(a), above, and any possessor of the portions or parts must provide the identifying information of the harvester.

(c) If the harvester retains the whole harvested bear in their possession, then they must possess evidence of legal harvest, and the bear harvest tag locked and attached to the carcass per paragraph (4)(a), above, and provide their identifying information. Evidence of legal harvest and identifying information of the harvester must be retained until a harvested bear arrives at a meat processor, taxidermist, the domicile of its possessor, or has been cooked, and must be provided upon request by Commission Law Enforcement.

(d) Bear legally taken may be stored in public cold storage, refrigerators, freezers or coolers or a processing facility when packaged or labeled and clearly marked with the owner's name and, if a license is required, license number or customer ID number.

1. Any harvested bear, or portions or parts thereof, subject to the harvest reporting provisions of subsection (4) above, shall also have the Commission's harvest reporting system confirmation number recorded on the label by the harvester, and any bear, or portions or parts thereof, legally taken out-of-state shall also have the telephone number

of the individual taking or acquiring such bear and the state of harvest recorded on the label. Such labeling shall remain on the bear, or portions or parts thereof, until final processing or until stored at the domicile of its possessor.

2. As an alternative to labeling, the owner of any public cold storage, refrigerators, freezers or coolers or a processing facility may use a logbook and numbering or other tracking system. The logbook shall contain the same information required of the aforementioned label. The logbook shall be kept on the premises for inspection by a Commission Law Enforcement Officer and retained while a bear, or parts thereof, recorded therein are on the premises.

3. The owner, operator, or lessee of public cold storage, refrigerators, freezers or coolers or a processing facility are not subject to possession limits described in paragraph (3)(g), above, for any bear legally taken by another and stored in their facility.

(6) Beginning January 1, 2026, the Commission hereby creates a Private Lands Bear Harvest Program (Program) to permit landowners to bear hunt on their properties. A landowner may apply for a Program permit issued by the Executive Director, or designee, to allow for the take of bear on a specified private property from October 1 through December 31.

(a) Program enrollment application must meet the following criteria:

1. The property identified in the Program enrollment application must be at least 5,000 contiguous acres, with no less than 50% of the identified acres being suitable bear habitat. Adjoining properties that form, in aggregate, one contiguous piece of land that together satisfies the acreage requirement and have no less than 50% of the identified acres being suitable bear habitat qualify for Program enrollment.

2. Only the owner of the property, the lessee of the property, or an individual who has written permission from the landowner may submit an application. Applications shall include:

a. A written description of the property boundaries;

b. The total acreage of the property;

c. The name, street or physical address, and telephone number for the applicant and the landowner(s);

d. The signature of the landowner(s) or legal agent of the landowner(s) providing permission to enroll their property in the Program; and

e. Other information pertaining to the proposed activity necessary for permit issuance and enforcement of this subsection.

(b) Permit issuance requirements:

1. An applicant must submit a written Bear Habitat Management Plan (BHMP) developed or approved by a Certified Wildlife Biologist (CWB; certified by The Wildlife Society 5410 Grosvenor Lane, Suite 200, Bethesda, MD 20816) or developed through the Commission's Landowner Assistance Program.

2. An applicant must submit an annual bear population survey demonstrating the number of individual adult bears using the property between August 1 and December 31. The survey must be verified by a Certified Wildlife Biologist and shall not include any bears observed within 300 feet of the property's boundary described in the application.

3. An applicant must include a minimum of four qualifying conservation activities (active habitat management, wildlife management or conservation-related activities for youth) annually indicating those activities affect at least 10% of the property during the Program enrolled period. Conservation-related activities for youth may only account for one of the four qualifying conservation activities required.

4. Commission personnel shall review the application and approve or deny based on whether it is complete and includes the required proposed conservation activities and population data. If approved, the property will be enrolled in the Program and a permit issued in the name of the applicant. Only one permit will be issued for the property described in the application. As a condition of annual permit renewal, the property must be managed consistent with the BHMP, and the conservation activities must be performed substantially as proposed.

5. Notwithstanding the provisions of Rule 68A-4.009, F.A.C., no individual may harvest a bear on property enrolled in the Program except as provided for by permit issued under this paragraph:

(c) Permitted activities:

1. The Commission shall furnish one bear harvest tag for a property 5,000 to 14,999 acres that submit population data demonstrating at least five individual bears using the property, up to two (2) bear harvest tags for a property 15,000 to 24,999 acres that submit population data demonstrating at least 10 individual bears using the

property, and a maximum of three bear harvest tags will be issued for a property 25,000 acres or more that submit population data demonstrating at least 15 individual bears using the property.

a. Bear harvest tags issued under this subsection shall remain the property of the Commission until affixed as provided herein.

b. Any unused bear harvest tag shall be returned by the permittee to the Commission no later than 14 days after the expiration date of the Program permit. It shall be a violation of this section for any individual to possess any unused bear harvest tag issued pursuant to this section 14 days after the expiration date of the permit.

2. The general methods and prohibitions of take for bear are as provided in Rule 68A-12.002, F.A.C.

3. Use of dogs:

a. Dogs on leash may be used for trailing a shot bear.

b. Effective July 1, 2026, dogs may be used to pursue bears during the bear dog training seasons established in subsection 68A-12.007(6), F.A.C.

c. Effective July 1, 2027, dogs may be used to pursue bears during the bear dog training seasons established in subsection 68A-12.007(6), F.A.C., and under a Program permit.

d. All dogs used to pursue bears shall comply with the requirements of Rule 68A-12.007, F.A.C.

e. No more than six (6) dogs at any one time may be used to pursue bears.

f. Dogs may be used to pursue bears only if the property has been registered as provided in subsection 68A-12.007(3), F.A.C.

4. Any individual taking bear under a Program permit issued under this subsection must be licensed as required by section 379.354, F.S., unless exempt under section 379.353, F.S.

5. Each bear harvested under a Program permit shall be tagged with a bear harvest tag issued with the permit prior to moving the bear from the point of recovery. The tag shall be locked through the skin of the carcass. The possession of any bear not tagged as prescribed herein is prohibited, and such bear shall be subject to seizure and forfeiture to the Commission under the provisions of section 379.3311, F.S. The harvest tag shall remain locked on the carcass until the bear is reported using the Commission's harvest reporting system and shall remain locked and attached to the bear skin until the skin is tanned, taxidermy mounted or exported from the state. The harvest tag may not be altered to compromise the locking mechanism in any way and shall be used only once.

(d) The harvest reporting requirements of subparagraphs (4)(c)1. through 3. and paragraph (4)(d), above, shall apply to bears harvested under this subsection.

(e) Commission personnel may access property enrolled in the Private Lands Bear Harvest Program to check for permit compliance or to collect biological specimens and data on any bear taken.

(7) Failure to comply with any provisions of this rule or any other Commission rules may be grounds for revocation, suspension, or denial of any permit issued under this rule pursuant to Rule 68-1.010, F.A.C.

PROPOSED EFFECTIVE DATE: September 1, 2025

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., History – New 9-1-25.

NAME OF PERSON ORIGINATING PROPOSED RULE: Morgan Richardson, Hunting and Game Management Division Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-3831.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 21, 2025

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: May 29, 2025

Clay Henderson

August 8, 2025

Morgan Richardson,
Hunting and Game Management Division Director,
Fish and Wildlife Conservation Commission
via electronic mail to: Morgan.Richardson@MyFWC.com

RE: Public comments in response to Notice of Proposed Rule published June 13, 2025, in Volume 51, Issue 115 of the Florida Administrative Register concerning the Proposed Rules and Amendments listed below:

Dear Mr. Richardson:

Please place these comments in the record for the hearing on the following Proposed Rules during the Commission's regular meeting August 13-14, 2025.

68A-12.002 General Methods of Taking Game and Crows; Prohibitions

68A-12.003 Protection of Certain Deer and Turkey; Tagging of Deer, Bear, and Turkey; Deer and Wild Turkey Harvest Reporting; Evidence of Legal Harvest or Sex Required

68A-12.004 Possession or Sale of Birds or Mammals; Taxidermy Operations and Mounting Requirements

68A-12.007 Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting

68A-12.012 Regulations Governing Bear Hunting

As a member of the 1998 Constitution Revision Commission, I was the sponsor and draftsman on what is now Article IV Section 9 of the Florida Constitution which established the Fish and Wildlife Conservation Commission. At the time it was approved by the CRC, I placed comments into the minutes regarding the intent of the proposal and have subsequently published articles including analysis of this constitutional provision in the *Florida Bar Journal*, *Florida Law Review*, and *Stetson Law Review*.¹ In addition, the Florida Supreme Court quoted me in a case

¹ D. Ben-David and C. Henderson, "Protecting Florida's Natural Resources, Fla. Bar Jrn. Vol 72 No. 9, October 1998; C. Henderson, "The Conservation Amendment," Fla. Law Rev., Vol 52, No. 2, April 2000; C. Henderson, "The Greening of Florida's Constitution," Stetson Law Rev., Vol. 49 No. 4, Summer 2020.

focusing on the intent of Section 9 in *Caribbean Conservation Corp. v Florida FWCC*.² I have also testified as an expert witness in Florida Constitutional Law.

My review of the proposed rules leads me to the conclusion that they run afoul of the stated intent behind the creation of the Fish and Wildlife Conservation Commission, that decisions be based on sound science; and are unconstitutional as contrary to accepted principles of Due Process.

First, there can be no question that the underlying premise behind the establishment of the FWCC is “that sound research, science, and management techniques should prevail over politics when it comes to wildlife conservation and management.”³ Florida is the only state with a constitutionally authorized and independent wildlife commission.⁴ The expressed reason for the establishment of the former Game and Freshwater Fish Commission was to remove game management from politics. Likewise, the fundamental reason for the merger with the Marine Fisheries Commission which created the FWCC was to get politics out of fisheries management as well. Following the ratification of the amendment, the Legislature adopted administrative provisions for the new commission, including, “the division must develop scientifically based recommendations that support effective regulation and sound management of game wild animal life resources.”⁵

Sound science led the FWCC to enact its threatened and endangered species rule.⁶ At the time of its adoption, the Florida Black Bear, *Ursus americanus floridanus*, was listed as a threatened species. The rule required the commission to undertake “biological status reviews and management plans for species currently listed as threatened and species of special concern in Florida, including the Florida black bear.”⁷ Following a review, the FWCC at its June 8-9, 2011, meeting approved a motion to de-list the Florida Black Bear, subject to formal approval of the Bear Management Plan.⁸ This action was required by F.A.C. Rule 68A-27.0012 that final commission action shall include “acceptance of the management plan.” Among the purposes of a plan is “to provide guidance to conserve the species so that they will not again need to be listed.”⁹

² *Caribbean Conservation Corp. v Florida FWCC*, 838 So.2d 492, (Fla.2003).

³ D. Ben-David and C. Henderson

⁴ State and Territorial Fish and Wildlife Offices, U.S. Fish and Wildlife Service, 2020.

⁵ Sec. 20.331(d), Fla. Stat.

⁶ F.A.C. Rule 68A-27, Threatened and Endangered Species.

⁷ Florida Fish and Wildlife Conservation Commission. Florida black bear management plan. 2012, piii.

⁸ Minutes of the Fish and Wildlife Conservation Commission, June 8-9, 2011.

⁹ F.A.C. Rule 68A-27.0012(6).

On June 27-28, 2012, FWCC formally amended the rule to de-list the Florida Black Bear,¹⁰ approved a Bear Conservation Rule,¹¹ and approved the Black Bear Management Plan.¹² The Bear Conservation Rule made the Black Bear Management Plan official policy providing, “The Commission will base its comments and recommendations on the goals and objectives of the approved Florida Black Bear Management Plan.”¹³ The stated goal of the Bear Management Plan is to “maintain sustainable black bear populations in suitable habitats throughout Florida for the benefit of the species and people.”¹⁴ At the December 11, 2019, FWCC meeting, the Bear Management Plan was updated and approved.¹⁵ The Plan, including 2017 population numbers was intended to “serve as the blueprint for statewide black bear management for the next 10 years.”¹⁶ In effect, the Bear Management Plan as an agency statement of general applicability, rises to the level of a rule as defined by the Administrative Procedure Act.¹⁷

The Proposed Rules retreat from this science-based approach as set forth in the Black Bear Management Plan. There is no reference whatsoever to the Bear Management Plan in the Proposed Rules. Otherwise, the Proposed Rules represent a major departure from the Plan and staff recommendations. The Plan prioritizes conflict prevention, habitat protection, habitat manipulation, translocation, and the implementation of “BearWise” community programs, and it expressly encourages the Commission to use its influence over land use and development decisions in bear habitat. The Plan does list regulated hunting as one of several long-term tools, but only in the context of site-specific, data-supported circumstances—not as a priority management approach.

At the FWC’s December 2024 Commission meeting, staff presented a five-year implementation update on the Plan and reported on the status of non-lethal bear conflict mitigation efforts. The staff report recommended no further action. Nevertheless, Commissioners directed staff to develop options for a potential bear hunt, which now appear in the Proposed Rules. This action is inconsistent with the Plan and undermines the public confidence in the FWCC’s commitment to make wildlife decisions based upon sound science.

¹⁰ F.A.C. Rule 68A-27.003, Designation of Endangered Species

¹¹ F.A.C. Rule 68A-4.009, Black Bear Conservation

¹² Florida Fish and Wildlife Conservation Commission. Florida black bear management plan. 2012.

¹³ Ibid.

¹⁴ Bear Management Plan, Executive Summary.

¹⁵ Minutes of the Florida Fish and Wildlife Conservation Commission December 11, 2019.

¹⁶ Florida Fish and Wildlife Conservation Commission. 2019. Florida Black Bear Management Plan. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida, p.3.

¹⁷ Sec. 120.52(16), Fl. Stat.

Moving forward, FWCC is flying blind. By its own admission it is “challenging for researchers to visually observe bears and directly count their numbers.”¹⁸ Indeed, Black Bear population numbers are out of date. The last defensible numbers were developed in 2017, and the Plan calls for the next full census report to be completed in 2029. The Plan notes that if bear mortality drops below 20%, then the population, or subpopulation, is not sustainable. Indeed, the draft proposed rule discussed during various public rule development workshops included the 20% number as part of the criteria for establishing a harvest quota. The provision read: “Harvest not to exceed greater than 20% total mortality rate of the adult bear population for a given Bear Management Unit.”¹⁹ This provision no longer appears in the proposed rule. There is no longer any numeric standard for gauging sustainability of the Black Bear population in the Proposed Rules.

The stated goal of the Black Bear Management Plan is to “maintain sustainable black bear populations in suitable habitats throughout Florida for the benefit of the species and people.”²⁰ The proposed rules demonstrate no conscious desire to maintain a sustainable bear population. Without reliable population numbers and standards for a quota, there is no scientific basis to square bear hunting as consistent with the goals and strategies of the Bear Management Plan.

Next, the Proposed Rules significantly depart from the fundamental constitutional requirement of adequate due process in the adoption of its rules. As the sponsor and drafter of Article IV Section 9, the due process provision was the most vexing. Environmental activists wanted the FWC to be more like the legislature while business interests were concerned about the new authority of this agency and were more comfortable the review through the Administrative Procedure Act. There was no “due process” requirement in Art. IV Sec. 9 of the 1968 Constitution. In the final week of the CRC session, a compromise was achieved, and the following sentence was added: “The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.” In my statement before the CRC, I noted the sentence enlarged due process requirements and “would require the commission to adopt procedures to provide notice and opportunity to be heard.”²¹

Upon ratification, the legislature took up legislative changes required by the creation of the new FWC. It required the FWC to adopt specific due process rules.²² Subsequently, FWC adopted rule 68-1.008(b) and (c), F.A.C. to define adequate due process.

¹⁸ Bear Management Plan, p.10.

¹⁹ FWCC rule promulgation document, proposed “New Bear Hunt Rule.”

²⁰ Bear Management Plan, p.27.

²¹ Minutes of the Constitution Revision Commission

²² Sec. 20.331(9), Fla. Stat.

(b) Procedural Due Process: Procedural due process, in a broad sense, encompasses the procedural requirements that must be observed in the course of a legal proceeding to ensure the protection of private rights and property. Procedural due process, in an administrative setting, consists of requirements for notice, a meaningful opportunity to be heard and a fair, impartial decision-making authority.

(c) Substantive Due Process: Substantive due process refers to constitutional protections provided by the due process clause of the Florida and Federal Constitution. Therefore, substantive due process applies with respect to the decisions, orders and adjudications of government.

At its core, adequate due process is the right of a substantially affected party to have notice and the opportunity to be heard on an administrative policy decision. The proposed bear harvest rule empowers the executive director of the FWC to establish hunting zones and bear harvest quotas on his own without an open meeting of the commission providing interested persons with the opportunity to be heard. In addition, there appears to be no requirement to comply with Sec. 20.331(8)(d), Fla. Stat. to develop scientifically based decisions.

The criteria offered to refine the decision of the executive director is ambiguous and overly broad, giving wide discretion to decide the location and number of bears to be harvested. Proposed Rule 68A-12.012(c) lists three open ended and ill-defined standards: (1) Bear population and demographic estimates; (2) Documented total mortality of adult female bears; and (3) Bear hunting success rates. Under these criteria, the executive director has broad discretion to approve harvest quotas for a Bear Management Zone for any number so long as the bear population is above 200. The Florida Constitution authorizes “the commission” to have regulatory and executive powers of the state regarding wild animal life. It follows that only the commission, and not the executive director should have the power of life or death over wild animal life.

FWC can only delegate to its executive director its constitutional duties, or statutory duties that are not expressly reserved to the Commission by law.²³ Indeed, FWC already delegated a laundry list of administrative and executive matters to its executive director in October 2020.²⁴ One such delegation grants the executive director the authority to issue executive orders “when necessary to manage or regulate fish and wildlife,” specifically limiting that authority to exigent circumstances:

²³ R. 68-1.009, F.A.C.

²⁴ Delegations of Authority by the Fish and Wildlife Conservation Commission to the Executive Director (Oct. 2020), incorporated by reference at R. 68-1.009, F.A.C.

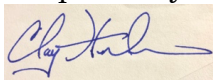
The Executive Director may perform other administrative actions, such as, but not limited to, issuing executive orders pursuant to section 120.81(5), F.S., issuing executive orders when necessary to manage or regulate fish and wildlife in exigent circumstances, issuing executive orders in response to declarations of emergency by the Governor.²⁵

FWC's authority to delegate is further limited by statute. The Legislature specifically reserved the assignment of duties and responsibilities necessary to develop "management techniques" for "enhancement of animal populations" to the Florida Fish and Wildlife Research Institute—and not the executive director.²⁶ Not only did the Legislature specifically reserve this assignment of duties to only the Florida Fish and Wildlife Research Institute, but it also mandated that FWC do so.²⁷

FWC purports that a hunt is necessary to maintain healthy populations by "slowing population growth" to "balance population numbers with suitable habitat."²⁸ But if ensuring a healthy animal population is the goal, FWC must assign the duties necessary to achieve that goal to the Florida Fish and Wildlife Research Institute and not its own executive director as if it were a mere administrative task.

A decision to establish areas for bear harvest and the quota for harvesting bears is a substantive decision which should change each hunting season. Such decisions should be based on sound science and specific criteria to achieve the stated goal of a sustainable hunt. Such a decision is beyond the current scope of delegation to the executive director, and flies in the face of traditional notions of "adequate due process." The Florida Constitution is quite clear that it is "the commission," which consists of "seven members appointed by the governor" and confirmed by the Senate, may "exercise the regulatory and executive powers of the state with respect to wild animal life. Important decisions on the location and quota of bear harvests should be made by the commission in open meeting rather than by the executive director and based on sound science.

Respectfully submitted,



Clay Henderson

56 Lakeland Lane
Faber, Virginia 2203

²⁵ *Id.* at § 22

²⁶ § 20.331(7)(a), Fla. Stat.

²⁷ *Id.* (

²⁸ FWC, Florida Black Bear, <https://myfwc.com/hunting/bear/> (last visited July 31, 2025).



Sent via electronic mail to: Morgan.Richardson@MyFWC.com

July 4, 2025

Morgan Richardson,
Hunting and Game Management Division Director,
Fish and Wildlife Conservation Commission

RE: Public comments in response to Notice of Proposed Rule published June 13, 2025 in Volume 51, Issue 115 of the Florida Administrative Register concerning the following Proposed Rules and Amendments:

- 68A-12.002 General Methods of Taking Game and Crows; Prohibitions**
- 68A-12.003 Protection of Certain Deer and Turkey; Tagging of Deer, Bear, and Turkey; Deer and Wild Turkey Harvest Reporting; Evidence of Legal Harvest or Sex Required**
- 68A-12.004 Possession or Sale of Birds or Mammals; Taxidermy Operations and Mounting Requirements**
- 68A-12.007 Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting**
- 68A-12.012 Regulations Governing Bear Hunting**

Dear Mr. Richardson,

On behalf of Speak Up for Wildlife, please enter these public comments into the administrative record for the above-referenced Florida Fish and Wildlife Conservation Commission (FWC) rulemaking regarding Florida black bear hunting. Pursuant to your direction,¹ Speak Up for Wildlife provides these comments electronically via e-mail, along with a link to a shared drive containing .pdf versions of all works cited, for inclusion in the administrative record. Despite the inaccurate public comment deadline of July 4, 2025, provided in the Notice of Proposed Rule, Speak Up for Wildlife reserves its right to supplement these public comments for the agency's consideration as a part of the record of the rulemaking proceeding through the end of the final hearing on the proposed rule scheduled for August 13–14, 2025.²

¹ Email correspondence from Morgan Richardson, FWC Hunting and Game Management Division Director, to Rachael Curran, Staff Attorney, Jacobs Public Interest Law Clinic for Democracy and the Environment (July 2, 2025 at 8:21 PM).

² See 120.54(3)(c)1 (“Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice *or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.*”) (emphasis added).; R. 68-1.008 (5)(b)3, Fla. Admin. Code (“The FWC shall follow the APA for all notices of FWC rule development and rulemaking.”); *see also* Art. I, Sec. 9, Fla. Const. (“The

FWC's Proposed Rule and planned December harvest drastically depart from FWC's staff recommendations and FWC's Florida Black Bear Management Plan. The Proposed Rule is unlawfully vague, vesting unbridled discretion in FWC's executive director to arbitrarily determine harvest quotas and hunting permit numbers each year without being subject to a public process and Commission vote. Not only does the Proposed Rule significantly limit public participation by eliminating the annual Commission approval vote for each year's quota, it also authorizes an annual hunt in any Bear Management Unit (BMU) with a population estimate of more than 200 bears, an arbitrary figure proffered without explanation.

While the Proposed Rule does not delineate or constrain FWC to any harvest objectives, FWC staff presentations and an April 2025 model results summary report³ indicate that the objective, at least for the initial hunt planned for this December, is to achieve a zero-percent growth rate in each of the four BMUs with populations above 200 bears. Unnecessary to achieve this spurious, unscientific harvest goal, the Proposed Rule also authorizes inhumane hounding, hunting over bait, and a Private Lands Hunting Program that entitles large landowner applicants meeting certain criteria to hunting permits, irrespective of the executive director-determined harvest quota that informs the number of permits available by public lottery, possibly exceeding that quota and thus making it meaningless.

Furthermore, the Proposed Rule and initial harvest quotas proposed for a hunt this December rely on outdated population estimates modeled from dated, pre-2015 hunt field data. These estimates do not account for population lag after the major mortality event that was the 2015 hunt, but FWC relied on them nonetheless to arrive at the 187 killed bears FWC states will lead to zero percent growth rate across four Bear Management Units (BMUs).

FWC's Proposed Rule is a regressive, unscientific, and unsupported management decision that runs counter to FWC's constitutional authority "to protect and manage Florida's fish and wildlife on behalf of the public and future generations."⁴ The Proposed Rule places Florida's unique subspecies of black bear (*Ursus americanus floridanus*) at risk of renewed population decline and irreversible ecological loss.

While voters ratified Art. I Sec. 28, Florida Constitution to establish a "public right" to the "taking of fish and wildlife by the use of traditional methods," as the "preferred means of responsibly managing and controlling fish and wildlife," this amendment does not limit FWC's

commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.")

³ FWC, Updated Bear Management Population Model Report (Apr. 28, 2025).

⁴ FWC, Conservation Core Concepts,

<https://myfwc.com/education/programs/chinsegut/conservation/#:~:text=The%20FWC%20is%20empowered%20by,the%20public%20and%20future%20generations.&text=Regulations%20are%20sometimes%20necessary%20to,use%20of%20fish%20and%20wildlife> ("The FWC is empowered by Florida's constitution to protect and manage Florida's fish and wildlife on behalf of the public and future generations.") (last visited May 15, 2025).

constitutional authority.⁵ FWC is an independent agency with the constitutional authority to “exercise the regulatory and executive powers of the state with respect to wild animal life,”⁶ and this authority is on par with a law passed by the legislature.⁷ “The management of the fish and wildlife resources of this state for their long-term well-being and for the benefit of all the people,” the vast majority of which according to FWC’s own public opinion surveys oppose Florida black bear hunting, is still “[t]he paramount objective of rulemaking relating to hunting and fishing.”⁸

I. The Notice of Proposed Rule does not provide a means for meaningful public input or an opportunity to contribute to the administrative record.

In failing to provide instruction for submitting public comments in its Notice of Proposed Rule and in providing an inaccurately short public comment window, FWC has violated its constitutional and statutory duty to provide the public with due process and access to meaningful public participation in this rulemaking. First, the landing page on FLRules.org for the Notice of Proposed Rule states the following:

Comments submitted through FLRules.org shall be 8000 characters or less.
Comments that exceed the character limit should be submitted directly to the agency pursuant the instructions in the Notice of Proposed Rule. The submitter is responsible for ensuring that the agency has received the comment.⁹

However, the Notice of Proposed Rule does not contain any such instructions for comments that exceed the 8,000-character limit that amounts to an unreasonably brief, approximately three single-spaced pages of texts.

Next, the Notice of Proposed Rule provides an incorrect public comment submission deadline of 21 days after the date of publication of the notice, or July 4, 2025, even though the final public hearing on the proposed rule is scheduled for August 13–14, 2025. This is despite the Florida Administrative Procedure Act requirement—adopted by the FWC as its constitutionally required due process procedures—that the agency shall consider and make a part of the rulemaking record public comments submitted between the date of the proposed rule’s publication and end of the final public hearing.¹⁰

⁵ Art. I, § 28, Fla. Const.

⁶ Art. IV Sec. 9, Fla. Const.

⁷ Talbot D’Alemberte, *The Florida Constitution* (New York: Oxford Press 2017), citing *Airboat Association of Florida, Inc. v. Florida Game and Fresh Water Fish Commission*, 498 So. 2d 629 (Fla. 3rd DCA 1986).

⁸ R 68-1.004, F.A.C.; FWC, *Florida Black Bear Hunting Options*, Presentation Slide 31 (May 21, 2025).

⁹ Florida Administrative Register and Florida Administrative Code, Notice 29662520, Notice of Proposed Rule, https://flrules.org/gateway/View_Notice.asp?id=29662520.

¹⁰ Art. I, Sec. 9, Fla. Const. (“The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.”); R. 68-1.008 (5)(b)3, Fla. Admin. Code (“The FWC shall follow the APA for all notices of FWC rule development and rulemaking.”); § 120.54(3)(c)1, Fla. Stat. (“Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public

The six virtual public meetings, devoid of a detailed proposal, do not mitigate FWC’s procedural rulemaking deficiencies. Neither does the misleadingly named “commenting tool” posted on FWC’s website,¹¹ which is actually a University of Central Florida social science experiment and opinion poll, complete with a requirement that the would-be public commenter opt-in to releasing their character-limited comment field inputs to the University of Central Florida, rather than an effective means of FWC to collect and consider public input. Indeed, both the virtual public meetings and the “commenting tool” unhelpfully confused the public and served to direct public participation away from where it counts—before the decision-making body, the Commission, at a duly noticed public meeting and in response to the Notice of Proposed Rule.

Furthermore, despite the May 2025 Commission meeting and initial Commission vote approving the Proposed Rule language that preceded the Notice of Proposed Rule, FWC did not then and has still yet to provide the public background information supporting the proposed rule language or the exact methodology by which FWC used to derive the proposed initial bear hunt quota figures so that these may be subject to scrutiny and meaningful comment.¹²

In the spirit of the “inclusive culture that provides for public access and input,” “open communication,” “shared decision making,” “scientific inquiry,” and “diversity of thought” that FWC strives to reinforce and promote,¹³ Speak Up For Wildlife urges FWC to 1) provide the public with access to its model and inputs used to determine quota numbers, and 2) re-notice the Proposed Rule to provide the public with notice of the means by which the public can exercise its right to submit substantive information into the administrative record for this rulemaking and to advise the public of its correct deadline for submitting that information to the agency, i.e., the close of the final public hearing on the Proposed Rule scheduled for August 13–14, 2025.¹⁴

II. The Commission should learn from the 2015 Florida black bear hunt, which was wildly unpopular, killing cubs and nursing mothers, exceeding the FWC’s quotas.

For decades, Florida black bear hunting had been prohibited; however, in 2015, hunters killed 304 Florida black bears in 48 hours. The effect of this hunt on the subpopulations remains to be seen. Habitat fragmentation and hunting can collectively work against species, leading to loss of

hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.”) (emphasis added).

¹¹ FWC, Florida Black Bear, *Frequently Asked Questions about Potential Options for Highly Regulated Bear Hunting in Florida*,

<https://myfwc.com/hunting/bear/> (last visited May 15, 2025).

¹² FWC, Meeting Agenda, May 21, 2025, <https://myfwc.com/about/commission/commission-meetings/may-2025/> (last visited July 4, 2025).

¹³ FWC, *Mission, Vision, and Values*, <https://myfwc.com/strategic-planning/mission-vision-values/> (last visited May 15, 2025).

¹⁴ See 120.54(3)(c)1, Fla. Stat. (“Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.”) (emphasis added).; R. 68-1.008 (5)(b)3, Fla. Admin. Code (“The FWC shall follow the APA for all notices of FWC rule development and rulemaking.”); see also Art. I, Sec. 9, Fla. Const. (“The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.”)

genetic variation,¹⁵ which can increase susceptibility to disease and decrease population viability.¹⁶ Several studies show that hunting American black bears, and other large carnivores, does not reduce human-bear conflicts or nuisance complaints.¹⁷

On October 24, 2015 the FWC opened 4 of its 7 bear management units across 26 counties in Florida to bear hunting. The FWC sold 3,776 permits from Aug. 3 to Oct. 23, 2015, and hunters killed 304 bears in 2 days, 78 percent of which were taken on private land.¹⁸ The permits were valid for use in any of the 4 open BMUs, and hunters were not required to disclose which BMU they intended to hunt. FWC established a harvest objective, which served as a quota for the bear hunt. Hunters exceeded the quota in two of the four units within 24 hours. In the East Panhandle subpopulation, where the FWC estimates the population at 600 bears, hunters killed 114 bears. In the Central subpopulation where the FWC estimates the population at 1,300, hunters killed 143 bears.¹⁹

Illegal hunting is also a regular mortality factor for the Florida black bear. From 1990 to 2024, FWC documented 289 illegally killed bears.²⁰

Between 1981 and 1994, bear hunting resulted in an average of 46 dead bears (32 males and 14 females) each year.²¹ In 1994 FWC stopped the hunt for a variety of reasons, including the need to ensure that populations were at a “maximum biological carrying capacity” so that they would be “resilient against decimating factors.”²²

¹⁵ Christopher J. Kyle & Curtis Strobeck, *Genetic Structure of North American Wolverine (Gulo gulo) Populations*, 10 *Molec. Ecol.* 343–46 (2001); Göran Spong & Linda Hellborg, *A Near-Extinction Event in Lynx: Do Microsatellite Data Tell the Tale?*, 6 *CONSERV. ECOL.*, no. 1, art. 15 (2002), <http://www.consecol.org/vol6/iss1/art15>; Holly B. Ernest et al., *Genetic Structure of Mountain Lion (Puma concolor) Populations in California*, 4 *CONSERV. GENET.* 353–366 (2004); Davide Gottelli et al., *Molecular Genetics of the Most Endangered Canid: The Ethiopian Wolf (Canis simensis)*, 3 *MOLEC. ECOL.* 309–12 (1994); Craig R. Miller & Lisette P. Waits, *The History of Effective Population Size and Genetic Diversity in the Yellowstone Grizzly (Ursus arctos): Implications for Conservation*, 100 *PROC. NAT’L ACAD. SCI. U.S.* 4334–4339 (2003).

¹⁶ Melody E. Roelke et al., *The Consequences of Demographic Reduction and Genetic Depletion in the Endangered Florida Panther*, 3 *CURR. BIOL.* 340–350 (1993); Stephen J. O’Brien, *A Role for Molecular Genetics in Biological Conservation*, 91 *PROC. NAT’L ACAD. SCI. U.S.* 5748–5755 (1994); William B. Sherwin & Craig Moritz, *Managing and Monitoring Genetic Erosion*, in *GENETICS, DEMOGRAPHY, AND VIABILITY OF FRAGMENTED POPULATIONS* 9–34 (Andrew Young & George M. Clarke eds., Cambridge Univ. Press 2000).

¹⁷ Martyn E. Obbard et al., *Relationships Among Food Availability, Harvest, and Human–Bear Conflict at Landscape Scales in Ontario, Canada*, 25 *URSUS*, no. 2, 98–100 (2014); Adrian Treves et al., *American Black Bear Nuisance Complaints and Hunter Take*, 21 *URSUS*, no. 1, 30–42 (2010); Adrian Treves, *Hunting for Large Carnivore Conservation*, 46 *J. APPLIED ECOLOGY* 1350–1356 (2009).

¹⁸ FWC, *2015 Florida Black Bear Hunt Summary Report* at 4 (Nov. 2015).

¹⁹ *Id.* at 6.

²⁰ FWC, *FL Black Bear Mortality Locations*, <https://geodata.myfwc.com/datasets/myfwc::fl-black-bear-mortality-locations/about> (data current through 2023, last visited May 15, 2025), FWC, *Bears By the Numbers* (showing 16 illegally killed bears in 2024), [https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/#:~:text=2015%20%3D%20287%20bears%20\(103%20road,134%20road%2C%2011%20management%2C%2013](https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/#:~:text=2015%20%3D%20287%20bears%20(103%20road,134%20road%2C%2011%20management%2C%2013) (Last visited May 15, 2025).

²¹ *Id.* at 25.

²² *Id.* at 25–26.

After the State removed the Florida black bear from its threatened species list in 2012, the FWC began the process to approve the first hunt of the Florida black bear since 1994 starting with conducting meetings that obtained public input on the creation of BMUs and various management proposals including hunting.²³ That process concluded in 2014, and at a February 2015 meeting of the FWC Commission, the Commission requested the staff propose hunting regulations.²⁴

While the logistics of the hunt were not presented in any detail at that meeting, FWC provided a rough framework for the hunt. For example, staff recommended a hunt that would provide an unlimited number of permits.²⁵ Staff also recommended that any resident of Florida should be able to obtain a permit for \$100 (\$300 for non-residents).²⁶ According to the staff's proposal, the hunt would open up 4 of the 7 BMUs to hunting.²⁷ Dr. Thomas Eason proposed a harvest objective of 20 percent of the estimated population (minus known human-caused mortality), assuming 20 percent annual replacement rate.²⁸ The recommended harvest objectives for each BMU were as follows:²⁹

BMU	2002 Population Estimate	20 % of Population Estimate	Known Mortality (average)	Harvest Objective
East Panhandle	600	120	65	45
North	250	50	8	40
Central	1000	200	118	60
South	700	140	7	130
Total	2550	510	235	275

At the April 2015 FWC Commission meeting, FWC staff provided additional details of the proposed hunt. For example, in addition to reaffirming that there would be no limit on the number of permits that could be sold, FWC stated that the permits would be available through licensed vendors and online up until the night before the hunt would begin.³⁰ Hunters could use archery equipment, firearms and ammunition as allowed for deer hunts. FWC recommended that feeding stations be allowed with the caveat that the hunter and the bear cannot be within 100 yards of a station with food in it.³¹ Bears of either sex would be allowed to be killed (one bag limit) provided that the bear weighed at least 100 pounds and a cub was not present.³² The

²³ FWC, *Bear Management Update*, Presentation Slide 41 (Feb.2015); FWC, *South Bear Management Unit Summary*, June-July 2014 (2014); FWC, *South Central Bear Management Unit Summary* (Oct. 2014).

²⁴ FWC, *Proposed Rule Amendments for Bear Hunting, Draft Rule*, Presentation Slide 6 (Apr. 2015).

²⁵ *Id.* at 9.

²⁶ *Id.* at 8.

²⁷ FWC, *2015 Florida Black Bear Hunt Summary Report* at 6 (Nov. 2015).

²⁸ FWC, *Accelerated Approach to Human-Bear Conflict Response*, Amended Aug. 2015 at 5, 9.

²⁹ FWC, *Bear Management Update*, Presentation Slid 33 (Feb.2015).

³⁰ FWC, *Proposed Rule Amendments for Bear Hunting, Draft Rule*, Presentation Slide 9 (Apr. 2015).

³¹ *Id.* at 12.

³² FWC, *2015 Florida Black Bear Hunt Summary Report* at 6 (Nov. 2015).

Commission approved the staff's preferred approach – a 7-day hunt with a cut-off if the harvest objectives have been met.³³ The harvest objectives presented at the meeting were as follows:³⁴

BMU	2002 Population Estimate	20 % of Population Estimate	Known Mortality (average)	Harvest Objective
East Panhandle	600	120	78	40
North	250	50	10	40
Central	1000	200	163	40
South	700	140	18	80/120
Total	2550	510	269	200/240

The proposed hunt garnered significant public opposition. During the six-month period the FWC considered the hunt, it received 191,776 comments, with at least 188,489 opposed to the hunt. Even the most generous assumptions would put support of the hunt at less than 2 percent. The overwhelming majority of people who wrote, called, and emailed the FWC were opposed to the hunt.

BMU	2002 Population Estimate	20 % of Population Estimate	Known Mortality (average)	Harvest Objective
East Panhandle	600	120	80	40
North	550	110	10	100
Central	1300	260	160	100
South	700	100	20	80 ³⁵
Total	3150	590	270	320

The FWC Commission approved the rule with only one significant change – increasing the harvest objectives in the North and Central areas as summarized below.³⁶ The overall objective was set at 320 bears.

The final harvest objective as proposed at the June 2015 meeting was formally approved at the September 2015 meeting with two Commissioners dissenting.³⁷ In setting the harvest objectives, the FWC asserted that stabilizing the bear population “requires at least 20 percent total annual mortality in each population (the scientifically based minimum rate needed to offset annual

³³ FWC, *Florida Fish and Wildlife Conservation Commission Meeting*, Sept. 2, 2015 at 11.

³⁴ FWC, *Proposed Rule Amendments for Bear Hunting, Draft Rule*, Presentation Slide 15 (Apr. 2015)

³⁵ The final objective was set for the Southern region based on the fact that hunting would not occur in Big Cypress.

³⁶ FWC increased the harvest objectives based on results of a study that occurred in 2014 and 2015. FWC, *FWC data show increase in bear population*, June 10, 2015 at 5; FWC, *Proposed Rule Amendments for Bear Hunting, Draft Rule*, Presentation Slides (Apr. 2015)

³⁷ FWC, *Accelerated Approach to Human-Bear Conflict Response* (Amended Aug. 2015.)

reproduction), based on the most recent population estimates from studies in 2002 (East Panhandle and South) and 2014 (North and Central).”³⁸ The method for obtaining that number was taken from the BMU population estimate and subtracting the number of bears killed by vehicles as well as those removed for conflict behaviors.³⁹ The vehicle strikes/conflict removal numbers were averaged over a 3-year period.⁴⁰

In setting the harvest objectives, FWC assumed that the success rate for the hunt would be low. Indeed, FWC anticipated that the hunt would likely last for five days. FWC based its low hunter success rates on other states that do not allow the use of dogs or bait with seasonal hunting.⁴¹ For example, FWC looked at success rates for Massachusetts (2 % success), Pennsylvania (2% success) and Maryland (12% success).⁴² FWC also relied on its assumption that “Florida’s forested habitats with thick understory work against high hunter success, particular with the methods allowed.” FWC concluded “the likelihood of exceeding the harvest objectives during the first two days of the season is very low.”

Based on this assumption, FWC wrote the Bear Hunt Rules to guarantee 48 hours of hunting regardless of whether the 320 bear quota had been met in that first 48 hours. As stated in the rule, if the “harvest objective . . . is attained prior to the season close and *on or after the second day of the season*, [the] season shall close at 11:59 p.m. on the day its harvest objective is attained.”⁴³ No other rule or statute modifies this rule. As such, based on the plain meaning of the rule, FWC was without the authority to stop the hunt if the 320 bear allotment was reached before the end of the second day, or even within hours of the hunt commencing.

The bear hunt also contained a self-reporting system that added to the uncertainty because it allowed hunters to report their kill up to 12 hours after taking a bear.⁴⁴ This system also contained another flaw – there was an inevitable lag time between when the quota was reached, when the hunt could be canceled, and when the cancellation could be communicated to the thousands of hunters roving some of Florida’s most remote areas, some without cell service.⁴⁵ FWC’s failure to adequately gauge the success of a hunt and incorporate adequate safeguards resulted in significant overharvesting in two of the BMUs.

³⁸ FWC, *2015 Florida Black Bear Hunt Summary Report* at 2 (Nov. 2015).

³⁹ *Id.* at 2.

⁴⁰ *Id.* at 3.

⁴¹ It is not accurate to say that bait stations are not allowed. Rather, the bear and the hunter must be at least 100 yards away from a feeder with feed currently in it. R. 68A-12.002(9)(b), F.A.C.

⁴² FWC, *Accelerated Approach to Human-Bear Conflict Response*, Amended Aug. 2015 at 7.

⁴³ R. 68A-13.004(g)(1), F.A.C.

⁴⁴ R. 68A-13.004(g)(3), F.A.C.

⁴⁵ *Id.*

The FWC was amply warned about the deficiencies in its approach to the hunt. After approving the hunt, the public outcry was intense. There were statewide protests, and news coverage consistently renounced the hunt.⁴⁶ In addition, a nonprofit organization and local landowner, supported by amicus briefs filed by nonprofit organizations representing the interests of over 141,000 Floridians, challenged the hunt.⁴⁷

During those proceedings, FWC was repeatedly warned about the real possibility that the bear hunt quotas would be exceeded on the first day.⁴⁸ Indeed, FWC was specifically warned about the East Panhandle:

Right now, you could conceivably have 2,000 hunters converge on one BMU on the first day of the hunt and vastly exceed the minimum/maximum number of bears that is much smaller for each BMU.

...

There's 40 bears [for the quota] in the east Panhandle. Certainly if you have a thousand hunters in the east Panhandle, and there's a lot of hunting in the Panhandle, you could exceed 40 bears within the first two days. Or you could even exceed that many on another day and the hunt continue until 11:59 of the day that the last bear shot is called in.

However, FWC maintained that this was unlikely to happen.⁴⁹ In addition, FWC claimed (based on an erroneous interpretation of the law), that it had the authority to cut off the hunt if the quota were reached. Although the law does not provide them with the authority to do so, when pressed by the court, FWC counsel made assurances in open court that FWC would call off the hunt if the quota was reached in less than two days.⁵⁰ While the court did not stop the hunt from moving forward, the courtroom promises made by FWC ended up being critical in preventing the hunt from being an all-out slaughter. The Proposed Rule, while requiring a fixed number of permits by lottery, does not require that the number of permits equal the quota number and does not

⁴⁶ Tia Stepzinski, *Opponents of the Bear Hunt Come Together, Calling It a "Blood Lust" During Jacksonville Protest*, FLA. TIMES-UNION (Oct. 23, 2015), <http://jacksonville.com/news/metro/2015-10-23/story/opponents-florida-bear-hunt-come-together-calling-it-blood-lust-during>; Monivette Cordeiro, *Protesters Rally in Last-Ditch Attempt to Stop Florida's Bear Hunt*, ORLANDO WEEKLY (Oct. 23, 2015), <https://www.orlandoweekly.com/news/protesters-rally-in-last-ditch-attempt-to-stop-floridas-bear-hunt-2444061>.

⁴⁷ The organizations that joined as Amici included the following local, state and national organizations: Animal Hero Kids, Animal Legal Defense Fund, Animal Rights Foundation of Florida, Animal Welfare Institute, Center for Biological Diversity, CompassionWorks International, Environmental Action, Jungle Friends Primate Sanctuary, Lobby For Animals, Sierra Club, South Florida Wildlands, and Stop the Florida Bear Hunt.

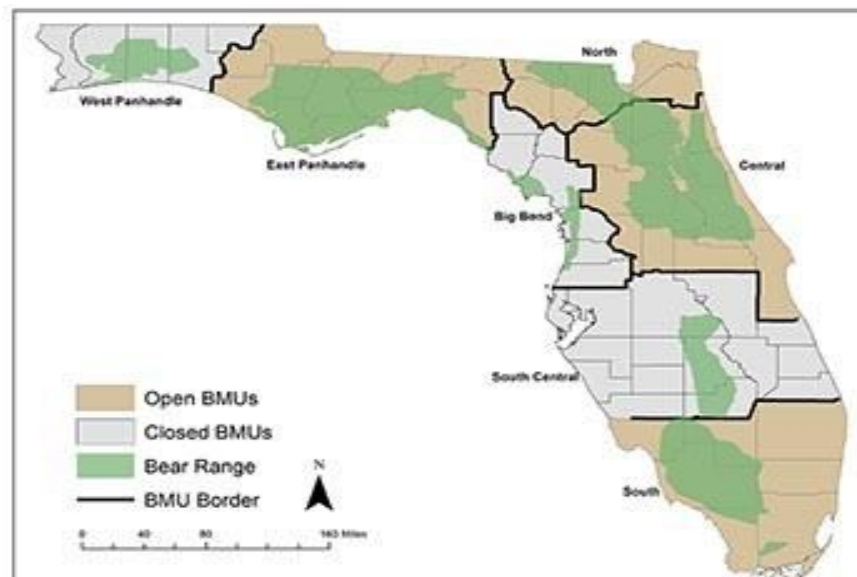
⁴⁸ Transcript of Record at 17, 78, *Speak Up Wekiva v. Fla. Fish & Wildlife Conservation Comm'n*, No. 1D15-4596 (Fla. 1st DCA 2015).

⁴⁹ *Id.* at 126.

⁵⁰ *Id.* at 161.

correct for FWC's lack of ability to call off a permitted hunt once hunters meet or exceed harvest quotas.

Ultimately, FWC authorized a hunt in the East Panhandle, North, Central, and South BMUs. In the East Panhandle BMU, it allowed hunting in the following Wildlife Management Areas: Apalachee, Apalachicola, Apalachicola – Bradwell unit, Apalachicola River, Aucilla, Beaverdam Creel, Big Bend – Hickory Mound Unit, Big Bend – Snipe Island Unit, Big Bend – Spring Creek Unit, Big Bend – Tide Swamp Unit, Box-R, Chipola River, Econfinia Creek, Lower Econfinia River, Middle Aucilla, Ochlockonee River, Pine Log, Talquin, Tate's Hell, Tate's Hell – Womack Creek Unit, Twin Rivers, Tyndall, Wakulla. In the North BMU, it allowed hunting in the following Wildlife Management Areas: Cary, Cypress Creek, Four Creeks, Little River, Osceola, Ralph E. Simmons. In the Central BMU, it allowed hunting in following Wildlife Management Areas: Bayard, Belmore, Etonlah Creek, Jumper Creek, Lake Monroe, Lochloosa, Marshall Swamp, Ocala, Ralford, Rock Springs Run, Seminole Forest, and Tiger Bay. In the South BMU, it allowed hunting in the following Wildlife Management Areas: Okaloacoochee Slough, Picayune Strand, and Spirit-of-the-Wild.⁵¹



The FWC allowed hunting permits to be sold from August 3rd through October 23rd. As the agency did not give itself the authority to limit the number of hunters, 3,776 permits were sold and the number of permits exceeded the number of bears FWC estimated were in Florida prior to the hunt by more than 600.⁵² Adding to the problem, while asked their “preference,” hunters

⁵¹ FWC, *2015 Guide to Bear Hunting in Florida* at 4.

⁵² FWC, *2015 Florida Black Bear Hunt Summary Report* at 2 (Nov. 2015) ; FWC, *Proposed Rule Amendments for Bear Hunting, Draft Rule*, Presentation Slide 5 (Apr. 2015).

were not restricted to which BMU they could hunt.⁵³ According to FWC, the preferences were as follows: South: 9% East Panhandle: 28% North: 11% and Central: 52%.⁵⁴ That means that 80 percent – or over 3,020 hunters – planned to hunt *in just two of the BMUs*. The combined harvest objective in those areas was 140 – or almost 22 hunters per bear. In contrast, in the other two BMUs (North and South), it was expected that there would be only 755 hunters or approximately 4 hunters per bear. While this is precisely the scenario that FWC had been warned about during the legal challenge to the hunt, the FWC took no action to remedy the situation.

The FWC failed to properly manage the hunt with tragic results. On just the first day of the hunt, 207 bears were killed.⁵⁵ Under intense public scrutiny and pressure, the FWC closed the hunt in the East Panhandle and Central regions after one day, and closed the remainder after the second.⁵⁶ While the overall quota of 320 was not exceeded, in both the East Panhandle and Central BMUs, the harvest objectives were greatly exceeded. In the East Panhandle, the harvest objective was 40 yet the actual harvest was 114, *almost three times the harvest objective*.⁵⁷ Similarly, in the Central Panhandle, the quota was also exceeded by almost half.⁵⁸

BMU	2002 Population Estimate	20 % of Population Estimate	Known Mortality (3-year average)	Harvest Objective	Actual Harvest	Over Quota
East Panhandle	600	120	80	40	114	+74
North	550	50	10	100	25	-75
Central	1300	200	160	100	143	+43
South	700	140	20	80	22	-58

Just as the FWC failed to deliver on its promise of protecting subpopulations from overharvesting, it also failed to deliver on its promise that females with cubs would be protected. Lactating mothers made up 21 percent of the female bears that were killed during the hunt.⁵⁹ It is unknown what happened to the cubs following the deaths of their mothers.

III. The Proposed Rule is counter to the recommendations of the FWC 2019 Bear Management Plan and recent FWC staff recommendations.

⁵³ FWC, 2015 Florida Black Bear Hunt Summary Report at 3 (Nov. 2015).

⁵⁴ *Id.* at T 2.

⁵⁵ Sarah Larimer, *Florida Wildlife Officials End Hunt Early After nearly 300 Bears Killed in Two Days*, WASHINGTON POST (Oct. 27, 2015) at 1, <https://www.washingtonpost.com/news/post-nation/wp/2015/10/27/florida-wildlife-officials-end-hunt-after-nearly-300-bears-killed-in-two-days/>.

⁵⁶ *Id.*

⁵⁷ FWC, 2015 Florida Black Bear Hunt Summary Report, Nov. 2015 at 3.

⁵⁸ The vast majority of the bears taken were on private lands. FWC, 2015 Florida Black Bear Hunt Summary Report, at 3. Bears were killed in 7 wildlife management areas, with the majority (83%) killed in the Ocala National Forest. *Id.* at 5.

⁵⁹ *Id.* at 6.

The Proposed Rule marks a sharp and unjustified departure from the Florida Black Bear Management Plan (BMP) and recent staff recommendations, abandoning the agency's own science-based directives in favor of a trophy hunt unsupported by current data or demonstrated need.⁶⁰

The BMP prioritizes conflict prevention, habitat protection, and the implementation of BearWise community programs, and it expressly encourages the Commission to use its statutory and constitutional powers to influence land use and development decisions in bear habitat.⁶¹ It does identify regulated hunting as one of several long-term tools, but only in the context of site-specific, data-supported circumstances—not as a first-line management approach.⁶²

Rather than starting with lethal tools, the BMP directs FWC to “[c]omment on land development proposals and transportation projects that may impact important bear habitats and corridors”⁶³ and to “[w]ork with local governments to encourage and implement land use planning practices that are consistent with black bear conservation.”⁶⁴ These directives recognize that habitat loss, fragmentation, and inadequate trash management are key drivers of human-bear conflict. They also acknowledge that managing bear populations through development review, public education, and ordinance enforcement offers a more effective and durable solution than periodic killing. There is no evidence that the Commission has systematically pursued or exhausted these foundational Florida Black Bear Management Plan strategies in the affected BMUs, nor has it provided data demonstrating that such tools have failed to reduce conflict.

Equally concerning, the Proposed Rule and planned December hunt rely on population data that the 2019 BMP itself acknowledges is out-of-date. The plan clearly states that bear abundance estimates should be updated regularly every 10-12 years to inform management, noting that the most recent published abundance study, Humm et al. 2017, estimated average population abundance for four subpopulations in 2014–15.⁶⁵ According to FWC, the next statistically valid population abundance assessment is not expected to be available until 2030, following a second round of statewide genetic mark-recapture surveys.⁶⁶ No new peer-reviewed population estimates have been published since the 2017 Humm et al. study of 2014-2015 population data relied upon in the 2019 BMP.⁶⁷ Proceeding with a hunt in the absence of updated abundance data

⁶⁰ FWC, Florida Black Bear Management Plan (2019), <https://myfwc.com/wildlifehabitats/wildlife/bear/managing/#:~:text=The%202019%20update%20to%20the.and%20address%20bear%20management%20challenges> (last visited May 15, 2025).

⁶¹ *Id.* at 50–51.

⁶² *Id.* at 48–50.

⁶³ A recent bear conflict injury involving a pet dog and its owner in a new subdivision in Gulf Breeze underscores the need for FWC to meaningfully engage in the development review process for proposed development in bear habitat, rather than reactively kill bears. Brent Kearney, *Man hospitalized after overnight bear attack in Gulf Breeze; 911 call released*, WEAR NEWS (May 15, 2025) (“We asked Santa Rosa County if the bear population is considered when new developments are proposed. The county responded and said any proposed large scale developments over 50 acres are sent to Florida Fish and Wildlife for Review.”), <https://weartv.com/news/local/man-hospitalized-after-overnight-bear-attack-in-gulf-breeze-911-call-released>.

⁶⁴ FWC, Florida Black Bear Management Plan at 51–53 (2019).

⁶⁵ *Id.* at 19, Table 4 and 31, Table 6.

⁶⁶ *Id.* at 40, Table 7.

⁶⁷ FWC, Bear Management Units, <https://myfwc.com/wildlifehabitats/wildlife/bear/bmu/> (last visited May 15, 2025).

would contradict the plan’s science-based principles and expose bear populations to unnecessary risk.

At the FWC’s December 2024 Commission meeting, staff presented a five-year implementation update on the BMP and reported on the status of non-lethal bear conflict mitigation efforts, recommending no further action at this time.⁶⁸ Commissioners directed staff to develop options for a potential bear hunt anyway, which now appear in Proposed Rule.⁶⁹ The abrupt pivot toward hunting—absent data or prior exhaustion of non-lethal strategies—is inconsistent with the BMP and undermines public confidence in the agency’s commitment to evidence-based, conservation-first wildlife management. The reversal evident in the Proposed Rule is arbitrary, unsupported, and unmoored from the expert recommendations on which sound wildlife governance should rely.

IV. The Proposed Rule lacks scientific foundation and is likely to lead to overharvest.

While different in form the faulty 2015 hunt design, the Proposed Rule vests FWC with the unbridled discretion to again make over-permitting mistakes that lead to overharvest. During the virtual public meetings, FWC staff portrayed the proposal as a hard tag system, wherein the number of permits FWC issues by lottery will not exceed the harvest quota established for each BMU. Such a system would be an improvement upon the 2015 hunt that saw an unlimited amount of permits sold and led to overharvest. However, the Proposed Rule does not actually codify a fixed hard tag system that sets the number of issued permits to be equal to the biologically determined sustainable harvest quota, and FWC retains the ability to issue more permits annually than the number of bears FWC believes necessary to kill to ensure a sustainable population for each BMU. Indeed, the Proposed Rule vaguely describes that FWC will establish the number of permits “using the following: 1. Bear population and demographic estimates; 2. Documented total mortality of adult female bears; and 3. Bear hunting success rates.”⁷⁰

Exactly how FWC will use these three parameters to arrive at a permit number remains unknown. And the initial sustainable harvest quotas, provided without detail as to how they were determined, are arbitrary such that even a guarantee that lawful hunters will not exceed established quotas because the number of permits does not exceed the quotas does not mitigate overharvest concerns.

At the virtual public meetings, FWC staff carried over the central, unscientific premise from the method used to derive the 2015 hunt’s quota—that 20 percent annual mortality is universally sustainable among all bear subpopulations.⁷¹ In reality, 20 percent mortality is not scientifically recognized as an appropriate figure from which to base management decisions for Florida black bears. Indeed, the author of the studies of robust (tens of thousands) northern black bear

⁶⁸ Memorandum from Melissa Tucker, Director, Habitat Species and Conservation to FWC Commissioners RE: Staff Report – Update on Implementation of the Florida Black Bear Management Plan (Dec. 2024) (“Staff Recommendation: No action is requested at this time. Commissioner input is welcome.”).

⁶⁹ FWC, Dec. 11-12, 2024 Meeting Minutes, <https://myfwc.com/about/commission/commission-meetings/december-2024/> (last visited May 15, 2025).

⁷⁰ Proposed Rule 68A-12.012(1)(c).

⁷¹ FWC, *Public Meeting on Bear Hunting Proposals*, Presentation Slide 23 (Apr. 2025).

populations from which FWC gleaned this figure has specifically disavowed its use in this way, stating that an assumption of 20% sustainable mortality for Florida black bears “should make you nervous.”⁷² Dr. Frederick Bunnell explains that for 20% mortality to be sustainable, “a natality rate greater than 2 cubs per litter every year by every adult female is assumed. This is coupled with a mean age of first reproduction of about 3.5 years. The first value is uncommonly high, the second is uncommonly low.”⁷³

Even if a 20 percent mortality rate were biologically sound and universally led to stable populations, the proposed initial hunt quotas (68 East Panhandle BMU, 46 North BMU, 18 Central BMU, and 55 South BMU),⁷⁴ could not possibly be based on the formula described in the virtual public meetings: reducing estimated population abundance by 20% (presumed acceptable annual mortality rate) less recorded non-hunting mortalities, divided by the hunter success rate. Since FWC has not previously measured the hunter success rate of a Florida black bear hunt that incorporates both hunting over bait and hounding as currently proposed, assuming a 100 percent hunter success rate, as FWC states it has done for the initial quotas, is indeed the only appropriate assumption of the several assumptions FWC must make in applying this formula. Up-to-date demographic-specific abundance estimates and current-year documented non-hunting mortality remain unknown and incomplete, respectively. It is therefore unclear how FWC arrived at the proposed initial quotas without these key inputs.

Further, accounting for demographic lag after a significant mortality event like the 2015 hunt is crucial to assessing population health. A female-biased harvest (as occurred in the 2015 hunt, where females made up over 60% of the harvest) has demographic consequences, including negative impacts on population productivity.⁷⁵ Effects of high harvest pressure on female black bears may not be immediately evident, but may be detected as a population decline with diminished recruitment after a lag time of several years.⁷⁶ In relying on dated population estimates based on data collected prior to the 2015 hunt in support of a hunt in 2025, FWC fails to account for the demographic lag effect from the 2015 hunt at all, instead offering premature and unsupported assertions that populations are stable or growing. FWC’s mortality tracking and population estimates are not real-time,⁷⁷ and the lack of annual subpopulation-specific data (e.g., cub recruitment, female survival) means changes may not even be detected until several generations later, requiring many years of countermeasures to reverse the trend once evident.⁷⁸

⁷² E-mail correspondence from Frederick Bunnell, Professor Emeritus, University of British Columbia to Amber Crooks, Senior Natural Resources Specialist, Conservancy of Southwest Florida, RE: Bear harvest (June 19, 2016); See also e-mail correspondence from David Telesco, Bear Management Program Coordinator, FWC to Amber Crooks, Conservancy of Southwest Florida and Alexis Horn, Sierra Club, RE: Hunting mortality rates in bear populations (Apr. 20, 2015).

⁷³ E-mail correspondence from Frederick Bunnell, Professor Emeritus, University of British Columbia to Amber Crooks, Senior Natural Resources Specialist, Conservancy of Southwest Florida, RE: Bear harvest (June 19, 2016).

⁷⁴ FWC, *Public Meeting on Bear Hunting Proposals*, Presentation Slide 25 (Apr. 2025).

⁷⁵ S.D. Miller, *Population Management of Bears in North America*, 8 INT’L CONF. ON BEAR RES. & MGMT. 357, 363–65 (1990).

⁷⁶ F.L. Bunnell & D.E.N. Tait, *Bears in Models and in Reality—Implications to Management*, in *Bears: Their Biology and Management*, PROC. OF THE FOURTH INT’L CONF. ON BEAR RES. & MGMT., 22 (1980).

⁷⁷ FWC, *Florida Black Bear Management Plan* (2019).

⁷⁸ F.L. Bunnell & D.E.N. Tait, *supra* note 76, at 22.

Since the virtual public meetings, the latest version of the Proposed Rule removes mention of the 20 percent sustainable mortality rate, making the method by which FWC arrived at the proposed initial permit numbers and how it will determine permit numbers in future hunting years even more unclear. But in basing quotas in any way on stale population estimates and incomplete non-hunting female mortality data from the current year (FWC presented initial quotas to the public in April, contemplating a December hunt) or non-hunting female mortality data from an undisclosed, irrelevant time period given increasing non-hunting mortality trends,⁷⁹ FWC risks unsustainable population impacts and runs afoul of sound wildlife management principles.

V. FWC’s harvest objective of zero percent population growth in four of the state’s seven BMUs threatens population viability in the three unhunted BMUs.

FWC’s stated objective of capping population growth at zero percent in four of Florida’s seven Bear Management Units (BMUs)—specifically the North, East Panhandle, Central, and South BMUs—undermines the long-term viability of the species by further destabilizing metapopulation dynamics essential for Florida black bear recovery. The species exists not as a continuous population but as a metapopulation: a network of geographically isolated subpopulations connected by limited dispersal.⁸⁰ The 2019 Florida Black Bear Management Plan recognizes this structure, identifying “fragmentation and isolation of habitat and bear subpopulations” as a major threat to long-term viability and emphasizing the need to “improve and maintain connectivity between subpopulations.”⁸¹

In metapopulation ecology, large or stable populations often serve as sources that export surplus individuals, while smaller, more isolated populations act as sinks—areas that cannot sustain themselves without immigration.⁸² The four largest BMUs should function as demographic sources to the South Central, Big Bend, and West Panhandle BMUs, which are smaller, more fragmented, and genetically isolated.⁸³

For example, the South Central BMU includes the fragmented Lake Wales Ridge and Glades/Highlands subpopulation, which has genetic diversity that is among the lowest reported for any black bear population in the nation and is significantly differentiated from the other subpopulations in the state.⁸⁴ The 2019 Florida Black Bear Management Plan confirms that bears in the South Central BMU are highly vulnerable to habitat fragmentation and isolation, noting that it “has the most fragmented potential bear habitat of any BMU in Florida and is the only one that does not have at least one large block of public Conservation Land anchoring the area of Frequent Range.”⁸⁵ The plan also identifies these bears as particularly susceptible to “habitat

⁷⁹ See FWC, *Bears by the Numbers*,

[https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/#:~:text=2015%20%3D%20287%20bears%20\(103%20road%2C%2011%20management%2C%2013](https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/#:~:text=2015%20%3D%20287%20bears%20(103%20road%2C%2011%20management%2C%2013) (last accessed May 15, 2025).

⁸⁰ FWC, *Florida Black Bear Management Plan* at 15–16 (2019).

⁸¹ *Id.* at 5, 34.

⁸² H.R. Pulliam, *Sources, Sinks, and Population Regulation*, 132 AM. NAT. 652, 654 (1988).

⁸³ FWC, *Florida Black Bear Management Plan* (2019) at 6, Fig.1, 13–16, 34, 38, 42.

⁸⁴ J.D. Dixon et al., *Genetic Consequences of Habitat Fragmentation and Loss: The Case of the Florida Black Bear (*Ursus americanus floridanus*)*, 8 CONSERVATION GENETICS 455, 460–61 (2007), <https://doi.org/10.1007/s10592-006-9184-z>; FWC, *Florida Black Bear Management Plan* at 13 (2019).

⁸⁵ FWC, *Florida Black Bear Management Plan* at 117 (2019).

conversion, further habitat fragmentation, and genetic isolation”⁸⁶ Halting population growth in neighboring potential source BMUs effectively severs the only viable dispersal pathways that can provide demographic and genetic rescue to the South Central population. This is not theoretical: FWC’s own corridor analyses have identified connectivity from the South and Central BMUs into the South Central BMU as a management priority.⁸⁷

Restricting population growth in source populations undermines dispersal, increasing the risk of genetic bottlenecks, inbreeding depression, and localized extirpation in sink populations.⁸⁸ The importance of dispersal to maintaining genetic health and demographic viability is not merely academic—it is reflected in the long-standing principles of wildlife conservation biology.⁸⁹

Small, isolated populations like those in the South Central, Big Bend, and West Panhandle BMUs are especially vulnerable to stochastic events such as hurricanes, droughts, fluctuations in vegetation due to temperature changes and storms, and epizootics, all of which are increasingly frequent in Florida’s changing climate.⁹⁰ In the complete absence of immigration, future climate-driven impacts could have greater interactive negative effects on these smaller, more vulnerable populations.⁹¹

FWC’s constitutional duty to manage and conserve wildlife includes sustaining the ecological and genetic integrity of the entire subspecies across all subpopulations—not managing to zero-growth targets in the very regions upon which long-term statewide viability depends. Any science-based management decision and underlying objective must allow for continued population growth in potential source BMUs to sustain dispersal, preserve genetic health, and ensure species-wide viability.

VI. Hounding Florida black bears is cruel, unethical, and unnecessary to achieve any harvest objective.

FWC’s proposal to legalize bear hounding under the guise of tradition disregards ethical hunting principles, endangers wildlife, and ignores public opposition to a practice condemned in Florida as cruel, unsporting, and inhumane.⁹² In the words of then-Florida Attorney General Pam Bondi when announcing the arrest of illegal Florida black bear hounders in 2018, “This is not hunting. This is not a sport. This is cruelty to animals. The worst of the worst.”⁹³ With no no shift in this public sentiment or evidence that bear hounding in Florida is traditional, and FWC must not now

⁸⁶ *Id.* at 116.

⁸⁷ *Id.* at 117.

⁸⁸ Dixon et al., *supra* note 84, at 460–62; *see also* FWC, Florida Black Bear Management Plan at 12 (2019).

⁸⁹ *See generally*, Michael E. Soulé & Bruce A. Wilcox, *Conservation Biology: An Evolutionary-Ecological Perspective*, Sinauer Associates, ed., 110–12 (1980).

⁹⁰ FWC, Florida Black Bear Management Plan at 138 (2019).

⁹¹ *Id.*

⁹² Proposed Rule 68A-12.012(3)(e); Proposed Amendments to Rules 68A-12.007 and 68A-15.004.

⁹³ Bondi: Ormond man used dogs in ‘horrific’ mauling of Florida black bears, DAYTONA BEACH NEWS-JOURNAL, https://www.youtube.com/watch?v=5cVgaT_dM-Y&pp=ygU0ZmxvcmlkYSBibGFjayBiZWFiIGh1bnRpbmcgZG9nIHJpbmcgHJlc3MgY29uZmVyZW5jZQ%3D at 3:49 (Dec. 19, 2018).

arbitrarily legalize bear hounding as a “traditional hunting method” that history shows has in fact been traditionally widely criticized and criminally prosecuted in the state of Florida.

The Proposed Rule establishes a “bear dog training season” to coincide with the deer dog training season, in which FWC is proposing to allow off-leash dogs to take bears, including kill them, something news reports and FWC bear mortality reports indicate does indeed happen.⁹⁴ The bear dog training season will be a 19-day period beginning 35 days before the first day of the antlered deer season.⁹⁵ That is as early as June 28th in hunting zone A (encompassing all of the South and part of the South Central BMU), when most Florida black bear cubs are less than 5 months old.⁹⁶ FWC must not allow hunting dogs, many of whom will outweigh these cubs, to run around off-leash in bear habitat during a “training” season that coincides with bear cub season.

Hounding can involve long chases that cause extreme stress and injury, particularly to cubs or sows with cubs who may be separated or killed.⁹⁷ It also endangers non-target wildlife that may be harassed or attacked by hounds.⁹⁸ Hounding disrupts natural bear behavior and can displace bears from important habitat or lead to increased human-wildlife conflict as bears are pushed toward roads and residences and away from more protected areas.⁹⁹

Furthermore, hounding bears is controversial even within the hunting community, and abhorred by the wider public, as inhumane and unethical.¹⁰⁰ Hounds give hunters an overwhelming advantage.¹⁰¹ Trained, GPS-collared dogs pursue a bear—often for miles—until it is exhausted or treed (climbs a tree for safety). The hunter then arrives and can kill the immobilized or trapped bear at close range.¹⁰² The bear is physically spent, often terrified, and has no meaningful chance

⁹⁴ Proposed Rule 68A-12.007(6). A dog killed a 25-lb, nine-month-old female cub in Oklawaha, Marion County (Central BMU) on November 1, 2012. FWC, Florida Black Bear Mortality Locations, data current through 2023 and available at <https://geodata.myfwc.com/datasets/myfwc::fl-black-bear-mortality-locations/about>.

⁹⁵ Proposed Rule 68A-12.007(6).

⁹⁶ FWC, Season Dates and Species, <https://myfwc.com/hunting/season-dates/> (last visited May 15, 2025).

⁹⁷ Donna Di Casparro, *How Bear Hounding Impacts the New Hampshire Landscape*, N.H. BULLETIN (June 19, 2023), <https://newhampshirebulletin.com/2023/06/19/how-bear-hounding-impacts-the-new-hampshire-landscape/>.

⁹⁸ Ctr. for Biological Diversity, *Petition to Prohibit Hound Hunting in Arizona* at 2 (Nov. 25, 2024), https://biologicaldiversity.org/programs/carnivore-conservation/pdfs/Arizona_Hounding_Petition_AZGF_Rulemaking_Center_for_Biological_Diversity_11_25_24.pdf.

⁹⁹ Julie Brown Davis, *California Is Considering Letting Hunting Dogs Attack Bears*, SFGATE (Mar. 5, 2025), <https://www.sfgate.com/renotahoe/article/california-bill-dogs-hunting-bears-20202807.php>.

¹⁰⁰ Kitty Block, Humane World for Animals, *The Cruel and Terrible Truth of Hound Hunting*, (May 8, 2025), <https://www.humaneworld.org/en/blog/cruel-and-terrible-truth-hound-hunting> (last visited May 15, 2025).

¹⁰¹ Ctr. for Biological Diversity, *Petition to Prohibit Hound Hunting in Arizona* at 3–4 (Nov. 25, 2024), https://biologicaldiversity.org/programs/carnivore-conservation/pdfs/Arizona_Hounding_Petition_AZGF_Rulemaking_Center_for_Biological_Diversity_11_25_24.pdf.

¹⁰² *Id.*

to escape or defend itself, making the pursuit less a hunt and more a guaranteed kill.¹⁰³

The ethical hunting principle of fair chase, as defined by the Boone and Crockett Club and other sportsman organizations, demands a balance of skill, effort, and the animal's ability to escape.¹⁰⁴ Hounding removes that balance, reducing the hunt to a tracking operation carried out by GPS-collared dogs rather than by the hunter's skill in stalking or understanding animal behavior.

VII. Hunting over bait is unethical, unnecessary to meet any harvest objective, and presents a public safety threat.

Like hounding, permitting hunting within 100 yards of feeding stations fosters unsporting and unethical baiting practices and conflicts with standard wildlife management ethics designed to maintain fair chase conditions.¹⁰⁵ Hunting over bait also exacerbates human-bear conflicts by encouraging unnatural bear behavior and human-food conditioning.¹⁰⁶ The Proposed Rule directly undermines FWC's oft-stated goal of reducing human-bear conflicts.¹⁰⁷

Baiting lures bears into a false sense of safety at predictable food sources—essentially setting them up to be ambushed.¹⁰⁸ This practice eliminates the bear's natural wariness of humans by associating the smell of humans with the smell of the human-provided feed, and robs it of any meaningful chance to escape, converting the hunt into a staged execution rather than a pursuit.¹⁰⁹ Baiting also consistently attracts and repeatedly congregates wildlife, including non-target wildlife at the same location, implicating it as a significant factor in inter- and intraspecies disease transmission.¹¹⁰ For these reasons, hunting over bait is controversial and divisive among hunters.¹¹¹

¹⁰³ Elaine Garrick, *Guest Column: Use of Hounds to Hunt Bears Is Unethical, Inhumane*, *TAHOE DAILY TRIBUNE* (Apr. 6, 2017), <https://www.tahoe-dailytribune.com/opinion/use-of-hounds-to-hunt-bears-is-unethical-inhumane/> (noting the trauma and exhaustion suffered by bears pursued to the point of collapse or entrapment).

¹⁰⁴ Boone & Crockett Club, *Fair Chase Statement*, <https://www.boone-crockett.org/fair-chase-statement> (last visited May 15, 2025); see also Orion: The Hunter's Institute, *Hunting Ethics*, <https://www.orionhunters.org/ethics> (last visited May 15, 2025).

¹⁰⁵ Proposed Amendment to Rule 68A-12.002

¹⁰⁶ Diane Lafferty et al., *Bear baiting risks and mitigations: An assessment using expert opinion analyses*, 19 *PLOS ONE* e0312192 (2024), <https://doi.org/10.1371/journal.pone.0312192>; J.P. Beckmann & J. Berger, *Rapid ecological and behavioural changes in carnivores: the responses of black bears (Ursus americanus) to altered food*, 261 *J. OF ZOOLOGY*, 207–212 (2003).

¹⁰⁷ FWC, *Florida Black Bear Management Plan* at 52 (2019). FWC explicitly discourages human-bear conflict through minimizing human food attractants. *Id.* at 53.

¹⁰⁸ Diane Lafferty et al., *supra* note 106.

¹⁰⁹ *Id.*; see also, Boone and Crockett Club, *Fair Chase Statement*, <https://www.boone-crockett.org/fair-chase-statement> (last visited May 15, 2025)

¹¹⁰ Virginia Department of Game and Inland Fisheries, *A Study Report on the Effects of Removing the Prohibition Against Hunting Over Bait in Virginia* at v (2014).

¹¹¹ *Id.*

Adult females with cubs are especially vulnerable to hunting over bait because they are more food-motivated while nursing.¹¹² Killing lactating mothers—already an unaddressed problem during the 2015 still hunt—can orphan cubs, who will likely starve or fall prey to predators.¹¹³ This practice therefore has hidden, secondary mortality impacts not accounted for in quotas or harvest reporting.¹¹⁴

There is no scientific consensus that baiting is necessary to manage bear populations. In fact, states with robust bear management programs—like California and Washington—prohibit hunting over bait entirely.¹¹⁵ FWC has not demonstrated, via population viability analyses or any ecological data, that such an ethically questionable method with dangerous consequences is needed to achieve management objectives.

Baiting habituates bears to human-provided food, weakening their natural foraging behavior and making them more likely to seek out human sources of food in non-hunting areas.¹¹⁶ This undermines long-term management goals aimed at reducing human-bear conflicts.¹¹⁷ Essentially, FWC would be legalizing the same behavior—intentional feeding of bears—that it fines the public for.¹¹⁸ The recent tragic death of an 89 year-old-man and his dog living near a wildlife management area in Jerome, Florida illustrates the inherent public safety threat posed by baiting and feeding Florida black bears. As reported during a 911 call, approximately 40 bears at a time would visit the property’s unsecured trash bin,¹¹⁹ which functionally served as a feeding station.

VIII. The elimination of check stations and other changes to reporting requirements diminishes accountability and data reliability and invites violations of the law.

FWC’s elimination of physical check stations in favor of a vague online self-reporting system that does not specify clear procedures for verification, inspection, or quota monitoring undermines enforcement and invites unlawful activity.¹²⁰ In 2015, bear check stations were crucial in confirming compliance with sex, age, and lactating status limits; identifying violations;

¹¹² Roger A. Powell et al., Comparison of behaviors of black bears with and without habituation to humans and supplemental research feeding, 106 J. OF MAMMOLOGY 1354 (2022) (“Later in the active season of a bear, lactating females have elevated food requirements . . .”).

¹¹³ FWC, *2015 Bear Hunt Summary Report* at 6 (Nov. 2015) (noting that 21% of adult females killed were lactating and that their orphaned cubs were not tracked or counted in any post-hunt monitoring).

¹¹⁴ David L. Garshelis & Karen V. Noyce, *Seeing the world through the nose of a bear—Population monitoring and management*, 19 *URSUS* 5–6 (2008) (explaining how untracked orphaned cubs represent a form of unrecorded mortality that can affect population modeling and management accuracy).

¹¹⁵ California Code of Regulations, Title 14, Section 257.5; Washington Administrative Code 220-414-030.

¹¹⁶ R. L. Mazur, *Does aversive conditioning reduce human-black bear conflict?* 74 *THE J. OF WILDLIFE MGMT*, 48–54 (2010).

¹¹⁷ Beckmann & Berger, *supra* note 106, at 210.

¹¹⁸ R. 68A-4.001(3), F.A.C. It is unlawful to intentionally feed bears or place food that attracts them.

¹¹⁹ Sara Filips, *‘I’m going to look for this bear’: 911 caller in deadly bear attack describes scene to operators*, WFLA (May 7, 2025), <https://www.wfla.com/news/florida/im-going-to-look-for-this-bear-911-caller-in-deadly-bear-attack-describes-scene-to-operators/>.

¹²⁰ Proposed Rule 68A-12.012(4), F.A.C.; Proposed Amendments to Rule 68A-12.003, F.A.C.

and determining when hunters exceeded the quota.¹²¹ Their removal invites abuse—e.g., late reporting, unregistered kills, and discarded cubs—and makes real-time quota management impossible.

IX. The unlimited, separate Proposed Private Lands Bear Harvest Program arbitrarily renders the public bear harvest quota purportedly meant to ensure a “sustainable population” meaningless.

The Proposed Rule is internally contradictory, as it first sets out a vague framework for establishing numeric harvest limits and then simultaneously authorizes an unlimited parallel private harvest that renders any “sustainable” quota illusory and effectively meaningless. Subsection (1) of Proposed Rule 68A-12.012 purports to establish an annual quota system for bear harvest permits intended to ensure a “sustainable population.”¹²² Yet the criteria enumerated for determining these quotas are themselves unlawfully vague and unmoored from any specific, enforceable standards: they require only that the Executive Director or designee consider (1) “bear population and demographic estimates,” (2) “documented total mortality of adult female bears,” and (3) “bear hunting success rates.”¹²³ This framework does not require the use of any particular scientific model, does not delineate how these factors will be weighed, and does not require the use of current, peer-reviewed data. As such, the rule confers unfettered discretion to the agency to set quota numbers without meaningful constraints, in violation of well-established principles requiring prohibiting arbitrary and internally inconsistent rulemaking.

Even if this quota-setting process were lawful, the Proposed Rule then fatally undermines it by establishing in subsection (6) an entirely separate Private Lands Bear Harvest Program.¹²⁴ The program as proposed effectively allows an uncapped number of large private landholdings to conduct bear hunts alongside and in addition to the public hunt, subject only to minimum acreage, the submission of a bear population survey verified by a hired consultant, and a pro forma Bear Habitat Management Plan.¹²⁵ Nowhere does the Proposed Rule impose any aggregate ceiling on the cumulative mortality resulting from these private hunts, nor does it prohibit private hunting in BMUs with populations less than 200, subjecting those struggling populations to even further decline. Worse, nothing in the Proposed Rule requires the Commission to deduct the take authorized on private lands from the already-vaguely determined public quota set under subsection (1).¹²⁶

The permits for the public and private programs as proposed are arbitrarily additive, and not subject to a singular, cumulative quota total designed to ensure sustainable populations. The text of the Proposed Rule itself simply does not reconcile the unlimited number of private tags (up to three per property on an unlimited number of large landholdings) that Proposed Rule requires

¹²¹ See FWC, *2015 Black Bear Hunt Summary Report* at 5–6, (noting that FWC used mandatory physical check stations to monitor harvest numbers and close hunting zones upon quota exceedance; many violations were discovered through on-site bear inspections, including sex and age misreporting and lactating females taken).

¹²² Proposed Rule 68A-12.012(1)(c).

¹²³ *Id.*

¹²⁴ Proposed Rule 68A-12.012(6).

¹²⁵ *Id.*

¹²⁶ Proposed Rule 68A-12.012(1)(c); Proposed Rule 68A-12.012(6).

FWC to issue upon application in any BMU, including BMUs with populations below 200 bears that the Proposed Rule spares from the public hunt,¹²⁷ with the purportedly science-based public harvest limits for each Bear Management Unit, despite FWC staff's misleading assertions to the Commission that the hard tag system was designed so that the subsection (1) quota could not be exceeded.¹²⁸

In other words, while the public harvest is nominally subject to a numeric quota—however arbitrary that number may be—the private lands program creates an open-ended parallel channel for bear mortality unconstrained by any overarching biological limit. This internal inconsistency is arbitrary and capricious on its face.

If left uncorrected, this structure renders the annual quota “determination” in subsection (1) a purely symbolic gesture. A sustainable harvest ceiling that applies only to the limited-entry public lottery hunt, but is legally irrelevant to the volume of private land take, is no ceiling at all. It is precisely this type of unbounded discretion and internally incoherent regulation that Florida courts have invalidated.

At a minimum, any proposal to authorize bear hunting on private lands must be expressly integrated into the same scientifically defensible statewide mortality limits that constrain public hunting. The rule must require each private harvest authorization to be deducted from the relevant Bear Management Unit quota and subject to transparent reporting and cumulative accounting. And the same prohibition against hunting in BMUs with less than 200 bears, i.e., the South Central, Big Bend, and West Pandhandle BMUs, that applies to the public lottery hunt must also apply to the private lands program. As drafted, subsection (6) fails every element of this necessary framework, effectively authorizing an unlimited private wealth entitlement to kill Florida black bears, notwithstanding FWC's own sustainable quota determinations. FWC cannot satisfy its obligation to manage Florida's wildlife for long-term sustainability while simultaneously creating a loophole that nullifies its own purported limits.

X. The elimination of the requirement for an annual Commission vote on bear hunt quotas significantly diminishes opportunity for public participation and shields the Commission from public scrutiny each hunting season.

The Proposed Rule eliminates the long-standing requirement that FWC approve annual bear hunt quotas through a publicly noticed vote, instead authorizing staff to determine quotas administratively without further Commission action.¹²⁹ If the Commission adopts the proposed

¹²⁷ Proposed Rule 68A-12.012(6)(c)1. (“The Commission *shall* furnish one bear harvest tag for a property 5,000 to 14,999 acres that submit population data demonstrating at least five individual bears using the property, up to two (2) bear harvest tags for a property 15,000 to 24,999 acres that submit population data demonstrating at least 10 individual bears using the property, and a maximum of three bear harvest tags will be issued for a property 25,000 acres or more that submit population data demonstrating at least 15 individual bears using the property.”) (emphasis added); *compare with* Proposed Rule 68A-12.012(1)(b) (“A Bear Harvest Zone will only be established within Bear Management Units having a bear population estimate over 200.”)

¹²⁸ FWC, *Florida Black Bear Hunting Proposals*, Presentation Slide 24 (May 21, 2025).

¹²⁹ Proposed Rule 68A-12.012(c) (“The number of Bear Harvest Permits issued shall be established annually by the Executive Director, or designee. . .”); Proposed Amendment to R. 68A-13.004, F.A.C. (striking “The harvest objective for each BMU shall be as established by Order of the Executive Director, after approval of the

hunt framework, the executive director or a designee may then set annual quotas unilaterally—outside of any formal Commission meeting, and without public input or scrutiny.¹³⁰

This change effectively severs the only mechanism by which the public can meaningfully engage with—and challenge—the scientific, ethical, or legal justifications for a bear hunt in any given year. Annual Commission votes have historically served as a critical transparency checkpoint. They force the agency to disclose the data and methodology behind each season’s quotas, allow Commissioners to question and deliberate on the record, and give the public an opportunity to testify and submit comments informed by the latest science, non-hunting mortality trends, and public sentiment.

Removing this requirement is not a mere procedural tweak. It transforms a once-deliberative, participatory decision into an opaque administrative action, conducted without public notice or an opportunity to be heard. This invites regulatory abuse and undermines public trust. Particularly given the volatile and politically charged history of bear hunting in Florida—where past hunts have generated massive public opposition and resulted in overharvest and the killing of lactating mothers—it is indefensible to exclude the public from future quota decisions.

Moreover, the elimination of this annual vote directly contradicts the principles of democratic wildlife governance that the FWC purports to uphold.¹³¹ Floridians deserve a voice each year in determining whether black bear hunting is biologically necessary, publicly acceptable, and consistent with Florida’s conservation values—not merely once, before a vote to adopt a general framework, but every year a hunt is contemplated.

XI. The Amendment 2 “Right to Hunt and Fish” does not supersede FWC’s pre-existing constitutional mandate.

The addition of Article I, Section 28 to the Florida Constitution does not constrain FWC’s independent constitutional power under Article IV, Section 9 with respect to the “management, protection, and conservation of wild animal life” nor does it compel the agency to authorize bear hunting absent a demonstrated biological need.¹³² In 2024, voters ratified Article I, Section 28, Florida Constitution to establish a “public right” to the “taking of fish and wildlife by the use of traditional methods,” and the “preferred means of responsibly managing and controlling fish and wildlife.” The amendment expressly “does not limit” the authority of the FWC.¹³³

While Article I, Section 28, acknowledges an existing general public right to hunt and fish, it does not alter the FWC’s existing authority under Article IV, Section 9 of the Florida Constitution to prohibit hunting of certain species for conservation and management reasons.¹³⁴

Commission, and shall be based on the proportion of the BMU population available for harvest consistent with biologically sustainable population objectives for each BMU.”).

¹³⁰ *Id.*

¹³¹ See FWC, *Mission, Vision, and Values*, <https://myfwc.com/strategic-planning/mission-vision-values/> (last visited May 15, 2025).

¹³² Art. IV, § 9, Fla. Const.

¹³³ Art. I, § 28, Fla. Const.

¹³⁴ Art. I, § 28, Fla. Const.; Art. IV, § 9, Fla. Const.

FWC continues to retain the responsibility for science-based decision-making to conserve wildlife populations, independent of generalized hunting rights.

Furthermore, the right to hunt is not a right to kill any and all species no matter the ecological consequence or conservation status. The amendment protects only the general right to hunt consistent with managed conservation, but does not compel FWC to open a bear season any more than it mandates a season for Key deer, Florida panthers, or manatees. Before turning to hunting as a management strategy, FWC must first justify the introduction of hunting quotas based on scientifically sound wildlife population control management needs.

To the extent commissioners are prematurely considering a bear hunt without the benefit of an updated population abundance study, to say nothing of a complete population viability assessment—despite FWC expending significant resources to update its science—because of misplaced concerns that a lack of a hunt violates Article I., Section 28 rights of hunters, FWC would do well to consider the rights of ethical hunters that will be violated if this trophy hunt causes population collapse such that those sportsmen would never be able to hunt Florida black bears in the future.

Conclusion

FWC's proposed Florida black bear trophy hunt, this time with dogs and hunting over bait, is biologically reckless, ethically indefensible, and legally unsound. FWC must reject this Proposed Rule and uphold its core conservation mandate. We urge commissioners to:

1. Vote against all proposals related to a 2025 bear hunt;
2. Direct FWC to re-notice the Propose Rule and provide the public with the correct deadline and means of submission of public comments exceeding 8,000 characters into the rulemaking record;
3. Withdraw the Proposed Rule provision removing the requirement that the Commission votes each year to approve bear hunting quotas;
4. Withdraw proposed rule amendments legalizing bear hounding and bear hunting over bait;
5. Withdraw the Proposed Rule provision establishing a separate Private Lands Bear Harvest Program with permits that are in addition to the quota-based public hunt permits;
6. Reinvest and reinforce BearWise education and conflict prevention measures;
7. Invest in and allow for the completion of up-to-date, peer-reviewed population viability assessments before proposing any further lethal management; and
8. Direct FWC staff to comment on any Environmental Resource Permit proposed by the Florida Department of Environmental Protection that develops and harms bear habitat.

Respectfully submitted on behalf of Speak Up for Wildlife,

s/ Rachael Curran

Rachael Curran, Staff Attorney

Jacobs Public Interest Law Clinic for Democracy and the Environment

Stetson University College of Law

1401 61st Street South,

Gulfport, Florida 33707

727-537-0802

rcurran1@law.stetson.edu