

IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA

ADMINISTRATIVE ORDER A2015-09

**IN RE: Forfeiture/Disposal of Illegally  
Taken Fish and Wildlife  
And  
Rescinding Administrative Order H-2009-07**

---

**WHEREAS**, the law enforcement officers, (the "Officers"), of the Florida Fish and Wildlife Conservation Commission, ("FWC"),<sup>1</sup> are charged with enforcing all laws, rules, and regulations relating to wild animal life, marine life, and freshwater aquatic life, and

**WHEREAS**, in the course of carrying out their duties, from time to time the Officers must seize illegally taken "wildlife," "saltwater products" and "freshwater fish" (hereafter, collectively, the "contraband"), and

**WHEREAS**, it is more practical that, if able, live, seized contraband be returned to its natural habitat, and

**WHEREAS**, it is more economical and practical to promptly dispose of dead contraband instead of storing it during the pendency of prosecutions, and

**WHEREAS**, §379.338(1), Fla. Stat.,<sup>2</sup> permits, in accordance with a court order if the court so orders, the forfeiture and disposal of such contraband by the investigating law enforcement agency, prior to conviction, and

---

<sup>1</sup> Although reference is made to FWC Officers because they are the law enforcement personnel most likely to be involved in seizures of living or dead wildlife, saltwater products/fish, and freshwater fish, the provisions of this order are equally applicable to any certified law enforcement officer and law enforcement agency.

<sup>2</sup> §379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.—

(1) All wildlife, freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a

**WHEREAS**, §379.3381, Fla. Stat.,<sup>3</sup> permits a properly authenticated photograph to be substituted for any contraband seized by Officers and for the photographs to be admitted into evidence to the same extent that the contraband itself would be admissible, and

**WHEREAS**, Officers frequently seize contraband at times when and locations where it is not practical for them to obtain a court order for the purpose of selling or otherwise disposing of contraband, although the prompt sale or other disposition of contraband is in the best interests of all

**THEREFORE, IT IS ORDERED THAT:**

**1. DEFINITIONS**

(a) "Authentication" means that the photographs of contraband have been attached to an Incident Summary Report Narrative or similar document signed under oath, which includes the following information: A written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken; Name of the violator; Date the photograph was taken; Location where the alleged illegal taking occurred; Offense number and citation number; Name of the investigating member; And the name of the photographer.

(b) "Contraband" means all wildlife, saltwater products, or freshwater fish that it is illegal to take and/or to possess and all game, saltwater products, or freshwater fish that it is legal to take and/or to possess but that has been taken illegally.

---

charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

<sup>3</sup> §379.3381. Photographic evidence of illegally taken wildlife, freshwater fish, and saltwater fish.

In any prosecution for a violation of this chapter, any other chapter, or rules of the commission, a photograph of illegally taken wildlife, freshwater fish, or saltwater fish may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such wildlife, freshwater fish, or saltwater fish were introduced as evidence. Such photograph shall bear a written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken, the name of the violator, the location where the alleged illegal taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer, and the photograph shall be identified by the signature of the photographer.

(c) "Statutory authority" means the provisions of Chapter 379 of the Florida Statutes and the rules of the Florida Administrative Code made by the Fish and Wildlife Conservation Commission pursuant to those chapters.

## 2. APPLICATION

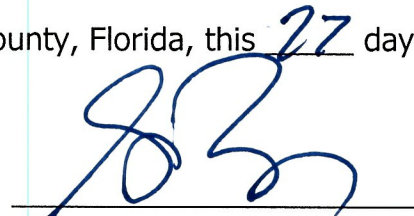
(a) All photographs of contraband hereafter referred to must be authenticated when taken or as soon as possible thereafter in compliance with this Administrative Order and § 379.3381, Florida Statutes, and, after authentication, a copy of the completed Incident Summary Report Narrative or similar document shall be provided to the Court in a timely manner.

(b) The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

(c) When an arrest is made pursuant to statutory authority and edible saltwater contraband is seized in a quantity that is sufficiently large to have commercial value, the law enforcement agency that seized the contraband may dispose of it as provided for by law<sup>4</sup> while documenting the type, quantity, value, and the date and manner in which the disposal of contraband was carried out. Proceeds from the disposal of the contraband shall be remitted to the Fish and Wildlife Conservation Commission to be held in escrow pending the outcome of the criminal proceeding.

3. Administrative Order H-2009-07 is hereby rescinded.

**DONE AND ORDERED** in Tavares, at Lake County, Florida, this 27 day of April 2015.

  
\_\_\_\_\_  
DON F. BRIGGS,  
Chief Judge

<sup>4</sup> Chapter 379, Florida Statutes, *et seq.*