

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: CONFISCATION, SEIZURE,)
FORFEITURE, DISPOSITION)
OR DESTRUCTION OF) ADMINISTRATIVE ORDER
SALTWATER PRODUCTS,) NO. 3.14
ILLEGAL NETS, AND GAME)
AND FRESHWATER FISH)
_____)

Pursuant to Florida Statutes §§ 370.061, 372.73 and 43.195; Fla. R. Jud. Admin. 2.075; the authority of this Court conferred by Rule 2.050 and Florida Statute § 43.26; and in order to improve the administration of justice within the Twentieth Judicial Circuit, it is,

ORDERED AND ADJUDGED as follows:

1. When an arrest is made pursuant to Chapter 370 of the Florida Statutes or the applicable provisions of the Florida Administrative Code, and minor amounts of perishable saltwater products illegally taken are seized, the law enforcement agency that seized said products is authorized to destroy them without obtaining individual court orders from the presiding judge at the conclusion of each case.

2. In the event of a conviction, said products shall not be destroyed until the time for taking an appeal has expired. In the event an appeal is taken, said products shall be preserved until the conclusion of the appeal or unless otherwise ordered by

the court upon proper application thereto.

3. For the purpose of this order, "minor amounts" of perishable saltwater products shall be defined as amounts having no appreciable commercial value.

4. When an arrest is made pursuant to the provisions of Chapter 370 or the applicable provisions of the Florida Administrative Code, and commercial quantities of illegal, perishable products or perishable products illegally taken or landed are confiscated, the law enforcement agency shall, when feasible, obtain three bids as to the fair market value of the products. The Defendant may thereafter post a bond equal to the amount specified in the highest bid.

5. The highest bid so obtained shall constitute a determination as to the fair market value of such products, and the Defendant, after posting the requisite bond, shall have twenty-four (24) hours to transport said products outside the borders of Florida for sale or other disposition.

6. Said bond or cash deposit shall be posted within one hour of seizure. If no such bond is posted within one hour, the products shall be sold to the highest of the three bidders, and the funds shall be remitted, held and distributed as provided in Florida Statute § 370.061(2).

7. When it is impractical to seek a judge's approval of fair value, the fair value of seized products shall be determined by the highest of three estimates value from licenced wholesalers, or the higher of two or fewer such estimates if three cannot be found locally. If no such bond or deposit is tendered, the products may be sold by the law enforcement agency making the seizure to the highest of three bidders, or the higher of two or fewer bidders if three cannot be found, without further order of the Court.

8. If no bond or deposit is tendered and no bids for purchase of the products can be found, and the products are still fit for human consumption, the products may be donated to a charitable institution for their use without further order of the Court, so long as a receipt is obtained from that institution for later production in court.

9. If no bond or deposit is tendered and no bids for purchase of said products can be found, and the products are no longer fit for human consumption but are suitable for consumption by fish or wildlife, the products may be donated to a charitable institution for their use without further order of the Court, so long as a receipt is obtained from the institution for later production in court.

10. If no bond or deposit is tendered and no bid for purchase of said products can be found, and the products are spoiled and no longer fit for human or animal consumption, the products may be disposed of in the landfill without further order of the Court, after photographs of the confiscated products are taken and thereafter preserved for production in court.

11. If no bond or deposit is tendered and a bid to purchase said products cannot be found, and the products are enmeshed in a monofilament gill net, are spoiled, and in the judgment of the confiscating officer potentially constitute a health hazard, the net and the products can be disposed of in the landfill without further order of the Court, after the net and product are photographed as evidence and a physical sample of the net is preserved for production in the court.

12. Pursuant to Florida Statute § 372.73, the officers of the Fish and Wildlife Conservation Commission are hereby authorized to donate to a hospital or charitable institution any game or freshwater fish seized as evidence in any action to enforce any provision of Chapter 372 of the Florida Statutes or any enabling rule or regulation codified in the Florida Administrative Code, without further order of the Court, so long as a receipt is obtained from the hospital or institution for

later production in court.

13. In the event that any officer of the Fish and Wildlife Conservation Commission or other law enforcement officer encounters upon the navigable waterways of this circuit any illegal and unmarked entangling nets proscribed by Article 10 of the Florida Constitution or other provision of Florida Law, the officers are hereby authorized to gather up, remove from the water and thereafter dispose of or otherwise destroy said entangling nets.

This order shall take effect on the date of its execution and shall thereafter remain in effect until and unless it is otherwise modified or repealed by further order of this Court.

DONE AND ORDERED in Chambers at Naples, Collier County, Florida, this 27 day of Mar,, 2001.

W. L. Blackwell
William L. Blackwell
Chief Judge

History. - Administrative Order No. 3.14 (February 12, 1998); Administrative Order No. 3.14 (August 22, 1997); Administrative Order No. 3.14 (June 28, 1995).

STATE OF FLORIDA, COUNTY OF LEE

FILED FOR RECORD

This 28TH Day of MARCH 2001 Record in Circuit Court Minute

Book 45 Page and Record Verified:

CHARLIE GREEN By [Signature] Deputy Clerk

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I certify this document to be a true and correct copy of the original on file in my office, Charlie Green, Clerk Circuit Court, Lee County, Florida
Dated: MAR 28 2001
By [Signature] Deputy Clerk