

Section I

Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NOS.: RULE TITLES:

60L-34.0031 Regular Time and Overtime

60L-34.0043 Regular Compensatory Leave

60L-34.0044 Special Compensatory Leave

PURPOSE AND EFFECT: Subsections 60L-34.0043(3) and 60L-34.0044(2), F.A.C., need to be amended to comport with the new language in Section 110.205(7), F.S., by deleting the provisions requiring that Career Service employees retain regular and special compensatory leave credits upon appointment to a Selected Exempt Service position. Additionally, amendments to Rule 60L-34.0031, F.A.C., are necessary to provide that Fair Labor Standards Act (FLSA) compensatory leave that is accrued by employees in lieu of overtime pay (pursuant to FLSA), may be paid out at least once a year, to accommodate the mutual needs of agencies and employees.

SUBJECT AREA TO BE ADDRESSED: Chapter 2012-215, Laws of Florida, amends Section 110.205(7), F.S., by deleting the provisions requiring that Career Service employees retain regular and special compensatory leave credits upon appointment to a Selected Exempt Service position.

RULEMAKING AUTHORITY: 110.1055, 110.201, 110.219(5) FS.

LAW IMPLEMENTED: 110.219 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 29, 2013, 10:30 a.m.

PLACE: Department of Management Services, 4050 Esplanade Way, Conference room 101, Tallahassee, FL 32399-0950

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 48 hours before the workshop/meeting by contacting: Ms. Mailea Adams, 4050 Esplanade Way, Suite 235, Tallahassee, FL 32399-0950, Phone (850)413-9503, Email: Mailea.Adams@dms.myflorida.com. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ms. Mailea Adams, 4050 Esplanade Way, Suite 235, Tallahassee, FL 32399-0950, Phone (850)413-9503, Email: Mailea.Adams@dms.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-304.645 Springs Coast Basin TMDLs

PURPOSE AND EFFECT: The Department is initiating rulemaking to establish Total Maximum Daily Loads (TMDLs) for certain surface waters within the Springs Coast Basin where those waters previously have been identified as impaired for specific pollutants and included on the Department's verified list of impaired waters. Pursuant to Section 403.067(6), F.S., TMDLs must be adopted in rule by the Secretary of the Department. Chapter 62-304, F.A.C., was established as the rule chapter within which rules adopting TMDLs shall reside. Furthermore, upon paragraph 62-302.531(2)(a), F.A.C., becoming effective, these nutrient TMDLs, if adopted, are intended to constitute site specific numeric interpretations of the narrative nutrient criterion set forth in paragraph 62-302.530(47)(b), F.A.C.

SUBJECT AREA TO BE ADDRESSED: TMDLs and their allocations will be established for the pollutants identified in the Department's verified list of impaired waters as causing the impairment for certain impaired waters in the above listed basin.

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Richard Hicks, Administrator, Division of Environmental Assessment and Restoration, Ground Water Management Section, 2600 Blair Stone Road, Mail Station 3575, Tallahassee, Florida 32399-2400, Telephone (850)245-8229

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-304.735 Everglades Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt a Total Maximum Daily Load (TMDL), and its allocation, for fecal coliform the West Palm Beach Canal within the Everglades Basin.

SUMMARY: The TMDL addresses a fecal coliform impairment in the Everglades Basin. Specifically, the TMDL rule being proposed for adoption is for the West Palm Beach Canal. This waterbody was verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodology used to develop the TMDL was the percent reduction method. This rulemaking has been given an OGC case number 12-1361.

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: There are no regulated entities, including NPDES permitted wastewater and municipal stormwater facilities, located in the West Palm Beach Canal watershed.

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: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.735 Everglades Basin TMDLs.

(1) West Palm Beach Canal Fecal Coliform TMDL. The TMDL for the West Palm Beach Canal is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The wasteload allocation (WLA) for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department’s National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is not applicable.

(c) The load allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2005, 2006, and 2008, will require a 62 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(2) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from all anthropogenic sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Drew Bartlett, Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 23, 2011

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: RULE TITLE:

68A-15.006 Regulations Relating to Miscellaneous Areas

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise specific area regulations on miscellaneous areas and conform to calendar year date changes. The effect of the proposed rule amendment will be to revise season dates to conform to calendar year date changes and adjust bag limits for deer and turkey on Babcock Ranch Preserve and enable the agency to better manage fish and wildlife resources and public use on miscellaneous areas.

SUMMARY: The proposed rule amendment would adjust season dates to conform to calendar year changes and revise specific area regulations on miscellaneous areas as follows:

Babcock Ranch Preserve - change the bag limit for deer from one antlered and one antlerless per quota permit to two deer per quota permit during archery, family and the general gun for mobility-impaired hunts; change the bag limit for deer from one antlered deer per quota permit to one antlered deer per person, but no more than two per quota permit during muzzleloading gun and general gun hunts; and change the bag limit for turkey from one turkey per quota permit to one gobbler (or bearded turkey) per person, but no more than two per quota permit during spring turkey hunts.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn Lakeland, 3839 Don Emerson Drive, Lakeland, FL 32821

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: Diane R. Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.006 Regulations Relating to Miscellaneous Areas.

(1) through (2) No change.

(3) Babcock Ranch Preserve.

(a) Open season (in the FWC designated hunting area):

1. Archery – August 3-6 and 10-13 ~~July 28-31 and August 7-9.~~

2. Muzzleloading gun – September 7-9 ~~1-3.~~

3. Family – September 21-22 ~~15-16~~ and December 21-22 ~~15-16.~~

4. General gun for mobility-impaired – December 6-8 ~~November 30 through December 2.~~

5. General gun – September 27-29 ~~21-23~~, October 4-6 ~~September 28-30~~ and December 13-15 ~~7-9.~~

6. Small game – January 4-19 ~~5-20~~ and February 1-2 ~~2-3~~ (Saturdays and Sundays only).

7. Spring turkey – March 1-3 ~~2-4~~ and 8-10 ~~9-11.~~

8. No change.

(b) The following are the only species of wildlife legal to take within the FWC designated hunting area: All legal game (except quail) and wild hog. During One antlered and one antlerless deer may be taken per quota permit during the archery season, family and general gun for mobility-impaired hunts the bag limit for deer shall be two deer per quota permit. Only mobility-impaired hunters may take antlerless deer during the general gun for mobility-impaired hunt. One antlered deer may be taken per person, but no more than two per quota permit during the muzzleloading gun and general gun hunts. One gobbler (or bearded turkey) turkey per person, but no more than two per quota permit may be taken during spring turkey season. Turkey may only be taken during the spring turkey season.

(c) through (d) No change.

(4) No change.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action.

Rulemaking Authority Art. IV, Sec 9, Fla. Const. Law Implemented Art IV, Sec 9, Fla. Const. History—New 12-9-99, Amended 5-13-02, 5-1-03, 5-23-04, 7-1-06, 7-1-08, 7-1-09, 7-1-10, 11-9-10, 7-1-11, 7-1-12,_____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT

CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 8, 2013

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-2.001	General Definitions
68B-2.002	Permissible Temporary Possession
68B-2.003	License Required for Harvest or Possession of an Organism Regulated by Division 68B
68B-2.004	Recreational and Commercial Harvest on the Same Trip Prohibited
68B-2.005	Vessel Operator Responsibility
68B-2.006	Restricted Species License Exemption
68B-2.007	Prohibition of Purchase or Sale of Illegally-caught Saltwater Products
68B-2.008	Trap Working Regulations

PURPOSE AND EFFECT: The purpose of these new rules and rule amendments is to simplify marine fisheries regulations by creating greater consistency among the regulations, eliminating repetition, and reducing opportunities for misinterpretation. The proposed General chapter will become a single, intuitive location for Florida Fish and Wildlife Conservation Commission’s (Commission) regulations that apply to all marine fisheries. This will reduce confusion and simplify enforcement by ensuring that these provisions are consistent in their wording and their meaning. The new rules include definitions and provisions that were taken from existing marine fisheries regulations found elsewhere in 68B. Some have been modified slightly to improve clarity or create consistency. All will be applied broadly to all marine fisheries, including those sometimes referred to as “unregulated” due to their lack of established seasons, bag limits, or size limits, unless otherwise stated elsewhere in Division 68B.

The primary effect of these rules will be to broaden and standardize the application of existing marine fisheries regulatory provisions and standardize commonly used

definitions, applying the provisions and definitions consistently across all marine fisheries.

SUMMARY: Chapter 68B-2 (General Chapter) will be amended and re-named the General chapter. Rule 68B-2.001(General Definitions) will be created to standardize definitions that will apply to all marine fisheries. Rule 68B-2.002 (Return of Marine Organisms to Water; Permissible Temporary Possession) will be created to require that any finfish and any marine invertebrate regulated by the FWC that is not retained must be released immediately without being unnecessarily harmed. It will also allow for temporary possession of marine organisms for photography and determining compliance with regulations. Rule 68B-2.003 (License Required for Harvest or Possession of a Marine Organism Regulated) will be created to clearly state the proper fishing licenses are required when possessing marine organisms on the water and while fishing. Rule 68B-2.004 (Recreational and Commercial Harvest on the Same Trip) will prohibit commercial and recreational harvest of the same species on a single trip. Rule 68B-2.005 (Vessel Operator Responsibility) will hold the vessel operator responsible for ensuring passengers comply with marine fisheries regulations. Rule 68B-2.006 (Restricted Species Endorsement Provision) will be amended to correct rule language to better reflect the Commission’s original intent. Rule 68B-2.007 (Prohibition of Possession, Transport, Purchase, or Sale of Illegally-Caught marine Organisms) will be created to prohibit the possession, transport, purchase or sale of marine organisms caught in violation of fisheries regulations. Rule 68B-2.008 (Trap Placement) will prohibit placement of traps in navigational channels.

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.

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RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

GENERAL RESTRICTED SPECIES ENDORSEMENT
EXEMPTION

68B-2.001 General Definitions

As used in Division 68B, F.A.C.:

(1) “Biscayne National Park” means all waters lying within the boundaries of Biscayne National Park, whether within or without the waters of the State of Florida, as depicted on NOAA nautical charts for coastal Florida waters and as described as follows:

Beginning at the northwest corner of Section 35, Township 55 South, Range 40 East, Tallahassee Meridian;

Thence easterly 1,978.35 feet, more or less, along the north line of said Section 35 to a point on the center line of Old Cutler Road, as shown on Sheet 11 of 14 Sheets of Part Three of the drawings titled Metropolitan Dade County, Florida, Bulkhead Line, and recorded in Plat Book No. 74, Page 3 of the Public Records of Dade County, Florida, February 23, 1962;

Thence southwesterly 2,700 feet, more or less, along the center line of said Old Cutler Road to a point, said point being the intersection with the center line of S. W. 176 Street;

Thence easterly along the extension of the center line of S. W. 176 Street bearing North 87°39'08" East, 700 feet, more or less, to the Point of Beginning;

Thence South 80°53'53" East, 30,000 feet, more or less, to a point on the Intracoastal Waterway;

Thence northeasterly along the Intracoastal Waterway 28,950 feet, more or less, to a point of intersection with Latitude 25°40'16" North;

Thence east along the Parallel at Latitude 25°40'16" North 6,600 feet, more or less, to a point on the southwest side of a cable area lying generally South of Cape Florida (said cable area shown on the National Oceanic and Atmospheric Administration Nautical Chart 11451);

Thence southeasterly along the southwest side of the cable area 18,000 feet, more or less, to a point where the southwest line of said cable area deflects to the right (said point being approximately at Latitude 25°38'40" North);

Thence east 14,000 feet, more or less, to a point of intersection with the 10 fathom line (water depth of 60 feet);

Thence southerly along the 10 fathom line (60 foot depth curve line), 133,000 feet, more or less, to a point on the North line of the Key Largo Coral Reef Marine Sanctuary (also known as John Pennekamp Coral Reef State Park), at Latitude 25°17'36" North, Longitude 80°10'00" West;

Thence northwesterly along the boundary of the Preserve and State Park 21,000 feet, more or less, to Latitude 25°20'06" North, Longitude 80°12'36" West;

Thence southwesterly 9,400 feet, more or less, to a point on the Monroe-Dade County line at Latitude 25°19'55" North, Longitude 80°14'18" West;

Thence northwesterly 11,100 feet, more or less, along the meanderings of said County line to a point in Broad Creek, located about mid-channel between Swan Key and the easternmost tip of Broad Key, Latitude 25°21'04" North, Longitude 80°15'25" West;

Thence northwesterly 10,350 feet, more or less, to a point adjacent to flashing red light marker “14” in Card Sound at the south end of the Intracoastal Waterway Channel through Cutter Bank, Latitude 25°21'58" North, Longitude 80°17'01" West;

Thence continue across the open waters of Card Sound North 77°00'00" West 16,400 feet, more or less, to a point on the west line of Section 15, Township 58 South, Range 40 East. Said west line also being a portion of the western boundary of the Turkey Point Wilderness Area as established by an agreement entitled “Deed”, recorded in Book 7624, Page 457-464 of the Official Records of Dade County, Florida, March 22, 1972;

Thence northerly along the west line of Section 15, Section 10, and Section 3 to a point, said point being the northwest corner of Section 3, all in Township 58 South,

Range 40 East. The west line of Section 15, Section 10, and Section 3 also being a portion of the western boundary of the Turkey Point Wilderness Area;

Thence easterly along the north line of Section 3, Township 58 South, Range 40 East, passing Turtle Point, over the waters of Biscayne Bay, passing the Metropolitan Dade County, Florida, Bulkhead Line to a point on a line 350 feet easterly of and parallel to the Metropolitan Dade County, Florida, Bulkhead Line as shown on Sheet 6 of 12 Sheets of Part Five of the drawings titled Metropolitan Dade County, Florida, Bulkhead Line, and recorded in Plat Book No. 74, Page 5 of the Public Records of Dade County, Florida, May 10, 1963. The north line of Section 3, Township 58 South, Range 40 East, also being the north boundary of the Turkey Point Wilderness Area;

Thence northerly along line a 350 feet easterly of and parallel to the Metropolitan Dade County, Florida, Bulkhead Line (as shown on Sheets 5 and 6 of 12 Sheets of Part Five of the drawings titled Metropolitan Dade County, Florida, Bulkhead Line, and recorded in Plat Book No. 74, Page 5 of the Public Records of Dade County, Florida, May 10, 1963), passing and going around Turkey Point to the intersection with a line being the extension eastward of the south boundary of Homestead Bayfront Park;

Thence westerly along the south line of Homestead Bayfront Park to the southwest corner thereof;

Thence northerly along the west line of Homestead Bayfront Park to the northwest corner of said park, also being the southwest corner of Section 9, Township 57 South, Range 40 East;

Thence easterly along the north line of Homestead Bayfront Park (also the south line of Section 9, Township 57 South, Range 40 East), 1,870 feet, more or less, to a point;

Thence North 00°35'00" West, 4,080 feet, more or less, to a point;

Thence North 04°35'00" West, 3,360 feet, more or less, to a point;

Thence North 17°05'00" East, 1,995 feet, more or less, to a point;

Thence North 39°10'00" East, 2,260 feet, more or less, to a point;

Thence North 18°25'00" West, 1,080 feet, more or less, to a point;

Thence North 17°20'00" East, 2,820 feet, more or less, to a point;

Thence North 03°00'00" East, 3,500 feet, more or less, to a point;

Thence North 17°45'00" East, 3,380 feet, more or less, to a point on the southwesterly bank of Goulds Canal;

Thence southeasterly along the southwesterly bank of Goulds Canal 2,200 feet, more or less, to a point;

Thence northeasterly crossing Goulds Canal to a point on a tip of land being the southeasterly-most tip of a triangular shaped parcel of land lying between Goulds Canal and Black Creek (also known as C-1 Canal);

Thence northwesterly following the northeastern shoreline of the above-mentioned triangular shaped parcel of land 300 feet, more or less, to a point;

Thence North 45°15'00" East, 525 feet, more or less, to a point;

Thence North 32°00'00" West, 2,980 feet, more or less, to a point;

Thence North 0°30'00" West, 640 feet, more or less, to a point;

Thence northeasterly to a point on the north line of Section 22, Township 56 South, Range 40 East, said point being 3,330 feet east of the northwest corner of Section 22, Township 56 South, Range 40 East;

Thence easterly along the north line of Section 22 to the Northwest corner of Section 23, Township 56 South, Range 40 East;

Thence easterly along the north line of said Section 23, 460 feet, more or less, to a point;

Thence North 17°54'00" East, 2,780 feet, more or less, to a point on the north line of the south half of Section 14, Township 56 South, Range 40 East;

Thence North 14°25'00" East, 320 feet, more or less, to a point;

Thence North 09°25'00" East, 980 feet, more or less, to a point;

Thence North 00°50'00" West, 1,045 feet, more or less, to a point;

Thence North 14°00'00" East, 255 feet, more or less, to a point;

Thence North 25°45'00" East, 600 feet, more or less, to a point;

Thence North 16°50'00" East, 495 feet, more or less, to a point;

Thence North 27°00'00" East, 255 feet, more or less, to a point;

Thence North 26°25'00" East, 1,050 feet, more or less, to a point;

Thence North 22°25'00" East, 640 feet, more or less, to a point;

Thence North 08°15'00" East, 410 feet, more or less, to a point;

Thence North 07°10'00" West, 460 feet, more or less, to a point;

Thence North 14°45'00" West, 440 feet, more or less, to a point;

Thence North 19°50'00" West, 260 feet, more or less, to a point;

Thence North 30°06'00" West, 1,235 feet, more or less, to a point;

Thence North 00°06'00" West, 1,410 feet, more or less, to a point;

Thence North 55°52'30" West, 590 feet, more or less, to a point;

Thence North 05°45'00" East, 1,980 feet, more or less, to a point;

Thence North 16°45'00" West, 950 feet, more or less, to a point;

Thence North 88°40'00" East, 470 feet, more or less, to a point;

Thence North 05°00'00" West, 2,035 feet, more or less, to a point on the south line of Section 35, Township 55 South, Range 40 East;

Thence North 06°07'30" East, 2,900 feet, more or less, to a point, the Point of Beginning.

(2) "Coastline" means the territorial sea base line for the State of Florida established pursuant to the laws of the United States of America.

(3) "Commercial Harvester" means a person who is harvesting or in possession of an organism or part of an organism for the purpose of selling or with the intent to sell the organism or part of the organism.

(4) "Commission" means the Florida Fish and Wildlife Conservation Commission.

(5) "Crew member" means an individual onboard a vessel who is compensated (monetarily or otherwise) for any service performed in relation to the operation of the vessel or the activities carried out by those onboard the vessel.

(6) "Diving" means swimming at or below the surface of the water.

(7) "F.A.C." means the Florida Administrative Code.

(8) "F.S." means the Florida Statutes.

(9) "Florida Waters" means the waters of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and any other bodies of water under the jurisdiction of the State of Florida, whether marine, coastal, or inland, and any part thereof. Florida Waters include any potential fishing site adjacent to the water like a dock, pier, boat ramp, bridge, shore, beach, or other location from which fishing could occur and any parking location adjacent to a potential fishing site.

(10) "For Commercial Purposes" means engaging in an activity regulated by Division 68B, F.A.C., for the purpose of selling an organism or part of an organism or with the intent to sell an organism or part of an organism. For Commercial Purposes includes harvest or possession of marine organisms in an amount that is at least two times the recreational bag limit for the organism being taken or harvested.

(11) "Fork Length" means the straight-line distance from the most forward point of the fish with the mouth closed, to the rear center edge of the tail.

(12) "Harvest" means the catching or taking of an organism followed by a reduction of the organism to possession. Harvest includes the unnecessary harming or killing of an organism regardless of possession.

(13) "Inside waters" means all state waters landward of the COLREGS Demarcation Line, as depicted or described on NOAA nautical charts for coastal Florida waters.

(14) "Land," when used in connection with the harvest of an organism, means the physical act of bringing the harvested organism ashore.

(15) "Lower jaw fork length" means the straight-line measurement of a fish from the tip of the lower jaw to the fork of the caudal fin. The measurement is not made along the curve of the body.

(16) "Nearshore and inshore Florida waters" means all Florida waters inside a line three nautical miles seaward of the coastline along the Gulf of Mexico and inside a line one nautical mile seaward of the coastline along the Atlantic Ocean.

(17) "Person" includes a natural person, firm, corporation or other entity.

(18) "Purchase" means to receive an organism or part of an organism in exchange for any form of consideration (money, objects, services, or otherwise) with or without a transfer in possession. Purchase includes offering to purchase an organism or part of an organism.

(19) "Recreational Harvester" means a person who is engaging in an activity regulated by Division 68B, F.A.C. or Chapter 379, F.S. who is not a commercial harvester as defined in Rule 68B-2.001, F.A.C.

(20) "Seafood dealer" means a wholesale seafood dealer, a retail seafood dealer, or a restaurant licensed by the state.

(21) "Sell" means to receive any form of consideration (money, objects, services, or otherwise) in exchange for an organism with or without a transfer in possession. Sell includes offering to sell an organism or part of an organism.

(22) "Snagging" or "snatch hooking" means the intentional catch of a fish by any device intended to impale or hook the fish by any part of its body other than the mouth.

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

(24) A "trip" begins when a vessel departs from a dock, berth, beach, seawall, or ramp, and terminates when the vessel returns to a dock, berth, beach, seawall, or ramp, regardless of the amount of time between the departure and return of the vessel.

(25) “Vessel” includes any water craft used or capable of being used as a means of transportation on water. Vessel includes nondisplacement craft and any aircraft designed to maneuver on water.

(26) “Vessel for Hire” means a vessel that is operated by a captain licensed by the United States Coast Guard and pursuant to Section 379.354(7), F.S. to carry passengers for hire and has one or more passengers onboard who are paying a fee (directly or indirectly) to take or pursue an organism regulated by Division 68B, F.A.C.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History–New 9-1-13.

68B-2.002 Return of Marine Organisms to Water: Permissible Temporary Possession.

(1) This subsection applies to all marine finfish and any marine invertebrate regulated by Division 68B, F.A.C., with the exception of 68B-26, F.A.C. All persons catching or taking but not retaining for use any such marine organism shall immediately release such marine organism at the site of capture. No person may unnecessarily harm or destroy any such organism. No such organism may be placed or deposited on any bank, shore, beach or other place out of the water.

(2) Permissible Temporary Possession

(a) Unless temporary possession is expressly prohibited for a particular species, a person may temporarily possess an organism for purposes of identifying the species, photographing, or determining compliance with applicable regulations.

(b) A person who temporarily possesses an organism pursuant to paragraph (2)(a) must immediately return the organism to the water unharmed.

(c) A person must also comply with other restrictions on temporary possession that may be established for a particular species.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History–New 9-1-13.

68B-2.003 License Required for Harvest or Possession of a Marine Organism.

(1) Recreational Harvester – A recreational harvester may not harvest, attempt to harvest, or possess in or on Florida Waters a marine organism unless the recreational harvester is in possession of a valid recreational saltwater fishing license. This provision does not apply to a recreational harvester who is otherwise exempt from state recreational licensing requirements.

(2) Commercial Harvester –

(a) Saltwater Products – A commercial harvester may not harvest, attempt to harvest, or possess in or on Florida Waters or sell a marine organism unless the commercial harvester is in possession of a valid saltwater products license.

(b) Restricted Species – A commercial harvester may not harvest or possess in or on Florida Waters or sell an organism that has been designated as a restricted species in Division 68B, F.A.C., unless the commercial harvester is in possession of a valid saltwater products license with a restricted species endorsement.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History–New 9-1-13.

68B-2.004 Recreational and Commercial Harvest on the Same Trip.

On a single trip, a person must either be a recreational harvester or a commercial harvester for each species they harvest or possess. If a person is harvesting or is in possession of an organism for commercial purposes, that person may not harvest or possess an organism of the same species for recreational purposes on the same trip. If a person is harvesting or is in possession of an organism for recreational purposes, that person may not harvest or possess an organism of the same species for commercial purposes on the same trip. In addition, no person aboard a vessel may harvest or possess an organism for recreational purposes if an organism of the same species is harvested or possessed by another person aboard the vessel for commercial purposes on the same trip. No person aboard a vessel may harvest or possess an organism for commercial purposes if an organism of the same species is harvested or possessed by another person for recreational purposes on the same trip.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History–New 9-1-13.

68B-2.005 Vessel Operator Responsibility.

The operator of a vessel in Florida Waters is responsible for ensuring that the persons aboard the vessel comply with the applicable provisions of Division 68B, F.A.C. If a person aboard a vessel in Florida Waters violates a provision of Division 68B, F.A.C., the operator of the vessel is also in violation of that provision.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History–New 9-1-13.

68B-2.006 Restricted Species License Exemption.

(1) An honorably discharged resident military veteran certified by the United States Department of Veterans Affairs or its predecessor or by any branch of the United States Armed Forces to be at least 10% permanently service-connected disabled, upon proof of the same, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption. A restricted species endorsement ~~shall~~ may be issued on an individual saltwater products license thereafter where such disabled resident veteran documents that at least \$2500 of such person's income is attributable to the sale of saltwater products.

(2) through (3) No change.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New 11-11-12, Amended 9-1-13.

68B-2.007 Prohibition of Possession, Transport, Purchase, or Sale of Illegally-Caught Marine Organisms.

Except for a law enforcement officer acting in an enforcement capacity, no person may possess, transport, purchase, or sell any marine organisms harvested in violation of any of the requirements of Division 68B, F.A.C., or of 379, F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New 9-1-13.

68B-2.008 Trap Placement.

It is unlawful for any person to place traps in the navigation channels of the intracoastal waterways, or in navigation channels maintained and marked by the United States Army Corps of Engineers, United States Coast Guard, State of Florida, or any county or municipal government.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH

THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: RULE TITLE:

68B-4.002 Gear Definitions

PURPOSE AND EFFECT: The purpose of this rule amendment is to consolidate and clarify the definitions for various legal fishing gears by moving gear descriptions currently located in some of the species-specific chapters of Divisions 68B, F.A.C. into the existing Gear Definitions rule in the Florida Fish and Wildlife Conservation Commission's (Commission) marine fisheries rules and clarifying several of the definitions currently found in the rule. These definitions for gears used in multiple species chapters will apply to all marine fisheries, unless otherwise stated in species-specific rules. The proposed rule will add the following definitions to Rule 68B-4.002, F.A.C.: Frame Net, Paired Trawl, Otter Trawl, Snagging, Spearing, and Trawl. The definitions of Hook and Line Gear and Multiple Hook will be clarified.

The effects of this rule will be simplified rule language and improved rule clarity and enforceability.

SUMMARY: Rule 68B-4.002, F.A.C. (Gear definitions) will be amended to clarify existing gear definitions and relocate gear descriptions previously found in other chapters.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-4.002 Gear Definitions.

As used in Division Title 68B, F.A.C., unless otherwise defined:

(1) through (3) No change.

(4) "Frame net" means a net in the form of an elongated bag kept open by a rigid frame that is buoyed by floats and deployed behind a vessel, but is not dragged along the bottom.

(5)(4) "Gill net" means one or more walls of netting which captures fish by ensnaring or entangling them in the meshes of the net by the gills. This term does not include a cast net.

(6)(5) "Hook and line gear" means a handline, rod, reel, or any pole to which ~~hook and line~~ and ten or fewer hooks are attached. Hook and line gear includes a, as well as any bob, float, weight, lure, plug, spoon, or ~~standard~~ bait that is

attached to the gear described in the previous sentence thereto, with a total of ten or fewer hooks.

(7)(6) "Landing or dip net" means a hand-held net consisting of a mesh bag suspended from a circular, oval, or rectangular rigid frame attached to a handle.

(8)(7) "Longline gear" means any single line or series of connected lines to which more than ten hooks are attached and which is used to harvest fish.

(9)(8) "Mesh area" of a net means the total area of netting with the meshes open to comprise the maximum square footage. The square footage shall be calculated using standard mathematical formulas for geometric shapes. The square footage of seines and other rectangular nets shall be calculated using the maximum length and maximum width of the netting.

(10)(9) "Multiple hook" means a treble hook, two or more fishhooks bound together to comprise a single unit, or any hook with a single shank and eye and two or more pointed ends, ~~used to impale fish.~~

(11) "Paired trawl" means a trawl consisting of an elongated bag of netting, with a panel of netting serving as a wing on each side of the trawl, that is either deployed behind a vessel or towed between two vessels, and does not tend the bottom.

(12) "Otter trawl" means a trawl with its mouth kept open by means of boards or doors on each side.

(13)(10) "Powerhead" means any device employing an explosive charge or a release of compressed gas, usually attached to a speargun, spear, pole, or stick (known as a "bangstick"), which detonates upon contact.

(14)(11) "Rebreather" means a closed circuit or semi-closed circuit underwater breathing apparatus that recycles and recirculates all or part of the gas mixture supplied for breathing. A rebreather is distinguished from other underwater breathing apparatuses by the inclusion of a scrubber (a component that removes carbon dioxide from the breathing gas) and a counterlung (a waterproof bag that allows the diver's exhaled breath to be captured for scrubbing and recycling back to the diver for inhalation).

(15)(12) "Seine" means a small-meshed net suspended vertically in the water, with floats along the top margin and weights along the bottom margin, which encloses and concentrates fish, and does not entangle them in the meshes.

(a) "Beach or haul seine" means a seine that is hauled or dragged over the bottom into shallow water or onto the beach, either by hand or with power winches.

(b) "Purse seine" means a seine that is pulled into a circle around fish with rings attached to the lower margin below the lead line to allow a purse line to be drawn to close the bottom of the seine.

(16)“Snagging” or “snatch hooking” means the intentional catch of a fish by any device intended to impale or hook the fish by any part of its body other than the mouth.

(17) “Spearing” means the catching or taking of a fish by bow hunting, gigging, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear or by snagging (snatch hooking).

(18)(13) “Spotter plane” means any aircraft as defined in Section 330.27(1), Florida Statutes, used for aerial identification of the location of fish so that a vessel may be directed to the fish.

(19)(14) “Stab or sink net” means a gill or trammel net, that sinks to the bottom when placed, set, or fished in water deeper than its hanging depth.

(20)(15) “Trammel net” means a net constructed of two or more walls of netting hung from the same cork and lead lines, with one wall having a larger mesh than the other(s), which traps a fish in a pocket of netting when the fish pushes the smaller mesh wall through a mesh in the larger mesh wall.

(21)(16) “Trap” means a device used for taking marine species, in the form of an enclosure that provides a means for such species to enter and a means by which exit from the device is prevented.

(22)(17) “Trap puller” means any mechanical device used to retrieve or capable of retrieving a trap used to harvest marine life. An anchor winch at or near the bow of a vessel is not considered a trap puller.

(23)“Trawl” means a net in the form of an elongated bag with the mouth kept open by various means and fished by being towed or dragged on the bottom.

(24)(18) “Underwater breathing apparatus” means any apparatus, whether self-contained or connected to a distant source of air or other gas, whereby a person wholly or partially submerged in water is able to obtain or reuse air or any other gas or gasses for breathing without returning to the surface of the water.

(25)(19) “Wing”, with reference to a seine, means a panel of netting on one or both ends of the seine, which panel has a larger mesh than the main body of the seine and is used to guide fish into the main body of the seine.

(26)(20) The term “net” or “netting” shall be broadly construed to include all manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Art. X, Sec. 16, Fla. Const. History–New 1-1-89, Amended 11-26-92, 1-1-97, 4-27-98, Formerly 46-4.002, Amended 12-2-99, 7-1-04, 7-15-04, 3-1-05, Amended 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: RULE TITLE:

68B-4.0025 Other Definitions

PURPOSE AND EFFECT: The purpose of this rule amendment is to repeal Rule 68B-4.0025, F.A.C., in the Gear Specifications and Prohibited Gear chapter (68B-4) of Florida Fish and Wildlife Conservation Commission’s (Commission) rules. The definitions currently located in this rule are being relocated to the new proposed General Definitions rule (68B-2.001). This rulemaking is part of a rule cleanup effort for Division 68B that will make clarify marine fisheries regulations and make specific provisions easier to locate.

This repeal will have no effect, because the information will remain in rule 68B-2.001 (General Definitions).

SUMMARY: Rule 68B-4.0025, F.A.C. (Other Definitions) will be repealed and the content will be relocated in accordance with the new format developed for Division 68B during the marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-4.0025 Other Definitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Art. X, Sec. 16, Fla. Const. History–New 11-26-92, Amended 1-1-97, Formerly 46-4.0025, Repealed 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries

Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: **RULE TITLES:**
 68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption

68B-14.0041 Recreational Gulf Gray Triggerfish Season

PURPOSE, EFFECT AND SUMMARY: A federal stock assessment update completed in 2011 showed that gray triggerfish are overfished and undergoing overfishing in the Gulf of Mexico. The new rule and rule amendment would modify recreational harvest regulations in Gulf of Mexico state waters by establishing a closed season in June and July during peak spawning, and establish a 2-fish recreational bag limit. The purpose of these rules is to achieve consistency between the Commission’s Gulf gray triggerfish regulations and expected federal regulations in the Gulf of Mexico. The Secretary of Commerce has approved similar rules for Gulf of Mexico federal waters and these regulations take effect on June 10, 2013. New federal rules for the commercial sector are also expected to take effect and include a closed season from June 1 to July 31 and a 12-fish commercial trip limit. However, no changes to state rules are needed to achieve consistency between state and federal rules for commercial gray triggerfish harvest because existing state regulations already require commercial fishermen harvesting gray triggerfish in Gulf state waters to follow federal regulations.

The effect of the new rule and rule amendment is that federal and state regulations can be applied more consistently to recreational harvest of gray triggerfish in the Gulf of Mexico. A consistent recreational closed season and bag limit in state waters would contribute to the federal rebuilding plan and reduce the likelihood of catch exceeding federal annual catch limits. This should help ensure a sustainable harvest for the future.

Rule 68B-14.0036, F.A.C. would be modified to establish a June 1 through July 31 annual recreational closed season for gray triggerfish in the Gulf of Mexico. A new Rule 68B-14.0041, F.A.C.; Recreational Gulf Gray Triggerfish Season, would be created and establish a two-fish recreational bag

limit for Gulf gray triggerfish. These changes were approved by the Commission at their February 13-14, 2013 meeting in Orlando.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption.

- (1) Snapper.
- (a) through (e) No change.
- (f) Cubera snapper.

1. Cubera snapper of a total length less than thirty inches (30") shall be included in the aggregate snapper bag and possession limit established in paragraph (a), and the exception provided in subsection (9)(8).

- 2. No change.
- (2) through (7) No change.

(8) Gray Triggerfish. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Gulf of Mexico nor possess in or on the state waters of the Gulf of Mexico more than two gray triggerfish at any time (consistent with the Federal Standard established in 50 C.F.R. § 622.38(b)(5) as of June 10, 2013).

- (8) through (9) renumbered (9) through (10) No change.

PROPOSED EFFECTIVE DATE: June 10, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, 1-1-06, 7-1-06, 7-1-07, 4-1-08, 1-6-09, 8-27-09, 10-16-09, 1-19-10, 12-30-11, 7-1-12, 6-10-13.

68B-14.0041 Recreational Gulf Gray Triggerfish Season.

In all state waters of the Gulf of Mexico the recreational harvest and possession of gray triggerfish shall be prohibited June 1 through July 31, each year (consistent with the Federal Standard established in 50 C.F.R. § 622.34(f) as of June 10, 2013).

PROPOSED EFFECTIVE DATE: June 10, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-10-13.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: RULE TITLES:

- 68B-15.001 Sturgeon, Statewide
- 68B-15.004 Prohibited Take

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) sturgeon rules. The sturgeon Chapter (68B-15) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-15 (Sturgeon) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-15.001 Sturgeon, Statewide

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-25-84, Formerly 46-15.01, 46-15.001, Repealed 9-1-13.

68B-15.004 Prohibited Take.

(1) A person may not harvest, take, harass, injure, or kill a sturgeon of the species *Acipenser oxyrhynchus*.

(2) This subsection will not be construed to prohibit unintentional injury of or contact with a sturgeon if it occurs in the course of normal fishing activities. A person who unintentionally catches a sturgeon shall immediately return the sturgeon to the water unharmed.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED

AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-16.001	Queen Conch, Purpose and Intent
68B-16.002	Definitions
68B-16.003	Queen Conch, Regulation
68B-16.004	Harvest of Queen Conch Prohibited
68B-16.005	Queen Conch, Regulation in Federal Waters Contiguous to Florida
68B-16.007	Importation of Queen Conch

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) queen conch rules. The queen conch Chapter (68B-16) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-16 (Queen Conch) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-16.001 follows. See Florida Administrative Code for present text.)

68B-16.001 Designation as a Protected Species Queen Conch, Purpose and Intent.

The queen conch, species Strombus gigas, is hereby designated as a protected species. The purposes of designation as a protected species are to increase public awareness of the need for extensive conservation action in order to prevent this

resource from becoming endangered, to encourage voluntary conservation practices, and to enlist the assistance of the general public in enforcing the stringent measures imposed by this chapter.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-17-85, Amended 12-11-86, 1-1-91, 7-15-96, Formerly 46-16.001, Amended 9-1-13.

(Substantial rewording of Rule 68B-16.002 follows. See Florida Administrative Code for present text.)

68B-16.002 Definitions.

“Queen conch” means a conch of the species Strombus gigas, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-17-85, Amended 6-21-90, Formerly 46-16.002, Amended 9-1-13.

68B-16.003 Queen Conch, Regulation.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-17-85, Amended 6-21-90, 7-15-96, Formerly 46-16.003, Repealed 9-1-13.

68B-16.004 Harvest of Queen Conch Prohibited.

(1) A person may not harvest, kill, molest, harm or mutilate a queen conch within or without Florida Waters, or possess, transport or land a queen conch regardless of where harvested.

(2) A person may harvest a queen conch shell if the shell does not contain a live queen conch at the time of harvest and a live queen conch is not killed, mutilated, or removed from the shell prior to the harvest of the shell. A person may not possess within or without Florida Waters a queen conch shell that has an off-center hole larger than 1/16 inch in diameter through its spire.

(3) The presence of queen conch aboard a vessel in or on Florida Waters, while one or more persons from the vessel are overboard, constitutes prima facie evidence that the queen conch was harvested from Florida Waters in violation of this chapter.

(4) Rules 68B-16.004, F.A.C. and 68B-16.0041, F.A.C. will not be construed to prohibit the unintentional capture of a queen conch in the course of another lawful fishing activity. A person who unintentionally catches a queen conch shall immediately return the queen conch to the water unharmed.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-16.005 Queen Conch, Regulation in Federal Waters Contiguous to Florida.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Formerly 46-16.005, Repealed 9-1-13.

68B-16.007 Importation of Queen Conch.

(1) Chapter 68B-16, F.A.C. does not apply to a wholesale or retail dealer who is in possession of queen conch if the queen conch was lawfully harvested and imported from a country other than the United States.

(2) A wholesale or retail dealer in queen conch or products made from queen conch shells shall maintain the invoices, receipts, bills of sale, bills of lading, or other documentation affirmatively showing that all queen conch in the dealer's inventory were imported from a country other than the United States.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-17.002	Definitions
68B-17.003	Hard Clams, Minimum Size Limits
68B-17.004	Hard Clams, Hours of Taking and Transporting
68B-17.005	Regulation of Vessels and Harvesting Gear
68B-17.006	Allowed and Prohibited Gear and Methods of Harvest
68B-17.0061	Specifications and Requirements for Allowed gear and Methods of Harvest; Required equipment; Time of Day when Harvest and Transport is Prohibited
68B-17.007	Recreational Bag Limit

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission's (Commission) hard clams rules. The hard clams Chapter (68B-17) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-17 (Hard Clams) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission's marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-17.002 follows. See Florida Administrative Code for present text.)

68B-17.002 Definitions.

“Hard clam” means any species of wild or feral hard clam of the genus Mercenaria, or a part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-85, Formerly 46-17.02, Amended 4-11-94, 11-27-96, Formerly 46-17.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-17.003 follows. See Florida Administrative Code for present text.)

68B-17.003 ~~Hard Clams, Minimum Size Limits; Sorting Requirement; Size Tolerance.~~

(1) Size Limit – A person may not harvest or land from Florida Waters or possess in or on Florida Waters a hard clam that is less than 1 inch in thickness across the hinge.

(2) Sorting Requirement – A person harvesting hard clams shall sort the hard clams immediately after they are taken.

(a) Immediately after sorting, a person harvesting hard clams shall return alive to the place where taken each hard clam that is less than 1 inch in thickness across the hinge.

(b) The person(s) aboard a vessel in or on Florida Waters may not collectively possess more than 1 bushel of unsorted hard clams.

(c) A person may not possess unsorted hard clams aboard a vessel that is under power.

(3) Size Tolerance – A person may possess undersize hard clams if, by count of the hard clams in any individual bag, package, or container, 3% or less of the hard clams are undersize.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-85, Formerly 46-17.03, Amended 3-15-87, 11-1-89, 4-11-94, 11-27-96, Formerly 46-17.003, Amended 9-1-13.

(Substantial rewording of Rule 68B-17.004 follows. See Florida Administrative Code for present text.)

68B-17.004 ~~Bag and Vessel Limits Hard Clams, Hours of Taking and Transporting.~~

(1) Recreational Limits –

(a) Bag Limit – A recreational harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 5 gallons of hard clams (unshucked).

(b) Vessel Limit – The persons aboard a vessel in or on Florida Waters may not collectively possess more than 10 gallons of hard clams, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of hard clams in excess of the applicable bag limits.

(2) Commercial Limits – A commercial harvester is not subject to a harvest or possession limit for hard clams.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-85, Formerly 46-17.04, 46-17.004, Amended 9-1-13.

68B-17.005 Regulation of Vessels and Harvesting Gear.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-85, Formerly 46-17.05, Amended 3-15-87, 4-11-94, 11-27-96, Formerly 46-17.005, Repealed 9-1-13.

68B-17.006 Allowed and Prohibited Gear and Methods of Harvest.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a hard clam from Florida Waters only by or with the use of feet, hands, rakes that meet the specifications in Section 68B-17.0061, F.A.C., or tongs that meet the specifications in Rule 68B-17.0061, F.A.C.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest or attempt to harvest a hard clam from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not harvest hard calms with a rake, dredge, or other mechanical device that is pulled under power, unless they are harvesting hard clams pursuant to a valid Special Activity License issued by the Commission according to the provisions of Section 379.2525(2)(a), F.S.

(c) A person may not use a rake, dredge, or other mechanical device to harvest hard clams in a grass bed.

(d) A person may not use wire or net in the basket of an implement that is used to harvest hard clams manually.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-17.0061 Specifications and Requirements for Allowed gear and Methods of Harvest; Required Equipment; Time of Day when Harvest and Transport is Prohibited.(1) Specifications and Requirements for Allowed Gear –

(a) Specifications for Rakes – A person may not harvest a hard clam with a rake that has less than 7/8 inch of clear space between the teeth on the horizontal harvesting surface of the rake. A person may not harvest a hard clam with a rake that has less than 7/8 inch clear space between the bars or dividers of any basket attached to the rake.

(b) Specifications for Tongs - A person may not harvest a hard clam with tongs that have less than 7/8 inch clear space between the teeth on the horizontal harvesting surface of the tongs. A person may not harvest a hard clam with tongs that have less than 7/8 inch clear space between the bars or dividers of any basket attached to the tongs.

(c) A person may not use a rake, dredge or other mechanical device manually to harvest hard clams if the engine of any vessel used in connection with the harvest of the hard clams is running. A person using a rake, dredge or other mechanical device manually to harvest hard clams shall turn off the engine of any vessel used in connection with the harvest of the hard clams prior to using any of the gear and may not restart the engine while the gear is in use.

(2) Required Equipment for Harvest of Hard Clams –

(a) A person may not use a vessel in connection with harvest or transport of hard clams unless the vessel is

equipped with a shade. A person who is using a vessel in connection with the harvest or transport of hard clams shall use the shade to shield the hard clams onboard the vessel from the sun at all times.

(b) A person may not use a vessel in connection with harvest of hard clams unless the vessel is equipped with at least one cull board or cull rack that meets the following specifications:

1. All cull boards, cull racks, and other devices used shall have a clear space between the bars or other dividers:

2. The clear space between the bars or dividers shall remain unobstructed at all times; and

3. A person may not use wire, netting, or other material over or between the bars or dividers that would prevent clams less than 1 inch in size from falling through the clear space between the bars or dividers.

(3) Time of Day when Harvest and Transport is Prohibited –

(a) A person may not harvest or attempt to harvest a hard clam from Florida Waters during the period of prohibited harvest. A person may not possess or transport a hard clam in or on Florida Waters during the period of prohibited harvest. The period of prohibited harvest begins 30 minutes after official sunset and ends 30 minutes before official sunrise. The U.S. Weather Service establishes and publishes the time of official sunset and official sunrise for each day of the year.

(b) Paragraph (3)(a) does not apply to a dredge operation permitted under paragraph 68B-17.006(2)(b), F.A.C.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-17.007 Recreational Bag Limit.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-11-94, Formerly 46-17.007, Repealed 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-18.001	Intent to Annually Review Bay Scallop Fishery Health; Modification of Open and Closed Areas by Rulemaking
68B-18.002	Definitions
68B-18.003	Statewide Open and Closed Seasons and Areas for Harvesting Bay Scallops
68B-18.004	Allowable Gear for Harvesting Bay Scallops
68B-18.005	Bag Limit
68B-18.0055	Prohibition of Sale and Commercial Harvest
68B-18.006	Allowed and Prohibited Gear and Methods of Harvest; Prohibited Simultaneous Possession of Bay Scallop and Certain Types of Gear
68B-18.007	Purchase and Sale of Bay Scallop Prohibited; Exception
68B-18.008	Areas Open and Closed to the Harvest of Bay Scallops

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) bay scallops rules. The bay scallop Chapter (68B-18) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule. **SUMMARY:** Chapter 68B-18 (Bay Scallops) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-18.001 Intent to Annually Review Bay Scallop Fishery Health; Modification of Open and Closed Areas by Rulemaking.

(1) It is the intent of the Commission to annually review and evaluate the status and health of the bay scallop fishery.

(2) Should it become necessary to close any area presently open to bay scalloping, or should the bay scallop resource recover sufficiently to allow the opening of an area

presently closed to bay scalloping, the Commission shall initiate rulemaking to amend Rule 68B-18.008, F.A.C. PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

(Substantial rewording of Rule 68B-18.002 follows. See Florida Administrative Code for present text.)

68B-18.002 Definitions.

“Bay scallop” means a scallop of the species *Argopecten irradians*, or any part of the meat or viscera thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 6-15-94, 3-1-95, Formerly 46-18.002, Amended 9-1-13.

68B-18.003 Statewide Open and Closed Seasons and Areas for Harvesting Bay Scallops.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 6-15-94, 3-1-95, 7-15-96, 7-1-97, Formerly 46-18.003, Amended 6-2-02, 8-30-12, Repealed 9-1-13.

(Substantial rewording of Rule 68B-18.004 follows. See Florida Administrative Code for present text.)

68B-18.004 Recreational Bag and Vessel Limits; Commercial Harvest Prohibited Allowable Gear for Harvesting Bay Scallops.

(1) Recreational Limits – This subsection will not be construed to authorize the harvest or possession of bay scallops in the portions of Florida Waters that are closed to the harvest of bay scallops as provided in Rule 68B-18.008, F.A.C.

(a) Bag Limit – A person may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 2 gallons of whole bay scallops in the shell, or more than 1 pint of bay scallop meat.

(b) Vessel Limit – The persons aboard a vessel in or on Florida Waters may not collectively possess more than 10 gallons of whole bay scallops in the shell, or 1/2 gallon of bay scallop meat, regardless of the number of licensed or licensed-exempt harvesters aboard. This provision will not be construed to authorize harvest or possession of bay scallops in excess of the applicable bag limits.

(c) For the purpose of determining compliance with this rule, if a person is in possession of whole bay scallops in the shell and bay scallop meat at the same time, the bay scallop meat will be converted to its “in the shell” equivalent by

counting each pint of bay scallop meat as 2 gallons of whole bay scallops in the shell.

(2) Commercial Harvest Prohibited – A person may not harvest bay scallops for commercial purposes from Florida Waters. In or on Florida Waters, a person may not possess a bay scallop for commercial purposes.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 3-1-95, Formerly 46-18.004, Amended 9-1-13.

(Substantial rewording of Rule 68B-18.005 follows. See Florida Administrative Code for present text.)

68B-18.005 Closed Seasons for Harvest of Bay Scallops Bag limit.

During the closed season for bay scallops a person may not harvest or land a bay scallop from Florida Waters or possess a bay scallop in or on Florida Waters. The closed season for bay scallops begins on September 25 each year and continues through June 30 of the following year.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 3-1-95, Formerly 46-18.005, Amended 9-1-13.

68B-18.0055 Prohibition of Sale and Commercial Harvest.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-1-95, Amended 7-15-96, Formerly 46-18.0055, Repealed 9-1-13.

68B-18.006 Allowed and Prohibited Gear and Methods of Harvest; Prohibited Simultaneous Possession of Bay Scallop and Certain Types of Gear.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a bay scallop from Florida Waters only by hand, or by using a landing or dip net.

(2) Prohibited Gear and Method of Harvest – A person may not harvest or attempt to harvest a bay scallop from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(3) A person may not possess a bay scallop aboard a vessel with a trawl, drag, dredge, or net (other than a landing or dip net) on board.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-18.007 Purchase and Sale of Bay Scallop Prohibited; Exception.

(1) Purchase and Sale of Bay Scallop Prohibited – A person may not purchase or sell a bay scallop.

(2) Exception –

(a) Subsection (1) does not apply to a person who is purchasing, selling, or in possession of a bay scallop if the bay scallop was legally harvested outside of Florida waters and the bay scallop entered the State of Florida in interstate commerce.

(b) A person in possession of bay scallops for sale has the burden of establishing the chain of possession of the bay scallops beginning with the initial transaction after harvest by producing the appropriate receipts, bills of sale, and bills of lading. A person in possession of bay scallops for sale has the burden of showing that the bay scallops originated from a point outside Florida Waters and entered the state in interstate commerce. A person in possession of bay scallops for sale shall maintain and promptly produce (at the request of any duly authorized law enforcement officer) the documentation necessary to meet the burdens established in this paragraph.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-18.008 Areas Open and Closed to the Harvest of Bay Scallops.

The area open to the harvest of bay scallops includes Florida Waters along the Gulf of Mexico north of the Pasco-Hernando County Line (latitude 28 degrees, 26.016 minutes North) and east and southeast of a line extending due south from the west bank at the mouth of Mexico Beach Canal in Bay County (longitude 85 degrees, 25.84 minutes West). A person may only harvest or possess a bay scallop in or on Florida Waters in the area open to the harvest of bay scallops, or land a bay scallop in the area open to the harvest of bay scallops.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries

Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-19.001	Definitions
68B-19.002	Cobia, Size Limit
68B-19.003	Size Limit; Landed in Whole Condition Requirement
68B-19.004	Designation as Restricted Species; Bag and Possession Limits

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) cobia rules. The cobia Chapter (68B-19) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-19 (Cobia) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-19.001 follows. See Florida Administrative Code for present text.)

68B-19.001 Designation as a Restricted Species Definitions.

Cobia are hereby designated as a restricted species pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 1-1-90, Formerly 46-19.001, Amended 3-22-01, 9-1-13.

(Substantial rewording of Rule 68B-19.002 follows. See Florida Administrative Code for present text.)

68B-19.002 Definitions Cobia, Size Limit.

“Cobia,” also known as ling, means a fish of the species *Rachycentron canadum*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-13-85, Amended 1-1-90, 8-31-98, Formerly 46-19.002, Amended 3-22-01, 9-1-13.

68B-19.003 Size Limit; Landed in Whole Condition Requirement.

(1) Size Limit – A person may not harvest or land from Florida Waters, or possess in or on Florida Waters, a cobia that is less than 33 inches in fork length.

(2) Landed in Whole Condition Requirement - A person harvesting cobia shall land each cobia in whole condition. A person may not possess in or on Florida Waters a cobia that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit the evisceration (gutting) of a cobia or removal of gills from a cobia.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

(Substantial rewording of Rule 68B-19.004 follows. See Florida Administrative Code for present text.)

68B-19.004 Vessel Limits Designation as Restricted Species; Bag and Possession Limits.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land from Florida Waters, or possess in or on Florida Waters, more than 1 cobia per day.

(2) Commercial Bag Limit – A commercial harvester may not harvest or land from Florida Waters, or possess in or on Florida Waters, more than 2 cobia per day.

(3) General Vessel Limit – The persons aboard a vessel in or on Florida Waters may not collectively possess more than 6 cobia, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of cobia in excess of the applicable bag limits.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-90, Formerly 46-19.004, Amended 3-22-01, 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850) 487-0554
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-21.001	Designation as a Protected Species
68B-21.0015	Definitions
68B-21.002	Designation of Snook as a Protected Species
68B-21.003	Prohibition of Sale of Snook
68B-21.004	Seasons
68B-21.005	Size Limits
68B-21.006	Bag and Possession Limits
68B-21.007	Restrictions on Gear and Methods Used to Take Snook

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) snook rules. The snook Chapter (68B-21) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-21 (Snook) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-21.001 Designation as a Protected Species.

(1) Designation as a Protected Species – The snook, species *Centropomus undecimalis*, is hereby declared and designated a protected species.

(2) The snook, species *Centropomus undecimalis* has been designated as a protected species to increase public awareness of the need for extensive conservation action in order to prevent this resource from becoming endangered; and to encourage voluntary conservation practices, including catch-and-release practices for all snook caught unless they are needed for food.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-21.0015 Definitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-9-87, Amended 1-1-98, Formerly 46-21.0015, Amended 1-1-02, 5-13-02, 7-1-06, 7-12-07, 9-3-09, Repealed 9-1-13.

(Substantial rewording of Rule 68B-21.002 follows. See Florida Administrative Code for present text.)

68B-21.002 Definitions ~~Designation of Snook as a Protected Species.~~

As used in Chapter 68B-21, F.A.C.:

(1) “Atlantic Region” means all state and federal waters of the Atlantic Ocean north and east of the Dade-Monroe County line, and all inland waters of the counties encompassed by the St. Johns River Water Management District, and the South Florida Water Management District, except Charlotte County, Collier County, Glades County, Hendry County, Highlands County, Lee County, and Monroe County, but including all waters of Lake Okeechobee and the Kissimmee River.

(2) “Gulf Region” means all state and federal waters of the Gulf of Mexico, the inland waters of Charlotte County, Collier County, Glades County, Hendry County, Highlands County, Lee County, Monroe County and all counties encompassed by the Southwest Florida Water Management District, the Suwannee River Water Management District, and the Northwest Florida Water Management District, and all waters of Everglades National Park, but excluding all waters of Lake Okeechobee and the Kissimmee River.

(3) “Snook” means a fish of the genus *Centropomus*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking ~~Specific~~ Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Formerly 46-21.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-21.003 follows. See Florida Administrative Code for present text.)

68B-21.003 Regional Size Limits; Landed in Whole Condition Requirement ~~Prohibition of Sale of Snook.~~

(1) Minimum and Maximum Size Limits – The following size limits apply within or without Florida Waters in the specified region.

(a) Atlantic Region – A person may not harvest from the Atlantic Region, possess in the region, or land in the region a snook that is less than 28 inches or greater than 32 inches in total length.

(b) Gulf Region – A person may not harvest from the Gulf Region, possess in the region, or land in the region a

snook that is less than 28 inches or greater than 33 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting snook within or without Florida Waters shall land each snook in whole condition. A person may not possess within or without Florida Waters a snook that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a snook or removal of gills from a snook. This provision will not be construed to prohibit preparation of snook for immediate consumption on board the vessel from which the snook was caught.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Formerly 46-21.003, Amended 5-13-02, 7-12-07, 9-3-09, 9-1-13.

(Substantial rewording of Rule 68B-21.004 follows. See Florida Administrative Code for present text.)

68B-21.004 Regional Recreational Bag Limits; Bag Limit for Captain and Crew; Prohibited Commercial Harvest; Region for Landing and Possession Seasons.

(1) Regional Recreational Bag Limits –The following limits apply within or without Florida Waters in the specified region.

(a) Atlantic Region – A person may not harvest or land from the Atlantic Region more than one snook per day or possess in the Atlantic Region more than one snook.

(b) Gulf Region – A person may not harvest or land from the Gulf Region more than one snook per day or possess in the Gulf Region more than one snook.

(c) Captain and Crew Harvest Prohibited – On a vessel for hire, a person who is the captain or a crew member may not harvest or possess a snook.

(2) Commercial Harvest Prohibited – Within or without Florida Waters, a person may not harvest, possess, or land a snook for commercial purposes.

(3) A person harvesting snook from the region defined in paragraph (1)(a) may not possess or land the snook in the region defined in paragraph (1)(b).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Amended 7-9-87, 3-1-94, Formerly 46-21.004, Amended 1-1-02, 7-12-07, 9-3-09, 9-1-13.

(Substantial rewording of Rule 68B-21.005 follows. See Florida Administrative Code for present text.)

68B-21.005 Seasons Size Limits.

During the closed seasons for snook, a person may not harvest or land a snook from the specified region or possess a snook in the specified region, regardless of whether the snook was harvested within or without Florida Waters.

(1) Atlantic Region –

(a) Snook season in the Atlantic Region is closed beginning on June 1 and continuing through August 31 each year.

(b) Snook season in the Atlantic Region is closed beginning on December 15 each year and continuing through January 31 of the following year.

(2) Gulf Region –

(a) Snook season is closed in the Gulf Region beginning on May 1 and continuing through August 31 each year.

(b) Snook season is closed in the Gulf Region beginning on December 1 each year and continuing through the last day of February of the following year.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Amended 7-9-87, 3-1-94, 12-31-98, Formerly 46-21.005, Amended 7-1-06, 7-19-06, 7-12-07, 9-3-09, 9-1-13.

(Substantial rewording of Rule 68B-21.006 follows. See Florida Administrative Code for present text.)

68B-21.006 Allowed and Prohibited Gear and Methods of Harvest; Prohibited Simultaneous Possession of Snook and Certain Types of Gear; Incidental Capture of Snook ~~Bag and Possession Limits.~~

(1) Allowed Gear and Method of Harvest – Within or without Florida Waters, a person may harvest or attempt to harvest a snook only by or with the use of hook and line gear.

(2) Prohibited Gear and Method of Harvest – The following restrictions apply within or without Florida Waters.

(a) A person may not harvest or attempt to harvest a snook with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use a gang hook or a multiple hook to harvest or attempt to harvest a snook.

(c) A person may not harvest or attempt to harvest a snook by spearing the snook or using any device designed or intended to impale or hook the snook by any part of its body other than its mouth. A person may not use a snatch hook to harvest or attempt to harvest a snook. A person may not use the method commonly referred to as snook snatching to harvest or attempt to harvest a snook.

(3) A person may not possess a snook while also in possession of, using, or transporting a net, seine, or other fishing gear that is not expressly permitted in subsection (1). This prohibition does not apply to a person aboard a vessel

who is in possession of a cast net if the cast net is stored off of the deck of the vessel.

(4) If a person incidentally catches a snook using a trap, net, or seine, that person will not be in violation of this section if they immediately return the snook to the water alive and unharmed.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Amended 3-1-94, 12-31-98, Formerly 46-21.006, Amended 1-1-02, 7-12-07, Amended 9-1-13.

(Substantial rewording of Rule 68B-21.007 follows. See Florida Administrative Code for present text.)

68B-21.007 Purchase and Sale of Snook Prohibited; Prohibited Possession by Seafood Dealers and Restaurants ~~Restrictions on Gear and methods Used to Take Snook.~~

(1) A person may not purchase or sell a snook, regardless of whether the snook was harvested within or without Florida Waters.

(2)(a) Except as provided in paragraph (2)(b), a seafood dealer may not possess or store a snook, or allow a person to possess, store, purchase, or sell a snook in, on, or about the premises or vehicles where the business of seafood dealer is carried on, which snook was harvested within or without Florida Waters.

(b) A person may keep a snook on the premises of a restaurant if:

1. It is for the sole purpose of preparing the snook for consumption by the recreational harvester who harvested the snook;

2. The snook was legally harvested by a recreational harvester; and

3. The snook is clearly labeled with a tag that has the recreational harvester's name and address clearly written on it.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-23-85, Amended 7-9-87, 3-1-94, 1-1-98, Formerly 46-21.007, Amended 6-29-00, 7-12-07, 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries

Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-22.001	Purpose and Intent; Repeal of Certain Laws; Designation as Protected Species
68B-22.002	Definitions
68B-22.003	Size Limits
68B-22.004	Recreational Bag, Vessel, and Possession Limits; Commercial Harvest Prohibited
68B-22.005	Bag and Vessel Limits; Sale Prohibited
68B-22.006	Other Prohibitions; Applicability
68B-22.007	Catch-Hold-and-Release Tournament Exemption
68B-22.009	Authorization for Catch, Hold and Release Tournaments
68B-22.011	Prohibited Possession and Transport; Aquaculture Exemption

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) red drum rules. The red drum Chapter (68B-22) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-22 (Red Drum) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-22.001 follows. See Florida Administrative Code for present text.)

68B-22.001 Purpose and Intent; ~~Repeal of Certain Laws~~ Designation as a Protected Species. Redfish are hereby declared and designated a protected species. The purposes of this designation are to increase public awareness of the need for extensive conservation action in order to prevent this resource from becoming endangered and to encourage voluntary conservation practices, including

catch-and-release practices for all redfish caught unless they are needed for food.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 9-12-85, Amended 1-1-89, 6-3-91, Formerly 46-22.001, 9-1-13.

(Substantial rewording of Rule 68B-22.002 follows. See Florida Administrative Code for present text.)

68B-22.002 Definitions.

As used in Chapter 68B-22, F.A.C.:

(1) “Catch, hold and release” means the intentional release of a live redfish, possessed in a live well or recirculating tank aboard a boat, for the purpose of harvesting another redfish.

(2) “Fishing tournament”, as used in this chapter, means a fishing competition involving 50 or more participants that has written rules and regulations, requires an entry fee, and awards prizes to competitors.

(3) “Redfish”, also known as red drum, means a fish of the species *Sciaenops ocellatus*, or any part thereof.

(4) “Native redfish” means any redfish harvested from waters subject to the jurisdiction of the Commission and the State of Florida.

(5) “Northeast Region” means all state waters lying north of the Flagler-Volusia County Line to the Florida-Georgia border, and adjacent federal Exclusive Economic Zone (EEZ) waters.

(6) “Northwest Region” means all state waters north and west of a line running due west from the westernmost point of Fred Howard Park Causeway (28°9.35'N., 82°48.398'W.), which is approximately 1.17 miles south of the Pasco-Pinellas County Line, to the Florida-Alabama border, and adjacent federal Exclusive Economic Zone (EEZ) waters.

(7) “South Region” means state waters lying between the Flagler-Volusia County Line on the Atlantic Ocean and the southern boundary of the Northwest Region on the Gulf of Mexico in Pinellas County, as specified in subsection (6), and adjacent federal Exclusive Economic Zone (EEZ) waters.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-12-85, Amended 2-12-87, 1-1-89, 1-1-96, 1-1-98, Formerly 46-22.002, Amended 3-17-04, 7-1-06, 2-1-12, 9-1-13.

(Substantial rewording of Rule 68B-22.003 follows. See Florida Administrative Code for present text.)

68B-22.003 Minimum and Maximum Size Limits; Landed in Whole Condition Requirement.

(1) Minimum and Maximum Size Limits – A person may not harvest or land from Florida Waters or possess in or on Florida Waters a redfish that is less than 18 inches or greater than 27 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting redfish shall land each redfish in whole condition. A person may not possess in Florida Waters a redfish that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a redfish, or removal of gills from a redfish. This provision will not be construed to prohibit preparation of redfish for immediate consumption on board the vessel from which the redfish was caught.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-12-85, Amended 2-12-87, 1-1-89, Formerly 46-22.003, Amended 9-1-13.

68B-22.004 Recreational Bag, Vessel, and Possession Limits; Commercial Harvest Prohibited.

(1) Recreational Limits –

(a) Bag Limits – Except as provided in Rule 68B-22.009, a recreational harvester may not harvest or land per day from Florida Waters or possess at any time more redfish than the specified bag limit established in this subsection within the following identified regions:

1. Northwest and Northeast Regions – Two (2) redfish.

2. South Region – One (1) redfish.

(a) Vessel Limit – The persons aboard a vessel in or on Florida Waters may not collectively possess more than 8 redfish, regardless of the number of licensed or license-exempt persons aboard. This provision will not be construed to authorize any person to harvest or possess redfish in excess of the applicable regional bag limit.

(b) Transport Possession Limit – A person away from Florida Waters may not possess more than 6 redfish while in transit.

(2) Commercial Harvest Prohibited – A person may not harvest or land a redfish for commercial purposes from Florida Waters or possess a redfish from Florida Waters for commercial purposes.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

68B-22.005 Bag, and Vessel Limits; Sale Prohibited.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-12-87, Amended 1-1-89, 6-3-91, 1-1-96, Formerly 46-22.005, Amended 3-17-04, 2-1-12, Repealed 9-1-13.

(Substantial rewording of Rule 68B-22.006 follows. See Florida Administrative Code for present text.)

68B-22.006 ~~Other Prohibitions; Applicability Prohibited Gear and Methods of Harvest; Simultaneous Possession of Redfish and Certain Gear Prohibited.~~

(1) Prohibited Gear and Methods of Harvest –

(a) A person may not harvest a redfish by spearing.

(b) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest redfish from Florida Waters.

(c) A person may not harvest a redfish by snagging.

(2) A person may not possess a redfish aboard a vessel with a gill or entangling net on board.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-12-87, Amended 6-3-91, 1-1-96, 1-1-98, Formerly 46-22.006, Amended 9-1-13.

(Substantial rewording of Rule 68B-22.007 follows. See Florida Administrative Code for present text.)

68B-22.007 ~~Sale and Purchase of Native Redfish Prohibited Catch-Hold-and-Release Tournament Exemption.~~

(1) A person may not purchase or sell a redfish that was harvested from Florida Waters.

(2)(a) Subsection (1) does not apply to a person who is purchasing, selling, or in possession of a redfish that was legally harvested outside of Florida Waters and the redfish entered the state of Florida in interstate commerce.

(b) A person in possession of a redfish for sale has the burden of establishing the chain of possession of the redfish beginning with the initial transaction after harvest by producing the appropriate receipts, bills of sale, and bills of lading. A person in possession of a redfish for sale has the burden of showing that the redfish originated from a point outside of Florida Waters and entered the state in interstate commerce. A person in possession of a redfish for sale shall maintain and promptly produce (at the request of any duly authorized law enforcement officer) the documentation necessary to meet the burdens established in this paragraph.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-17-04, Amended 9-1-13.

68B-22.009 Authorization for Catch, Hold, and Release Tournaments.

(1) Catch, Hold, and Release – Except as provided in this section, a person may not catch, hold, and release a redfish as defined in subsection 68B-22.002(1), F.A.C.

(2) Tournament Exemption Permit Issuance –

(a) The Executive Director of the Commission, or his designee, shall issue a tournament exemption permit to the director of a catch-and-release fishing tournament to allow tournament anglers to catch hold and release redfish during the tournament, and to allow the tournament director and tournament staff to exceed redfish bag and possession limits established in subsection 68B-22.004(1), F.A.C., after redfish have been weighed-in, if the tournament director agrees to comply with each of the conditions specified in paragraph (2)(c).

(b) Tournament exemption permits shall only be issued to a catch-and-release redfish tournament that agrees to comply with each of the conditions in specified in paragraph (2)(c).

(c) Tournament Exemption Permit Conditions –

1. Tournament anglers and tournament staff will attempt to release alive all redfish that are caught, including the redfish that are weighed-in.

2. Each two person team of tournament anglers may not possess more than two live redfish in the boat's live well or recirculating tank at any one time.

3. All vessels used in the tournament must contain recirculating or aerated live wells that are at least 2.4 cubic feet or 18 gallons in capacity.

4. A tournament angler may not discard a dead redfish. A dead redfish is considered harvested and will count as the daily bag limit for the team of tournament anglers who harvested that fish.

5. Tournament staff must maintain the redfish in an aerated recovery holding tank prior to release. In order to increase survival of released redfish, the Commission may specify additional requirements for holding tanks in the tournament exemption permit.

6. The tournament director must provide the Commission with a description of the aerated recovery holding tanks used to maintain redfish alive after weigh-in.

7. The tournament director must provide the Commission with a description of the location where tournament caught redfish will be released after they are weighed in. In order to increase survival of released redfish, the Commission may specify in the tournament exemption permit release locations where tournament caught redfish must be released after they are weighed in.

8. The tournament director must submit a post-tournament report to the Commission indicating the number of redfish that were weighed-in each day of the tournament, the number of redfish that were weighed-in dead each day, and the number of redfish that died after being weighed-in, but prior to release

each day. The Commission may specify additional tournament reporting requirements as a condition of the tournament exemption permit.

9. The tournament director must allow Commission staff an opportunity to collect research data and conduct research and onboard monitoring during the tournament, as needed.

(3) An angler who is participating in a redfish tournament for which a tournament exemption permit has been issued shall have a copy of the permit in his or her possession at all times during tournament operating hours.

(4) All tournament directors, tournament staff, and tournament anglers shall comply with the conditions and requirements specified within the tournament exemption permit. If a person violates a condition or requirement specified within the tournament exemption permit the person is in violation of this section.

(5) Tournament Exemption Permit Application – To apply for a tournament exemption permit, a person must submit an application on a form provided by the Commission (Form DMF-SL 5000 (3-04), incorporated herein by reference).

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-22.011 Prohibited Possession and Transport; Aquaculture Exemption.

(1) A person may not possess or transport a redfish that was harvested in violation of this chapter.

(2)(a) The provisions of Chapter 68B-22, F.A.C. do not apply to redfish artificially spawned and raised in a commercial aquaculture facility.

(b) A person in possession of a redfish that was artificially spawned and raised in a commercial aquaculture facility shall maintain the appropriate receipts, bills of sale, and bills of lading to establish that the redfish was artificially spawned and raised in a commercial aquaculture facility.

PROPOSED EFFECTIVE DATE: September 1, 2013. Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries

Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-26.002	Definitions
68B-26.003	Live Shellfish, Regulation
68B-26.004	Prohibited Harvest of Live Shellfish in Lee County; Restrictions on Harvest of Live Shellfish in Manatee County; Permitted Harvest of Shells

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) southwest Florida shells rules. The southwest Florida shells Chapter (68B-26) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-26 (Southwest Florida Shells) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-26.002 follows. See Florida Administrative Code for present text.)

68B-26.002 Definitions.

“Live shellfish” means any living mollusk (Phylum Mollusca) or echinoderm (Phylum Echinodermata). Live shellfish does not include oysters (Crassostrea virginica), hard clams (Mercenaria spp.), sunray venus clams (Macrocallista nimbosa), bay scallops (Argopecten irradians), or coquinas (Genus Donax).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-15-87, Amended 9-1-93, 1-1-95, Formerly 46-26.002, Amended 9-1-13.

68B-26.003 Live Shellfish, Regulation.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-15-87, Amended 9-1-93, 1-1-95, 4-1-96, Formerly 46-26.003, Amended 8-3-00, 2-28-02, Repealed 9-1-13.

68B-26.004 Prohibited Harvest of Live Shellfish in Lee County; Restrictions on Harvest of Live Shellfish in Manatee County; Permitted Harvest of Shells.

(1) Lee County – A person may not harvest a live shellfish in Lee County or possess a live shellfish in or on the Florida Waters within Lee County that are seaward of the mean high water line.

(2) Manatee County – A person may not harvest in Manatee County more than 2 live shellfish of any single species, per day or possess in or on the Florida Waters within Manatee County that are seaward of the mean high water line more than 2 live shellfish of any single species.

(3) In Lee County and Manatee County, a person may harvest a shell if the shell does not contain a live shellfish at the time of harvest and a live shellfish is not killed, mutilated, or removed from the shell prior to the harvest of the shell.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-28.002	Definitions
68B-28.003	Diving: Open and Closed Areas
68B-28.0035	Commercial Sponge Size Limit and Gear
68B-28.0036	Recreational Bag Limit; Commercial Licensing Requirements
68B-28.004	Biscayne National Park: Harvest of Sponges Prohibited
68B-28.006	Restrictions on Gear and Method of Harvest
68B-28.0061	Harvest of Commercial Sponge by Diving
68B-28.007	Prohibited Sale
68B-28.008	Harvest of Sponges Prohibited in Biscayne National Park

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) sponges rule. The sponges Chapter (68B-28) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-28 (Sponges) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-28.002 follows. See Florida Administrative Code for present text.)

68B-28.002 Definitions.

As used in Chapter 68B-28, F.A.C. and 379.248, F.S.:

(1) “Sponge” means any animal of the Phylum Porifera, or part thereof.

(2) “Commercial sponge” means an animal of the Order Dictyoceratida, or part thereof. This Order includes the sheepswool, yellow, grass, glove, finger, wire, reef, and velvet sponges.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-1-88, Amended 5-5-91, Formerly 46-28.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-28.003 follows. See Florida Administrative Code for present text.)

68B-28.003 Size Limit Diving: Open and Closed Areas.

A person may not harvest or land from Florida Waters or possess in or on Florida Waters a commercial sponge that

when wet is less than 5 inches in its greatest dimension measured across the top of the sponge.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-1-88, Amended 10-1-90, Formerly 46-28.003, Amended 7-1-07, Amended 9-1-13.

68B-28.0035 Commercial Sponge Size Limit and Gear.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 5-13-02, Amended 3-1-05, 7-1-07, Repealed 9-1-13.

68B-28.0036 Recreational Bag Limit; Commercial Licensing Requirements.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 5-13-02, Repealed 9-1-13.

(Substantial rewording of Rule 68B-28.004 follows. See Florida Administrative Code for present text.)

68B-28.004 Recreational Bag Limit; Exception for Commercial Harvest Biscayne National Park; Harvest of Sponges Prohibited.

(1) Recreational Bag Limit – A recreational harvester may not harvest per day within or without Florida Waters, land per day, or possess in or on Florida Waters more than 10 pieces of commercial sponge.

(2) Exception for Commercial Harvest – A person may not exceed the recreational bag limit established in subsection (1), unless that person is in possession of a valid saltwater products license with a Sponge Endorsement.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 5-5-91, Formerly 46-28.004, Amended 9-1-13.

68B-28.006 Restrictions on Gear and Method of Harvest.

(1) Harvest of Commercial Sponge by Hook – A person may use a hook that is 5 inches in width to remove a commercial sponge from Florida Waters. A person may not remove a commercial sponge from Florida Waters with a hook that is larger or smaller than 5 inches in width.

(2) Harvest of Commercial Sponge by Diving – Except as provided in Section 68B-28.0061, F.A.C., a person may not harvest a commercial sponge from Florida Waters by diving. A person diving for commercial sponges must remove any sponge attached to the bottom by cutting it. Such a person may not remove a commercial sponge by pulling it from the bottom.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-28.0061 Harvest of Commercial Sponge by Diving.

(1) Prohibited Harvest of Commercial Sponge by Diving – Except in the areas described in paragraphs (2)(a) and (2)(b), a person may not harvest a commercial sponge from Florida Waters by diving.

(2) Areas Open to the Harvest of Commercial Sponge by Diving –

(a) A person may harvest a commercial sponge by diving in the Florida Waters north of a line extended due west from the southernmost point of Egmont Key, northward and westward to the north-south line represented by 85°21'23.04", which meets the coast near the Cape San Blas lighthouse.

(b) A person may harvest a commercial sponge by diving in the Florida Waters beyond three nautical miles from the shoreline south of a line extended due west from the southernmost point of Egmont Key, southward and eastward to a line extended due west from the coastal boundary between Monroe and Collier Counties (25°, 48 min. N. latitude).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-28.007 Prohibited Sale.

A person may not sell a commercial sponge, unless they are in possession of a valid saltwater products license with a Sponge Endorsement.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-28.008 Harvest of Sponges Prohibited in Biscayne National Park.

A person may not harvest or land a sponge in or from the waters of Biscayne National Park or possess a sponge harvested from the waters of Biscayne National Park.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-29.002	Definitions
68B-29.003	Commercial Fishing Season and Harvest Limits for Sardines in the West Central Florida Region; Extraordinary Harvest Limitations
68B-29.004	Prohibition of Commercial Sardine Harvest in Tampa Bay Area
68B-29.006	Gear that Constitutes Harvest for Commercial Purposes
68B-29.008	Area Closed to Harvest for Commercial Purposes

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) sardines rules. The sardines Chapter (68B-29) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-29 (Sardines) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-29.002 follows. See Florida Administrative Code for present text.)

68B-29.002 Definitions.

As used in Chapter 68B-29, F.A.C.:

- (1) “Sardine” means a fish of the species *Sardinella aurita*, commonly known as Spanish sardine, or *Sardinella brasiliensis*, commonly known as orangespot sardine, or any part thereof.
- (2) “West Central Florida Region” means the state waters of Pinellas, Hillsborough, and Manatee Counties.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-1-89, Amended 7-15-96, Formerly 46-29.002, Amended 9-1-13.

68B-29.003 Commercial Fishing Season and Harvest Limits for Sardines in the West Central Florida Region; Extraordinary Harvest Limitations.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-1-89, Amended 1-1-91, 1-1-95, Formerly 46-29.003, Repealed 9-1-13.

(Substantial rewording of Rule 68B-29.004 follows. See Florida Administrative Code for present text.)

68B-29.004 Vessel Limits; Possession of Sardines as Bait
Prohibition of Commercial Sardine Harvest in Tampa Bay Area.

(1) General Vessel Limit – The persons aboard a vessel in the West Central Florida Region may not collectively harvest or land more than 500 pounds of sardines per day or possess more than 500 pounds of sardines, regardless of the number of licensed or license-exempt persons onboard.

(2) Possession of Sardines as Bait – This subsection will not be construed to prohibit the possession of more than 500 pounds of frozen or partially frozen processed packaged sardines for use as bait, or the transiting of state waters with such bait to fish in federal Exclusive Economic Zone waters adjacent to the region.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-1-89, Formerly 46-29.004, Amended 9-1-13.

68B-29.006 Gear that Constitutes Harvest for Commercial Purposes.

A person who is harvesting or attempting to harvest sardines with a net or seine that is 100 feet or greater in length is considered to be harvesting sardines for commercial purposes and shall comply with the provisions of this chapter that are applicable to the harvest of sardines for commercial purposes.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-29.008 Area Closed to Harvest for Commercial Purposes.

A person may not harvest a sardine for commercial purposes in the following area: All waters of Pinellas, Hillsborough, and Manatee Counties east of a line 500 yards west and running parallel to the COLREGS Demarcation Line, between the Pinellas-Pasco County line on the north and the Manatee-Sarasota County line on the south.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-32.001	Purpose and Intent
68B-32.002	Definitions
68B-32.003	Tarpon Tags: Required for Possession; Report; Annual Issuance; Taxidermy; Limitation on Number of Tags Issued Annually; Limitation on Number of Tags Issued to Professional Fishing Guides
68B-32.004	Bag Limit and Gear Restriction
68B-32.006	Sale Prohibited, Transport Regulated
68B-32.007	Purchase and Sale Prohibited; Transport and Shipment
68B-32.009	Tarpon Tag Specifications

PURPOSE AND EFFECT: The purpose of these rule amendments is to establish tarpon as a catch and release only fishery, in recognition of the fact that the economic and fishing value of tarpon as a catch and release fishery greatly exceeds its value as a food fish. This rule amendment will convey that tarpon will be managed as a catch and release only fishery, establish tarpon as a hook and line only fishery, remove the provision that allows for a recreational bag limit of tarpon, extend tarpon rules into adjacent federal waters, reduce the transport and shipment possession allowance to one tarpon per person, and allow temporary possession for photography, measurement of length and girth, and taking a scientific

sample, provided that all tarpon greater than 40 inches fork length must be kept completely in the water, and all tarpon must be released immediately following the authorized activities in the area where caught. This rule amendment will also amend the tarpon tag system in the following ways: by limiting the allowable use of a tarpon tag to pursuit of an IGFA record only, limiting the number of tags an angler can purchase or use per year to one, and creating a vessel limit of one tarpon. The entire tarpon chapter will also be reformatted to conform to the style developed for marine fisheries regulations during the Division 68B rule cleanup process.

The effect of these rule amendments will be a catch and release only tarpon fishery in Florida, with the only exception allowed for harvest being pursuit of an IGFA record. The rule amendments will otherwise allow for temporary possession of untagged tarpon for photography, measurement of length and girth, and taking a scientific sample, provided that all tarpon greater than 40 inches fork length must be kept completely in the water. The amendments will also result in simplified rule language that is easier to read and understand.

SUMMARY: Rule 68B-32.001 will be created to convey that tarpon will be managed as a catch and release only fishery. Rule 68B-32.004 will be amended to remove the provision that allows for a recreational bag limit of tarpon, and allow temporary possession for photography, measurement of length and girth, and taking a scientific sample, provided that all tarpon greater than 40 inches fork length must be kept completely in the water, and all tarpon must be released immediately after the authorized activities in the area where caught. Rule 68B-32.006 will be amended to establish tarpon as a hook and line only fishery, and extend tarpon rules into adjacent federal waters. Rule 68B-32.007 will be created to reduce the transport and shipment possession allowance to one tarpon per person. The tarpon tag system will be modified in Rule 68B-32.009 to limit the allowable use of a tarpon tag to pursuit of an IGFA record only, limit the number of tags an angler can purchase or use per year to one, and create a vessel limit of one tarpon. The rule amendments will also reformat the rule to conform to the new style for Division 68B developed under the FWC's 68B rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn Lakeland, 3839 Don Emerson Drive, Lakeland 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-32.001 Purpose and Intent.

The purpose and intent of this rule is to manage tarpon as a catch and release only fishery in recognition and in honor of the rich cultural heritage of sport fishing for tarpon in Florida waters.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 9-1-13.

(Substantial rewording of Rule 68B-32.002 follows. See Florida Administrative Code for present text.)

68B-32.002 Definitions.

As used in Chapter 68B-32, F.A.C.:

(1) "Professional fishing guide" means the captain or operator of a boat or vessel who is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers pay a fee to fish for tarpon.

(2) “Tarpon” means a fish of the species *Megalops atlanticus*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-30-88, Amended 1-1-98, Formerly 46-32.002, Amended 3-28-04, 9-1-13.

68B-32.003 Tarpon Tags: Required for Possession; Report; Annual Issuance; Taxidermy; Limitation on Number of Tags Issued Annually; Limitation on Number of Tags Issued to Professional Fishing Guides.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-30-88, Amended 11-1-89, 10-1-90, 12-4-91, 11-26-92, 11-29-93, 1-1-95, 1-1-96, 11-27-96, 11-12-97, 11-16-98, Formerly 46-32.003, Amended 3-1-05, Repealed 9-1-13.

(Substantial rewording of Rule 68B-32.004 follows. See Florida Administrative Code for present text.)

68B-32.004 Restrictions on Possession of Tarpon; Commercial Harvest Prohibited Bag Limit and Gear Restriction.

(1) Except as provided in Rule 68B-32.009, F.A.C., a person may not harvest or unnecessarily destroy a tarpon within or without Florida Waters.

(2) Temporary Possession by a Recreational Harvester –

(a) Except as provided in Rule 68B-32.009, F.A.C. and paragraph (2)(b), a recreational harvester may not possess a tarpon within or without Florida Waters.

(b) A person may temporarily possess a tarpon within or without Florida Waters only for the purposes of photography, measuring length and girth, and taking a scientific sample.

1. Except as provided in Rule 68B-32.009, F.A.C. a recreational harvester who temporarily possesses a tarpon pursuant to this subsection shall release the tarpon alive and unharmed, immediately after photographing, measuring, or taking a scientific sample.

2. Except as provided in Rule 68B-32.009, F.A.C. a recreational harvester who temporarily possesses a tarpon pursuant to this subsection shall release the tarpon in the immediate area where the tarpon was caught.

(3) Except for tarpon harvested or possessed pursuant to subsection 68B-32.009(1), F.A.C. tarpon greater than 40 inches fork length may not be removed from the water.

(4) Possession for Commercial Purposes Prohibited – A commercial harvester may not harvest or possess a tarpon within or without Florida Waters.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-98, Formerly 46-32.004, Amended 3-28-04, 3-1-05, Amended 9-1-13.

(Substantial rewording of Rule 68B-32.006 follows. See Florida Administrative Code for present text.)

68B-32.006 Allowed and Prohibited Gear and Methods of Harvest Sale Prohibited, Transport Regulated.

(1) Allowed Gear and Methods of Harvest – Within or without Florida Waters, a person may target or harvest a tarpon only with hook and line gear. All other gear and methods of harvest are prohibited.

(2) Prohibited Gear and Methods of Harvest – A person may not harvest or attempt to harvest a tarpon within or without Florida Waters by spearing, snagging, or snatch hooking.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-1-05, Amended 9-1-13.

68B-32.007 Purchase and Sale Prohibited; Transport and Shipment.

(1) A person may not purchase or sell a tarpon.

(2) Transport for Sale Prohibited – A person may not transport a tarpon for the purpose of selling the tarpon, regardless of whether the tarpon will be sold within or without the State of Florida.

(3) Restrictions on Transport and Shipment –

(a) Except as provided in subsection (4), a person may not transport or ship as personal baggage more than one tarpon, harvested within or without Florida Waters.

(b) Except as provided in subsection (4), a common carrier may not knowingly receive more than one tarpon from a person for transport within or without the State of Florida.

(4) Transport and Shipment by Taxidermist –

(a) A lawful taxidermist may transport or ship a reasonable number of tarpon as specimens for mounting if:

1. The taxidermist can establish the individual ownership of each tarpon being transported or shipped through documentation; and

2. The taxidermist can produce (at the request of a duly authorized law enforcement officer) the documentation necessary to establish individual ownership of the tarpon.

(b) A common carrier shall accept a tarpon from a taxidermist for transport if the taxidermist provides documentation of individual ownership of the tarpon along with the bill of lading or other papers controlling the shipment.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-32.009 Tarpon Tag Specifications.

(1) Tags Required for Possession –

(a) A person may not harvest or possess a tarpon unless the person intends to submit that tarpon for an International Game Fish Association world record or International Game Fish Association Florida state record.

(b) A person may not harvest or possess a tarpon unless the person has purchased a tarpon tag and securely attached the tarpon tag through the lower jaw of the tarpon.

(c) A person may not use more than one tarpon tag during any single license year for tarpon tags as defined in paragraph 68B-32.009(2)(a), F.A.C. Except for professional fishing guides, a person may not purchase more than one tarpon tag during any single license year for tarpon tags as defined in paragraph 68B-32.009(2)(a), F.A.C.

(d) No more than 1 tarpon may be harvested within or without Florida Waters per day, possessed aboard a vessel within or without Florida Waters, or landed per day from a vessel fishing pursuant to this subsection.

(2) Validity of Tarpon Tags –

(a) The license year for tarpon tags begins on July 1 of each year and continues through June 30 of the following year.

(b) A tarpon tag is only valid for the possession of 1 tarpon. A person may not use an individual tarpon tag on more than one tarpon.

(3) Transfer of Tarpon Tags –

(a) Except as provided in paragraph (3)(b), tarpon tags are not transferable.

(b) A professional fishing guide may purchase tarpon tags and subsequently transfer the tarpon tags to individual customers.

(c) A professional fishing guide may not transfer to any individual customer more than one tarpon tag during any single license year for tarpon tags as defined in paragraph 68B-32.009(2)(a), F.A.C.

(4) Number of Tags Issued Each License Year –

(a) The Commission may not issue more than 2,500 tarpon tags in a license year (as defined in paragraph (2)(a)).

(b) The Commission may not issue more than 1,250 tarpon tags to professional fishing guides in a license year (as established in paragraph (2)(a)).

(5) Return of Unused Tarpon Tags – On or before August 14, each tax collector shall submit to the Commission all unused tarpon tags for the previous license year. In addition to the unused tarpon tags, each tax collector shall submit to the Commission a written audit report indicating to the number of unused tags, on Form DMF-SL3210 (3-05) (incorporated herein by reference) on or before August 14.

(6) Exceptions to Tag Requirement – The prohibition of possession of an untagged tarpon in paragraph (1)(b) does not apply to a taxidermist who removes the tag during the process of mounting a tarpon. The taxidermist shall ensure that the

removed tag remains with the tarpon during any subsequent storage or shipment.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Jessica McCawley, Director, Division of Marine Fisheries

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-33.001	Purpose and Intent
68B-33.002	Definitions
68B-33.003	Marlin and Sailfish Possession Limits; Prohibition of Harvest for Spearfish; Prohibition of Sale; Exception; Gear Restrictions
68B-33.0034	Swordfish: Recreational Bag and Possession Limits
68B-33.0035	Swordfish: Federal Permit Required for Sale
68B-33.004	Size Limits
68B-33.0041	Prohibition on Harvest
68B-33.005	Billfish and Swordfish: Recreational Catch Reporting
68B-33.006	Allowed and Prohibited Gear and Method of Harvest; Prohibited Simultaneous Possession with Certain Types of Gear
68B-33.007	Prohibited Sale and Purchase; Exception to Prohibited Sale and Possession Limits
68B-33.011	Reporting Requirements for Non-tournament Landings

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission's (Commission) Billfish rules. The Billfish Chapter (68B-33) has been reformatted to simplify the rule language and the

swordfish portion of this chapter has been removed and relocated to Chapter 68B-58, F.A.C., making the chapter easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule. SUMMARY: Chapter 68B-33 (Billfish) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission's marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-33.001 Purpose and Intent.

The purpose and intent of this chapter are to protect and conserve Florida's billfish and ~~spearfish swordfish~~ resources and increase public awareness of and concern for billfish and spearfish through promotion of catch-and-release and other conservation practices and prohibition of sale.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-31-88, Formerly 46-33.001, Amended 10-1-02, 9-1-13.

(Substantial rewording of Rule 68B-33.001 follows. See Florida Administrative Code for present text.)

68B-33.002 Definitions.

As used in Chapter 68B-33, F.A.C.: "Billfish" means any of the following species, or a part thereof:

(1) *Makaira nigricans* (blue marlin);

(2) *Kajikia albidus* (white marlin);

(3) *Istiophorus platypterus* (sailfish); or

(4) *Tetrapturus georgei* (roundscale spearfish).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-31-88, Formerly 46-33.002, Amended 8-26-99, 10-1-02, 9-1-13.

(Substantial rewording of Rule 68B-33.003 follows. See Florida Administrative Code for present text.)

68B-33.003 Size Limits; Landed in Whole Condition Requirement Marlin and Sailfish Possession Limits; Prohibition of Harvest for Spearfish; Prohibition of Sale; Exception; Gear Restrictions.

(1) Billfish Size Limits –

(a) Blue Marlin Size Limit – A person may not harvest from Florida Waters, possess while in or on Florida waters or land a blue marlin that is less than 99 inches in lower jaw fork length.

(b) White Marlin and Roundscale Spearfish Size Limit – A person may not harvest from Florida Waters, possess while in or on Florida Waters or land a white marlin or roundscale spearfish that is less than 66 inches in lower jaw fork length.

(c) Sailfish Size Limit – A person may not harvest from Florida Waters, possess while in or on Florida waters or land a sailfish that is less than 63 inches in lower jaw fork length.

(2) Landed in Whole Condition Requirement – A person harvesting billfish shall land each billfish in whole condition. A person may not possess in or on Florida Waters a billfish that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a billfish or removal of gills from a billfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-31-88, Amended 7-15-96 Formerly 46-33.003, Amended 8-26-99, 7-1-12, 9-1-13.

68B-33.0034 Swordfish: Recreational Bag and Possession Limits.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-2-03, Amended 8-3-10, Repealed 9-1-13.

68B-33.0035 Swordfish: Federal Permit Required for Sale.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-1-02, Repealed 9-1-13.

(Substantial rewording of Rule 68B-33.004 follows. See Florida Administrative Code for present text.)

68B-33.004 Recreational Aggregate Bag Limit for Billfish: Commercial Harvest Prohibited Size Limits.

(1) Recreational Aggregate Bag Limit – A person may not harvest from Florida Waters, possess in or on Florida Waters or land more than 1 billfish per day. Except as provided in subsection 68B-33.007(2), F.A.C., a person may not possess more than 1 billfish in the state of Florida at any time.

(2) Commercial Harvest Prohibited – A person may not harvest a billfish for commercial purposes from Florida Waters or possess a billfish for commercial purposes in or on Florida Waters. This provision will not be construed to prohibit billfish tournaments that award monetary or other prizes, if the tournament and associated fishing activities are conducted in compliance with the applicable regulations.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-26-99, Amended 10-1-02, 4-2-03, 8-3-10, 7-1-12, 9-1-13.

68B-33.0041 Prohibition on Harvest.

A person may not harvest from Florida Waters, or possess in or on Florida Waters, or land a longbill spearfish (Tetrapturus

pfluegeri) or a Mediterranean spearfish (Tetrapturus belone) or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-33.005 Billfish and Swordfish: Recreational Catch Reporting.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-2-03, Repealed 9-1-13.

68B-33.006 Allowed and Prohibited Gear and Method of Harvest: Prohibited Simultaneous Possession with Certain Types of Gear.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a billfish from Florida Waters only by or with the use of hook and line gear.

(2) Prohibition of Simultaneous Possession with Certain Types of Gear – Simultaneous possession in or on Florida Waters of a billfish together with any gill or entangling net or longline gear is prohibited.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-33.007 Prohibited Sale and Purchase: Exception to Prohibited Sale and Possession Limits.

(1) Prohibited Purchase and Sale – Except as provided in subsection (2), a person may not purchase or sell a billfish.

(2) Exception to Sale, Purchase, and Possession Restrictions – A person may not exchange a portion of the billfish for the services provided pursuant to this subsection.

(a) A person may keep a billfish on the premises of a seafood dealer if:

1. It is for the sole purpose of smoking the billfish for the recreational harvester who harvested the billfish; and

2. The billfish is clearly labeled in a way that displays the name and address of the recreational harvester who harvested the billfish.

(b) A taxidermist may transport a billfish or keep a billfish on the premises of a taxidermy business if:

1. It is for the sole purpose of mounting the billfish for the recreational harvester who harvested the billfish; and

2. The billfish is clearly labeled in a way that displays the name and address of the recreational harvester who harvested the billfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-33.011 Reporting Requirement for Non-tournament Landings.

A person who harvests a billfish from Florida Waters shall report the landing of the billfish as required by 50 C.F.R. 635.5(c)(2), unless the person harvested the billfish as a participant in a fishing competition in which participants must register or an award is offered for catching or landing a billfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-34.001	Purpose and Intent
68B-34.002	Definitions
68B-34.003	Bonefish Gear Restriction; Harvest Prohibited
68B-34.004	Temporary Possession of Bonefish
68B-34.005	Bonefish Tournaments, Exemptions
68B-34.006	Allowed and Prohibited Gear

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish bonefish as a catch and release only fishery, in recognition of the fact that its economic and fishing value as a catch and release fishery greatly exceeds its value as a food fish. This rule amendment will convey that bonefish will be managed as a catch and release only fishery, remove the definition of “organized tournament,” and eliminate the tournament exemption permit altogether, as well as all references to the exemption. This rulemaking is also part of a

rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this rule amendment will be a catch and release only fishery, with possession of bonefish being allowed only temporarily for photographing, measuring, and weighing at the site of capture. Additionally, the rules will conform to the new standardized format for Division 68B.

SUMMARY: Rules 68B-34.001, 68B-34.002, 68B-34.004, and 68B-34.005 will be amended to eliminate, and remove all references to, the tournament exemption permit, thus establishing bonefish as a catch and release only fishery. The rule amendments will also reformat the rule to conform to the new style for Chapter 68B developed under the FWC’s 68B rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn Lakeland, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-34.001 Purpose and Intent.

The purpose and intent of this rule is to manage bonefish as a catch and release only fishery in recognition and in honor of the rich cultural heritage of sport fishing for bonefish in Florida waters.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

(Substantial rewording of Rule 68B-34.002 follows. See Florida Administrative Code for present text.)

68B-34.002 Definitions.

As used in Chapter 68B-34, F.A.C.:

(1) “Bonefish” means a fish of the family Albulidae, or any part thereof.

(2) “Target” means attempting to catch or take a fish by any means whatsoever.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-88, Amended 1-1-98, Formerly 46-34.002, Amended 3-1-05, 7-1-06, 7-1-11, Amended 9-1-13.

68B-34.003 Bonefish Gear Restriction; Harvest Prohibited.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-88, Amended 1-1-98, Formerly 46-34.003, Amended 3-1-05, 7-1-11, Repealed 9-1-13.

(Substantial rewording of Rule 68B-34.004 follows. See Florida Administrative Code for present text.)

68B-34.004 Harvest of Bonefish Prohibited; Restrictions on Possession of Bonefish ~~Temporary Possession of Bonefish.~~

(1) A person may not harvest or unnecessarily destroy a bonefish within or without Florida Waters.

(2) Temporary Possession by a Recreational Harvester –

(a) Except as provided in paragraph (1)(b), a recreational harvester may not possess a bonefish within or without Florida Waters.

(b) A recreational harvester may temporarily possess a bonefish only for the purpose of photographing, measuring, or weighing (with a hand-held scale) the bonefish at the site where the bonefish was caught.

1. A recreational harvester may not possess more than one bonefish at a time.

2. A recreational harvester who temporarily possesses a bonefish pursuant to this subsection shall release the bonefish alive and unharmed, immediately after photographing, measuring, or weighing the bonefish.

3. A recreational harvester who temporarily possesses a bonefish pursuant to this subsection shall release the bonefish in the immediate area where the bonefish was caught.

(3) Possession for Commercial Purposes Prohibited – A commercial harvester may not harvest or possess a bonefish within or without Florida Waters.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-11, Amended 9-1-13.

68B-34.005 Bonefish Tournaments, Exceptions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-11, Amended 3-24-13, Repealed 9-1-13.

68B-34.006 Allowed and Prohibited Gear.

Allowed Gear and Method of Harvest – Within or without Florida Waters, a person may target a bonefish only with hook and line gear. All other gear and methods of harvest are prohibited.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Jessica McCawley, Director, Division of Marine Fisheries

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-36.001	Purpose and Intent
68B-36.002	Definitions
68B-36.003	Size Limits; Prohibition of Sale of Larger Black Drum
68B-36.004	Bag and Commercial Limits
68B-36.005	Other Prohibitions
68B-36.006	Prohibited Gear and Method of Harvest

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) black drum rules. The black drum Chapter (68B-36) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-36 (Black Drum) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-36.001 follows. See Florida Administrative Code for present text.)

68B-36.001 Designation as a Restricted Species Purpose and Intent.

Designation as a Restricted Species – Black drum are hereby designated as a restricted species, pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Formerly 46-36.001, Amended 9-1-13.

(Substantial rewording of Rule 68B-36.002 follows. See Florida Administrative Code for present text.)

68B-36.002 Definitions.

“Black drum” means a fish of the species Pogonias cromis, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Amended 7-15-96, 9-30-96, Formerly 46-36.002, Amended 7-1-06, 9-1-13.

(Substantial rewording of Rule 68B-36.003 follows. See Florida Administrative Code for present text.)

68B-36.003 Size Limits; Landed in Whole Condition Requirement Prohibition of Sale of Larger Black Drum.

(1) Minimum and Maximum Size Limits –

(a) Recreational Minimum and Maximum Size Limits –

1. Except as provided in subparagraph (1)(a)2. a recreational harvester may not harvest or possess within or without Florida Waters or land a black drum that is less than 14 inches or greater than 24 inches in total length.

2. A recreational harvester may harvest and possess within or without Florida Waters and land only 1 black drum per day that is greater than 24 inches in total length. This provision will not be construed to authorize harvest or possession of black drum of any size in excess of the applicable bag limits.

(b) Commercial Minimum and Maximum Size Limit – A commercial harvester may not harvest or possess within or without Florida Waters or land a black drum that is less than 14 inches or greater than 24 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting black drum within or without Florida Waters shall land each black drum in whole condition. A person may not possess within or without Florida Waters a black drum that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a black drum, or removal of gills from a black drum.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Formerly 46-36.003, Amended 9-1-13.

(Substantial rewording of Rule 68B-36.004 follows. See Florida Administrative Code for present text.)

68B-36.004 Bag and Vessel Limits Commercial Limits.

(1) Recreational Bag Limits – A recreational harvester may not harvest within or without Florida Waters or land per day more than 5 black drum or possess within or without Florida Waters more than 5 black drum.

(2) Commercial Limits –

(a) Commercial Bag Limit – A commercial harvester may not harvest within or without Florida Waters or land per day more than 500 pounds of black drum or possess within or without Florida Waters more than 500 pounds of black drum. This provision will not be construed to authorize harvest or possession of black drum in excess of the applicable vessel limits.

(b) Commercial Vessel Limit – The commercial harvesters aboard a vessel may not collectively harvest or possess within or without Florida Waters or land more than 500 pounds of black drum per day, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of black drum in excess of the applicable bag limits.

(c) A commercial harvester may not use more than 1 vessel to harvest black drum.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Amended 8-31-98, Formerly 46-36.004, Amended 9-1-13.

68B-36.005 Other Prohibitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Formerly 46-36.005, Repealed 9-1-13.

68B-36.006 Prohibited Gear and Methods of Harvest.

(1) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest black drum within or without Florida.

(2) A person may not harvest or attempt to harvest a black drum within or without Florida Waters by snagging the black drum or land a black drum so harvested.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-37.001	Purpose and Intent; Repeal of Other Laws; Designation as Restricted Species
68B-37.002	Definitions
68B-37.003	Size Limits
68B-37.004	Regional Bag Limits
68B-37.005	Commercial Seasons; Daily Harvest Limit; Vessel Limit
68B-37.006	Gear Specifications and Prohibited Gear; Bycatch Allowance
68B-37.007	Purchase and Sale Prohibitions

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) spotted seatrout rules. The spotted seatrout Chapter (68B-37) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-37 (Spotted Seatrout) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-37.001 follows. See Florida Administrative Code for present text.)

68B-37.001 Designation as a Restricted Species; ~~Repeal of Other Laws~~; Purpose and Intent.

(1) Designation as a Restricted Species – Spotted seatrout are hereby designated as a restricted species pursuant to Section 379.101(32), F.S.

(2) Purpose and Intent – The purpose and intent of this chapter are to protect and conserve Florida’s spotted seatrout resources and assure the continuing health and abundance of those resources.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History–New 11-1-89, Formerly 46-37.001, Amended 9-1-13.

(Substantial rewording of Rule 68B-37.002 follows. See Florida Administrative Code for present text.)

68B-37.002 Definitions.

As used in Chapter 68B-37, F.A.C.:

(1) “Northeast Region” means all Florida Waters lying north of the Flagler-Volusia County Line to the Florida-Georgia border, and adjacent federal Exclusive Economic Zone waters.

(2) “Northwest Region” means all Florida Waters lying north and west of a line running due west from the westernmost point of Fred Howard Park Causeway (28°9.35’N., 82°48.398’W.), which is approximately 1.17 miles south of the Pasco-Pinellas County Line, to the Florida-Alabama border, and adjacent federal Exclusive Economic Zone waters.

(3) “Southeast Region” means all Florida Waters lying south of the Flagler-Volusia County Line and north of Miami-Dade-Monroe County Line at Card Sound, and adjacent federal Exclusive Economic Zone waters.

(4) “Southwest Region” means all Florida Waters lying south and west of the Miami-Dade-Monroe County Line at Card Sound and south of the southern boundary of the Northwest Region in the Gulf of Mexico in Pinellas County, as specified in subsection (2), and adjacent federal Exclusive Economic Zone waters.

(5) “Spotted seatrout” means a fish of the species *Cynoscion nebulosus*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.002, Amended 7-1-00, 7-1-06, 2-1-12, 9-1-13.

(Substantial rewording of Rule 68B-37.003 follows. See Florida Administrative Code for present text.)

68B-37.003 Size Limits for Recreational and Commercial Harvest; Whole Condition Requirement.

(1) Minimum and Maximum Size Limits –

(a) Recreational Minimum and Maximum Size Limits –

1. Except as provided in subparagraph (1)(a)2. a recreational harvester may not harvest or possess within or without Florida Waters or land a spotted seatrout that is less than 15 inches or greater than 20 inches in total length.

2. A recreational harvester may harvest and possess within or without Florida Waters and land only 1 spotted seatrout per day that is greater than 20 inches in total length. This provision will not be construed to authorize harvest or possession of spotted seatrout of any size in excess of the applicable bag limits.

(b) Commercial Minimum and Maximum Size Limit – A commercial harvester may not harvest or possess within or without Florida Waters or land a spotted seatrout that is less than 15 inches or greater than 24 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting spotted seatrout within or without Florida Waters shall land each spotted seatrout in whole condition. A person may not possess within or without Florida Waters a spotted seatrout that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a spotted seatrout, or removal of gills from a spotted seatrout.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.003, Amended 7-1-00, 2-1-12, 9-1-13.

(Substantial rewording of Rule 68B-37.004 follows. See Florida Administrative Code for present text.)

68B-37.004 Regional Recreational Bag Limits; Commercial Bag, Vessel, and Landing Limits.

(1) Recreational Bag Limits – A recreational harvester may not harvest or land per day from Florida Waters or possess at any time more spotted seatrout than the specified bag limit established in this subsection within the following identified regions:

(a) Southeast and Southwest Regions – Four (4) spotted seatrout.

(b) Northwest Region – Five (5) spotted seatrout.

(c) Northeast Region – Six (6) spotted seatrout.

(2) Commercial Limits –

(a) Bag Limit - A commercial harvester may not harvest within or without Florida Waters or land more than 75 spotted seatrout per day or possess within or without Florida Waters more than 75 spotted seatrout.

(b) Vessel Limits –

1. Except as provided in subparagraph 2, no more than 75 spotted seatrout may be harvested within or without Florida Waters per day, possessed aboard a vessel within or without Florida Waters, or landed per day from a vessel fishing pursuant to a vessel saltwater products license.

2. No more than 150 spotted seatrout may be harvested within or without Florida Waters per day, possessed aboard a vessel within or without Florida Waters, or landed per day, from:

a. A vessel fishing pursuant to a vessel saltwater products license with at least one individually-licensed commercial harvester also aboard, or

b. A vessel with two or more individually-licensed commercial harvesters aboard.

(c) A person may not tow a vessel in order to exceed the commercial limits established in this subsection.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.004, Amended 7-1-00, 2-1-12, 9-1-13.

(Substantial rewording of Rule 68B-37.005 follows. See Florida Administrative Code for present text.)

68B-37.005 ~~Commercial Seasons; Daily Harvest Limit; Vessel Limit.~~

(1) Commercial Seasons – The harvest of spotted seatrout for commercial purposes shall be limited each year to the period established in this subsection within the following identified regions:

(a) Southwest Region and Northwest Region – Beginning June 1 and continuing through October 31.

(b) Southeast Region – Beginning May 1 and continuing through September 30.

(c) Northeast Region – Beginning June 1 and continuing through November 30.

(2) Spotted seatrout harvested for commercial purposes may only be landed within the boundaries of the regions that are open for commercial harvest.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, Formerly 46-37.005, Amended 2-1-12, 9-1-13.

(Substantial rewording of Rule 68B-37.006 follows. See Florida Administrative Code for present text.)

68B-37.006 ~~Allowed Gear Specifications and Prohibited Gear and Method of Harvest; Restriction on Simultaneous Possession of Spotted Seatrout and Certain Types of Gear Bycatch Allowance.~~

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a spotted seatrout within or without Florida Waters only by or with the use of a cast net or hook and line gear.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest a spotted seatrout within or without Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest spotted seatrout within or without Florida Waters.

(3) Simultaneous Possession – A person may not possess a spotted seatrout within or without Florida waters aboard a vessel with a gill net or entangling net on board.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, Formerly 46-37.006, Amended 2-1-12, 9-1-13.

68B-37.007 Purchase and Sale Prohibitions.

Sale of spotted seatrout shall adhere to the following restrictions.

(1) In a closed region, within the first 30 days following a regional closure, inventory of spotted seatrout may be possessed or sold, and all spotted seatrout in inventory must be reported to the Commission on the Closed Season Spotted Seatrout Declaration Form DMF-3700 (02/12), which is hereby incorporated by reference. Copies can be obtained by contacting the Fish and Wildlife Conservation Commission, Saltwater Licenses and Permits, 620 S. Meridian Street, Tallahassee, Florida 32399-1600 or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00808/>. Form DMF-3700 (02/12) must be submitted to the Commission by the seventh day after a regional closure and a copy shall be held at the place of business through the 30 days following a regional closure. After 30 days following a regional closure, no spotted seatrout may be possessed in a closed region, except as provided for in paragraph (c).

(2) For purposes of form DMF-3700 (02/12), the following counties are included in the regions:

(a) Northeast Region includes Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties;

(b) Southeast Region includes Brevard, Broward, Dade, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Palm Beach, Seminole, St. Lucie, and Volusia Counties;

(c) Southwest Region includes Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Monroe, Pinellas, Polk, and Sarasota Counties;

(d) Northwest Region includes Alachua, Bay, Bradford, Calhoun, Citrus, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Okaloosa, Pasco, Santa Rosa, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties.

(3) A wholesale dealer or retailer may import spotted seatrout from outside Florida. However, the burden shall be upon any person possessing imported spotted seatrout to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and to show that such spotted seatrout originated from a point outside Florida, and entered the state in interstate commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-41.001	Designation as a Restricted Species
68B-41.002	Definitions
68B-41.003	Size Limit, Prohibition of Sale
68B-41.004	Recreational Bag and Possession Limits; Commercial Trip Limits
68B-41.005	Gear Specifications and Prohibited Gear; Bycatch Allowance
68B-41.006	Commercial Permit Requirements
68B-41.007	Prohibited Sale; Vessel for Hire Exception
68B-41.009	License Requirements for Commercial Harvest

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) dolphin rules. The dolphin Chapter (68B-41) has been reformatted to simplify the rule language and the wahoo portion of this chapter has been removed and relocated to chapter 68B-57, making the chapter easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-41 (Dolphin) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-41.001 Designation as a Restricted Species.Dolphin are hereby designated as restricted species pursuant to Section 379.101(32), F.S.PROPOSED EFFECTIVE DATE: September 1, 2013.Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

(Substantial rewording of Rule 68B-41.002 follows. See Florida Administrative Code for present text.)

68B-41.002 Definitions.As used in Chapter 68B-41, F.A.C.:

(1) “Atlantic Ocean” means all state waters along the east coast of Florida lying between the Florida-Georgia border and 83° West Longitude (near the Dry Tortugas Islands).

(2) “Dolphin” means a fish of the species *Coryphaena hippurus* or *Coryphaena equiselis*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-15-96, 1-1-98, Formerly 46-41.002, Amended 1-3-05, 9-1-13.

(Substantial rewording of Rule 68B-41.003 follows. See Florida Administrative Code for present text.)

68B-41.003 ~~Regional Recreational~~ Size Limits; Commercial Size Limits; Landed in Whole Condition Requirement ~~Prohibition of Sale.~~

(1) Recreational Size Limit in the Atlantic Ocean – A recreational harvester may not harvest or land from the Atlantic Ocean or possess in or on the Atlantic Ocean a dolphin that is less than 20 inches in fork length.

(2) Commercial Size Limit in Florida Waters – A commercial harvester may not harvest or land from Florida Waters or possess in or on Florida Waters a dolphin that is less than 20 inches in fork length.

(3) Landed in Whole Condition Requirement – A person harvesting dolphin shall land each dolphin in whole condition. A person may not possess in or on Florida Waters a dolphin that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a dolphin, or removal of gills from a dolphin.

PROPOSED EFFECTIVE DATE: September 1, 2013.Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Formerly 46-41.003, Amended 1-3-05, 9-1-13.

(Substantial rewording of Rule 68B-41.004 follows. See Florida Administrative Code for present text.)

68B-41.004 ~~Recreational Bag and Vessel Possession Limits; Bycatch Allowance Commercial Trip Limits.~~(1) Recreational Limits –

(a) Bag Limit – A recreational harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 10 dolphin.

(b) Private Vessel Limit – Except as provided in paragraph (1)(c), the recreational harvesters aboard a vessel in or on Florida Waters may not collectively possess or land more than 60 dolphin, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of dolphin in excess of the applicable bag limits.

(c) Vessel for Hire Limit – Possession of more than the daily bag limit of dolphin multiplied by the number of customers fishing aboard any Vessel for Hire is prohibited. This provision will not be construed to authorize harvest or possession of dolphin in excess of the applicable bag limit.

(2) Commercial Limits –

(a) Atlantic Ocean – Except as provided in paragraph (2)(c), the harvest and possession limits established in paragraph (1)(a) do not apply to a commercial harvester who is harvesting dolphin from the Atlantic Ocean pursuant to a valid federal commercial permit issued pursuant to 50 C.F.R. 622.4(a)(2)(xii) in addition to a valid saltwater products license with a restricted species endorsement. In the Atlantic Ocean, a commercial harvester must comply with all federal dolphin limits that would otherwise apply to the commercial harvester in federal waters.

(b) Other Florida Waters – Except as provided in paragraph (2)(c), the harvest and possession limits established in paragraph (1)(a) do not apply to a commercial harvester who is harvesting dolphin from Florida Waters other than the Atlantic Ocean.

(c) Bycatch Allowance – A commercial harvester may not harvest or land per day or possess more than 10 dolphin that were harvested pursuant to subsection 68B-41.006(3), F.A.C., as incidental bycatch of gear that is being used to lawfully harvest another target species.

PROPOSED EFFECTIVE DATE: September 1, 2013.Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Formerly 46-41.004, Amended 1-3-05, 9-1-13.68B-41.005 Gear Specifications and Prohibited Gear, Bycatch Allowance.PROPOSED EFFECTIVE DATE: September 1, 2013.Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 1-1-98, Formerly 46-41.005, Repealed 9-1-13.

(Substantial rewording of Rule 68B-41.006 follows. See Florida Administrative Code for present text.)

68B-41.006 Allowed and Prohibited Gear and Method of Harvest; Bycatch Exception Commercial—Permit Requirements.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a dolphin within or without Florida Waters only by or with the use of hook and line gear and spearing.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest or attempt to harvest a dolphin from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use longline gear to harvest or attempt to harvest a dolphin from Florida Waters.

(3) Bycatch Exception – Notwithstanding subsection (1), a commercial harvester who is in possession of a valid saltwater products license with a restricted species endorsement may harvest a dolphin captured as incidental bycatch of gear other than the gear expressly permitted in subsection (1) if the gear is being used to lawfully harvest another target species, only to the limit specified paragraph 68B-41.004(2)(c), F.A.C. This provision will not be construed to authorize a commercial harvester to intentionally harvest a dolphin by or with the use of any gear or method that is not expressly permitted in subsection (1).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-3-05, Amended 9-1-13.

68B-41.007 Prohibited Sale; Vessel for Hire Exception.

The captain of a Vessel for Hire may sell a dolphin that was harvested aboard a charter vessel pursuant to subsection 68B-41.004(1), F.A.C., if the captain is properly licensed (by both state and federal authorities) to harvest dolphin for commercial purposes.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-41.009 License Requirements for Commercial Harvest.

A person may not harvest a dolphin for commercial purposes from the Atlantic Ocean, unless they possess a valid federal commercial permit issued pursuant to 50 C.F.R. 622.4(a)(2)(xii) in addition to a valid Saltwater Products License with a Restricted Species Endorsement issued pursuant to Section 379.361(2)(b), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-47.001	Definitions
68B-47.002	Size Limits
68B-47.003	Recreational Bag Limits
68B-47.004	Gear Restriction
68B-47.005	Commercial Harvest Limits
68B-47.006	Weakfish, Regulation
68B-47.008	Applicability of Weakfish Regulations

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission's (Commission) weakfish rules. The weakfish Chapter (68B-47) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-47 (Weakfish) would be amended to reformat and reorganize the chapter in accordance with the

new format developed for Division 68B during the Commission's marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-47.001 Definitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-17-95, Amended 1-1-98, Formerly 46-47.001, Amended 7-1-06, 7-27-10, Repealed 9-1-13.

(Substantial rewording of Rule 68B-47.002 follows. See Florida Administrative Code for present text.)

68B-47.002 Definitions Size Limits.

As used in Chapter 68B-47, F.A.C.:

(1) “Weakfish,” also known as gray seatrout or yellow-mouth trout, means a fish harvested from the Weakfish Management Area that is of the species *Cynoscion regalis* or *Cynoscion arenarius* (sand seatrout), or a hybrid of the two species. Weakfish includes part of a fish harvested from the Weakfish Management Area that is of the species *Cynoscion regalis* or *Cynoscion arenarius* (sand seatrout), or a hybrid of the two species.

(2) “Weakfish Management Area” is defined as the area encompassing the St. Mary’s River and the inland waters of Nassau County east of Highway 17, north of State Highway 200A, and north of the Shave Bridge on the Amelia River. In addition, state waters off Amelia Island, from the Florida-Georgia border to the southernmost tip of Amelia Island are included in the area.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-17-95, Formerly 46-47.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-47.003 follows. See Florida Administrative Code for present text.)

68B-47.003–Size Limit; Landed in Whole Condition Requirement-Recreational Bag limits.

(1) Size Limit – A person may not harvest from the Weakfish Management Area a weakfish that is less than 12 inches in total length. A person may not possess in or on Florida Waters or land a weakfish that is less than 12 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting weakfish shall land each weakfish in whole condition. A person may not possess in Florida Waters a weakfish that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a weakfish, or removal of gills from a weakfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-17-95, Formerly 46-47.003, Amended 7-27-10, 9-1-13.

(Substantial rewording of Rule 68B-47.004 follows. See Florida Administrative Code for present text.)

68B-47.004 Bag and Vessel Limits; Bycatch Allowance Gear Restrictions.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land from the Weakfish Management Area more than 1 weakfish per day or possess in the Weakfish Management Area more than 1 weakfish.

(2) Commercial Limits –

(a) Limits for Directed Harvest –

1. Bag Limit – A commercial harvester may not harvest or land from the Weakfish Management Area more than 100 pounds of weakfish per day or possess in the Weakfish Management Area more than 100 pounds of weakfish. This provision will not be construed to authorize harvest or possession of weakfish in excess of the applicable vessel limit.

2. Vessel Limit – The commercial harvesters aboard a vessel may not collectively harvest or land more than 100 pounds of weakfish per day or collectively possess more than 100 pounds of weakfish, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of weakfish in excess of the applicable bag limit.

(b) Shrimp Fishery Bycatch Allowance.

1. Bag Limit – A commercial harvester who is lawfully targeting shrimp with a trawl may not harvest or land per day from the Weakfish Management Area or possess more than 100 pounds of weakfish as incidental bycatch. This provision will not be construed to authorize harvest or possession of weakfish in excess of the applicable vessel limit.

2. Vessel Limit – The commercial harvesters aboard a vessel that is lawfully targeting shrimp may not collectively harvest or land per day from the Weakfish Management Area or collectively possess more than 100 pounds of weakfish as incidental bycatch of a commercial shrimp trawl.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-98, Formerly 46-47.004, Amended 9-1-13.

68B-47.005 Commercial Harvest Limits.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-27-10, Repealed 9-1-13.

(Substantial rewording of Rule 68B-47.006 follows. See Florida Administrative Code for present text.)

68B-47.006 Prohibited Gear and Harvest Methods Weakfish, Regulation.

A person may not harvest or attempt to harvest a weakfish by spearing.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-27-10, Amended 9-1-13.

68B-47.008 Applicability of Weakfish Regulations.

(1) The provisions of Chapter 68B-47, F.A.C. apply to the harvest of fish within the Weakfish Management Area that are of the species *Cynoscion regalis* and *Cynoscion arenarius* (sand seatrout), and hybrids of the two species.

(2) A fish of the species *Cynoscion regalis* or *Cynoscion arenarius* (sand seatrout), or a hybrid of the two species that is harvested from Florida Waters outside of the Weakfish Management Area will be considered sand seatrout, not weakfish, and subject to any applicable regulations for sand seatrout.

(3) The presence of a fish of the species *Cynoscion regalis* or *Cynoscion arenarius* (sand seatrout), or a hybrid of the two species aboard a vessel that is actively fishing in the Weakfish Management Area constitutes prima facie evidence that the fish was harvested from the Weakfish Management Area and therefore subject to the applicable weakfish regulations established in this chapter.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-48.001	Purpose and Intent; Repeal of Section 370.11(2)(a)2., F.S.; Designation as Restricted Species, Aquaculture Exemption
68B-48.002	Definitions
68B-48.003	Size and Bag Limits
68B-48.004	Gear Specifications and Prohibited Gear
68B-48.006	Allowed and Prohibited Gear and Methods of Harvest; Bycatch Exception
68B-48.011	Aquaculture Exemption

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) flounder rules. The flounder Chapter (68B-48) has been reformatted to simplify the rule language and the sheepshead portion of this chapter has been removed and relocated to Chapter 68B-59, F.A.C., making the chapter easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-48, F.A.C. (Flounder) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301 and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-48.001 follows. See Florida Administrative Code for present text.)

~~68B-48.001 Purpose and Intent; Repeal of Section 370.11(2)(a)2., F.S.; Designation as Restricted Species Aquaculture Exemption.~~

Flounder is hereby designated as a restricted species pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History–New 1-1-96, Formerly 46-48.001, Amended 9-1-13.

(Substantial rewording of Rule 68B-48.002 follows. See Florida Administrative Code for present text.)

68B-48.002 Definitions.

“Flounder” means any of the following species or any part thereof:

- (1) *Paralichthys albigutta* (gulf flounder);
- (2) *Paralichthys lethostigma* (southern flounder);
- (3) *Paralichthys dentatus* (summer flounder); or
- (4) *Etropus crossotus* (fringed flounder).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 1-1-98, Formerly 46-48.002, Amended 7-1-06, 9-1-13.

(Substantial rewording of Rule 68B-48.003 follows. See Florida Administrative Code for present text.)

68B-48.003 Size and Bag Limits; Landed in Whole Condition Requirement.

(1) Size Limit – A person may not harvest or land from Florida Waters or possess in or on Florida Waters, a flounder that is less than 12 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting flounder shall land each flounder in whole condition. A person may not possess in or on Florida Waters a flounder that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a flounder, or removal of gills from a flounder.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 1-1-97, 8-31-98, Formerly 46-48.003, Amended 9-1-13.

(Substantial rewording of Rule 68B-48.004 follows. See Florida Administrative Code for present text.)

68B-48.004 Bag Limits; Bycatch Allowance Gear Specifications and Prohibited Gear.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land from Florida Waters more than 10 flounder per day, or possess in or on Florida Waters more than 10 flounder.

(2) Commercial Limits –

(a) Except as provided in paragraph (2)(b), a commercial harvester is not subject to a harvest or possession limit for flounder.

(b) Flounder Bycatch Allowance – A commercial harvester may not harvest or land from Florida Waters more than 50 lbs of flounder per day or possess in or on Florida Waters more than 50 lbs of flounder, pursuant to subsection 68B-48.006(3), F.A.C. as incidental bycatch of gear that is being used to lawfully harvest another target species.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 1-1-97, 1-1-98, Formerly 46-48.004, Amended 9-1-13.

68B-48.006 Allowed and Prohibited Gear and Methods of Harvest; Bycatch Exception

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a flounder from Florida Waters only by or with the use of beach or haul seine, cast net, hook and line gear, or by spearing.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest or attempt to harvest a flounder from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest flounder from Florida Waters.

(c) A person may not harvest or attempt to harvest a flounder from Florida Waters by snagging the flounder or land a flounder so harvested.

(3) Bycatch Exception – Notwithstanding subsection (1), a commercial harvester who is in possession of a valid saltwater products license with a restricted species endorsement may harvest a flounder captured as incidental bycatch of gear other than the gear expressly permitted in subsection (1) if the gear is being used to lawfully harvest another target species, only to the limit specified in paragraph 68B-48.004(2)(b) F.A.C. This provision will not be construed to authorize a commercial harvester to intentionally harvest a flounder by or with the use of any gear or method that is not expressly permitted in subsection (1).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-48.011 Aquaculture Exemption.

(1) The provisions of Chapter 68B-48, F.A.C. do not apply to flounder artificially spawned and raised in a commercial aquaculture facility.

(2) A person who is in possession of or offering for sale a flounder that was artificially spawned and raised in a commercial aquaculture facility shall maintain and be able to produce the appropriate receipts, bills of sale, and bills of lading to establish the chain of possession of the flounder beginning with the initial transaction after harvest at the commercial aquaculture facility.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES
68B-49.001	Definitions
68B-49.002	Size and Bag Limits, Daily Commercial Vessel Limit, Designation as Restricted Species
68B-49.003	Gear Specifications and Prohibited Gear
68B-49.004	Bag and Vessel limits; Bycatch Allowance
68B-49.006	Allowed and Prohibited Gear and Method of Harvest; Bycatch Exception

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) tripletail rules. The tripletail Chapter (68B-49) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-49 (Tripletail) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68B-49.001 follows. See Florida Administrative Code for present text.)

68B-49.001 Designation as a Restricted Species Definitions.

Tripletail is hereby designated a restricted species pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 1-1-98, Formerly 46-49.001, Amended 7-1-06, 9-1-13.

(Substantial rewording of Rule 68B-49.002 follows. See Florida Administrative Code for present text.)

68B-49.002 Definitions ~~Size and Bag Limits, Daily Commercial Vessel Limit, Designation as Restricted Species.~~

“Tripletail” means a fish of the species *Lobotes surinamensis*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 8-31-98, Formerly 46-49.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-49.003 follows. See Florida Administrative Code for present text.)

68B-49.003 Size Limit; Landed in Whole Condition Requirement ~~Gear Specifications and Prohibited Gear.~~

(1) Size Limit – A person may not harvest or land from Florida Waters, or possess in or on Florida Waters a tripletail that is less than 15 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting tripletail shall land each tripletail in whole condition. A person may not possess in or on Florida Waters a tripletail that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a tripletail, or removal of gills from a tripletail.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-96, Amended 1-1-98, Formerly 46-49.003, Amended 9-1-13.

68B-49.004 Bag and Vessel Limits; Bycatch Allowance.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land from Florida Waters more than 2 tripletail per day or possess in or on Florida Waters more than 2 tripletail.

(2) Commercial Limits –

(a) Commercial Bag Limit – A commercial harvester may not harvest or land from Florida Waters more than 10 tripletail per day, or possess in or on Florida Waters more than 10 tripletail.

(b) Commercial Vessel Limit – The commercial harvesters aboard a vessel in or on Florida Waters may not collectively possess more than 10 tripletail, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of tripletail in excess of the applicable bag limits.

(c) Tripletail Bycatch Allowance – A commercial harvester may not harvest more than 2 tripletail per day pursuant to Section 68B-49.006, F.A.C., as incidental bycatch of gear that is being used to lawfully harvest another target species. A commercial harvester may not possess more than 2 tripletail that were harvested pursuant to Section 68B-49.006, F.A.C. as incidental bycatch of gear that is being used to lawfully harvest another target species.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-49.006 Allowed and Prohibited Gear and Method of Harvest; Bycatch Exception.

(1) Allowed Gear and Method of Harvest – A person may harvest a tripletail from Florida Waters only by or with the use of hook and line gear.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest a tripletail from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest tripletail from Florida Waters.

(c) A person may not harvest from Florida Waters a tripletail by spearing or snagging the tripletail.

(3) Bycatch Exception – Notwithstanding subsection (1) and (2), a commercial harvester who is in possession of a valid saltwater products license with a restricted species endorsement may harvest a tripletail captured as incidental bycatch of gear other than the gear expressly permitted in subsection (1) if the gear is being used to lawfully harvest another target species, only to the limit specified in paragraph 68B-49.004(2)(c) F.A.C. This provision will not be construed to authorize a commercial harvester to intentionally harvest a tripletail by or with the use of any gear or method that is not expressly permitted in subsection (1).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT

CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-51.001	Jellyfish: Gear Specifications and Prohibited Gear; Bycatch Prohibition; Definitions
68B-51.002	Definitions
	68B-51.006 Allowed and Prohibited Gear and Method of Harvest; Bycatch of Other Species Prohibited

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) jellyfish rules. The jellyfish Chapter (68B-51) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-51 (Jellyfish) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-51.001 Jellyfish: Gear Specifications and Prohibited Gear; Bycatch Prohibition; Definition.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-96, Formerly 46-51.001, Repealed 9-1-13.

68B-51.002 Definitions.

“Jellyfish” means all species of the genera Rophilema and Stomopholus.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-51.006 Allowed and Prohibited Gear and Method of Harvest; Bycatch of Other Species Prohibited.

(1) Allowed Gear and Method of Harvest – A person may harvest a jellyfish from Florida Waters only by or with the use of the following gear:

- (a) Cast Net – with a radius 12 1/2 feet or less.
- (b) Beach or Haul Seine
- (c) Paired Trawl –
 - 1. All Florida Waters
 - a. Minimum Mesh Size in the Wing Portion of the Trawl – 3 1/2 inch stretched mesh or greater
 - b. Minimum Mesh Size in the Bag Portion of the Trawl – 1 1/2 inch stretched mesh or greater.
 - c. Maximum Number – 2 paired trawls per vessel or fewer (including all trawls being fished).
 - 2. Beyond Nearshore Florida Waters –
 - a. Maximum Mesh Area – 3,000 square feet or less.
 - b. Maximum Combined Total Mesh Area – Combined mesh area of 3,000 square feet or less for all paired trawls including trawls being fished.
- (d) Wing Net –
 - 1. Maximum Perimeter – 40 feet or less
 - 2. Maximum Number – 2 wing nets per vessel or fewer.
- (e) Frame Net –
 - 1. Maximum Perimeter – 40 feet or less.
 - 2. Maximum Number – 1 frame net per vessel.
- (f) Hand Dip Net – The persons aboard a vessel may not harvest or attempt to harvest a jellyfish using more than 2 hand dip nets.

(2) Prohibited Gear and Method of Harvest – A person may not harvest a jellyfish from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(3) Bycatch of Other Species Prohibited – A person who is harvesting or attempting to harvest jellyfish from Florida Waters may not harvest or possess any species other than jellyfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jessica McCawley, Director, Division of Marine Fisheries

Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-52.001	Shad and River Herring: Repeal of Section 370.11(3), F.S., and Repeal of Chapter 21417, Laws of Florida (1941), Chapter 29466, Laws of Florida (1953), and Chapter 59-1771, Laws of Florida (1959); Prohibited Gear; Bag Limits; Definitions
68B-52.002	Definitions
68B-52.004	Shad Aggregate Bag Limit
68B-52.006	Allowed and Prohibited Gear and Method of Harvest

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) shad and river herring rules. The shad and river herring Chapter (68B-52) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-52 (Shad and River Herring) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIME: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-52.001 Shad and River Herring: Repeal of Section 370.11(3), F.S., and Repeal of Chapter 21417, Laws of Florida (1941), Chapter 29466, Laws of Florida (1953), and Chapter 59-1771, Laws of Florida (1959); Prohibited Gear; Bag Limits; Definitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History–New 1-7-97, Formerly 46-52.001, Repealed 9-1-13.

68B-52.002 Definitions.

(1) "River herring", as used in this chapter, means a fish of the species *Alosa aestivalis* (blueback herring), or any part thereof.

(2) "Shad", means a fish of the species *Alosa alabamae* (Alabama shad), *Alosa sapidissima* (American shad), *Alosa mediocris* (hickory shad), or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-52.004 Shad Aggregate Bag Limit.

(1) Recreational Aggregate Bag Limit – A recreational harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 10 shad, in any combination of species.

(2) Commercial Aggregate Bag Limit – A commercial harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 10 shad, in any combination of species.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-52.006 Allowed and Prohibited Gear and Method of Harvest.

A person may harvest a shad or river herring from Florida Waters only by or with the use of hook and line gear. All other gear and methods of harvest are prohibited.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: RULE TITLES:
 68B-53.001 Definitions
 68B-53.002 Size Limit
 68B-53.003 Harvest Requirements: Harvest for Commercial Purposes; Gear Specifications; Closed Areas
 68B-53.004 Recreational Harvest Prohibited; Commercial Limits
 68B-53.006 Allowed and Prohibited Gear and Method of Harvest
 68B-53.0061 Gear Specifications; Prohibited Areas

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize the format and rule language in the Florida Fish and Wildlife Conservation Commission’s (Commission) calico scallops rules. The calico scallops Chapter (68B-53) has been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this amendment will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. This rule amendment will not affect the meaning of the rule nor change the intent of the rule.

SUMMARY: Chapter 68B-53 (Calico Scallops) would be amended to reformat and reorganize the chapter in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-53.001 Definitions.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-1-99, Formerly 46-53.001, Repealed 9-1-13.

(Substantial rewording of Rule 68B-53.002 follows. See Florida Administrative Code for present text.)

68B-53.002 Definitions.

“Calico scallop” means a scallop of the species *Argopecten gibbus*, or any part of the meat or viscera thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-1-99, Formerly 46-53.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-53.003 follows. See Florida Administrative Code for present text.)

68B-53.003 Size Limits Harvest Requirements: Harvest for Commercial Purposes; Gear Specifications; Closed Areas.

(1) Size Limit – A person or processor may not harvest or possess within or without Florida Waters calico scallops that are not of legal size. A processor of calico scallops may not possess calico scallops that are not of legal size, regardless of whether the processor is based at sea within or without Florida Waters or on land in the State of Florida.

(2) Legal Size –

(a) The calico scallops possessed by a person or processor are of legal size if, a one pound sample of calico scallop meats, taken from a single container possessed by the person or processor, contains 250 or fewer individual calico scallop meats.

(b) If a person or processor is in possession of a container that has a capacity of less than one pound, the contents of more than one container may be combined in order to obtain a one pound sample for determining compliance with the size limits established in this section.

(3) Each one pound sample that contains more than 250 individual calico scallop meats constitutes a separate violation of the size limit established in subsections (1) and (2).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 3-1-99, Formerly 46-53.003, Amended 9-1-13.

68B-53.004 Recreational Harvest Prohibited; Commercial Limits.

(1) Recreational Harvest Prohibited – Within or without Florida Waters, a person may not harvest or possess calico scallops for recreational purposes. A person may not land a calico scallop harvested within or without Florida Waters for recreational purposes.

(2) Commercial Bag Limit – A commercial harvester is not subject to a harvest or possession limit for calico scallops.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-53.006 Allowed and Prohibited Gear and Method of Harvest.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a calico scallop within or without Florida Waters only by or with the use of an otter trawl meeting the specifications of Rule 68B-53.0061, F.A.C.

(2) Prohibited Gear and Method of Harvest – A person may not harvest or attempt to harvest a calico scallops within or without Florida Waters with gear or methods that are not expressly permitted in subsection (1).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-53.0061 Gear Specifications; Prohibited Areas.

(1) Otter Trawl Specifications –

(a) No such trawl shall be towed for more than 25 minutes, beginning when the trawl is placed in the water and ending when the trawl is completely removed from the water.

(b) In the areas where the use of such trawls is allowed by subsection (2), no more than two unconnected otter trawls, each with a headrope no longer than 40 feet, a perimeter around the leading edge of the net not greater than 120 feet, and a mesh area not greater than 500 square feet, shall be deployed from any vessel.

(c) No such trawl shall be deployed or fished that has a mesh size anywhere in the trawl body or bag less than 3 inches stretched mesh or that has a twine size smaller than #84.

(d) No such trawl shall be used for the directed harvest of any species other than calico scallops. Any bycatch of other species shall be immediately returned to the water where caught.

(e) Such trawls, to the extent that they meet each provision of this rule, shall be exempt from the Turtle Excluder Device (TED) requirement of Rule 68B-31.004, F.A.C., and the applicable regional Bycatch Reduction Device (BRD) requirement of Chapter 68B-31, F.A.C.

(2) Prohibited Areas –

(a) No otter trawl shall be used in the directed harvest of calico scallops within all state waters of Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, and Hillsborough Counties, and all state waters of Wakulla County east of the following described line: Beginning at the St. Marks Lighthouse, proceed southerly on a straight line to flashing channel marker #1; thence, southerly in a straight line to a point on the state waters boundary where a straight line from flashing channel marker #1 to flashing bell buoy #24 intersects with said boundary.

(b) No otter trawl shall be used in the directed harvest of calico scallops within all state waters shoreward of a line one mile seaward of the Colregs Demarcation Line, except that in Wakulla, Franklin, and Gulf Counties, all state waters shoreward of a line three miles seaward of the Colregs Demarcation Line.

(c) No otter trawl shall be used in the directed harvest of calico scallops within all waters closed to the use of otter trawls for the harvest of shrimp, during the time periods indicated, as specified in Rule 68B-31.0156, F.A.C., Rule 68B-31.016, F.A.C., Rule 68B-38.001, F.A.C., and Rule 68B-38.002, F.A.C.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-57.001	Designation as a Restricted Species
68B-57.002	Definitions
68B-57.003	Landed in Whole Condition Requirement
68B-57.004	Bag and Vessel Limits
68B-57.009	License Requirements for Commercial Harvest

PURPOSE AND EFFECT: This rule chapter has been created to relocate the wahoo rules originally found in the dolphin chapter (68B-41) in the Florida Fish and Wildlife Conservation Commission’s (Commission) rules. The wahoo rules have also been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of the new chapter will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. The creation of the new chapter will not affect the meaning of current wahoo regulations nor change the intent of the rules.

SUMMARY: Chapter 68B-57 (Wahoo) will be created and the wahoo rule language will be reformatted and reorganized

in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission’s regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-57.001 Designation as a Restricted Species. Wahoo is hereby designated as a restricted species pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented
Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-57.002 Definitions.

As used in Chapter 68B-41, F.A.C.:

(1) “Atlantic Ocean” means all state waters along the east coast of Florida lying between the Florida-Georgia border and 83° West Longitude (near the Dry Tortugas Islands).

(2) “Wahoo” means a fish of the species *Acanthocybium solandri*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented
Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-57.003 Landed in Whole Condition Requirement.

Landed in Whole Condition Requirement – A person harvesting wahoo shall land each wahoo in whole condition. A person may not possess in or on Florida Waters a wahoo that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a wahoo, or removal of gills from a wahoo.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented
Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-57.004 Bag and Vessel Limits.

(1) Recreational Limits –

Bag Limit – A recreational harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 2 wahoo.

(2) Commercial Limits –

(a) Bag Limit – A commercial harvester may not harvest or land per day from Florida Waters or possess in or on Florida Waters more than 500 pounds of wahoo.

(b) Vessel Limit – The commercial harvesters aboard a vessel in or on Florida Waters may not collectively possess more than 500 pounds of wahoo, regardless of the number of licensed persons onboard. This provision will not be construed to authorize harvest or possession of wahoo in excess of the applicable bag limits.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented
Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-57.009 License Requirements for Commercial Harvest.

A person may not harvest a wahoo for commercial purposes from the Atlantic Ocean, unless they possess a valid federal commercial permit issued pursuant to 50 C.F.R. 622.4(a)(2)(xii) in addition to a valid Saltwater Products

License with a Restricted Species Endorsement issued pursuant to Section 379.361(2)(b), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented
Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-58.002	Definitions
68B-58.003	Size Limits
68B-58.004	Recreational Bag and Vessel Limits; Exception for Commercial Harvest
68B-58.007	Requirements for Sale
68B-58.011	Reporting Requirement for Non-tournament Landings

PURPOSE AND EFFECT: This rule chapter has been created to relocate the swordfish rules originally found in the billfish Chapter (68B-33) in the Florida Fish and Wildlife Conservation Commission’s (Commission) rules. The swordfish rules have also been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this new chapter will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. Creation of this chapter will not

affect the meaning of current swordfish regulation nor change the intent of the rules.

SUMMARY: Chapter 68B-58 (Swordfish) will be created and the swordfish rule language will be reformatted and reorganized in accordance with the new format developed for Division 68B during the Commission's marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-58.002 Definitions.

As used in Chapter 68B-58, F.A.C.:

(1) "Swordfish" means any fish of the species *Xiphias gladius*, or any part thereof.

(2) "Cleithrum to keel length" means the length of a fish measured along the body contour, i.e., a curved measurement, from the point of the cleithrum that provides the shortest possible measurement along the body contour to the anterior portion of the caudal keel. The cleithrum is the semicircular bony structure at the posterior edge of the gill opening.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

68B-58.003 Size Limits.

(1) Size Limit – A person may not harvest or land from Florida Waters, or possess in or on Florida Waters, a swordfish that is less than 47 inches in lower jaw fork length, or 29 inches in cleithrum to keel length.

(2) A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 47 inches lower jaw fork length with its head naturally attached or 29 inches cleithrum to keel length if its head has been removed (consistent with the Federal Standard established in 50 C.F.R. §635.20(f)).

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-1-13.

68B-58.004 Recreational Bag and Vessel Limits; Exception for Commercial Harvest.

(1) Recreational Limits –

(a) Except as provided in subsections (2) and (3), a recreational harvester may not harvest or land from Florida Waters more than one swordfish per day or possess in or on Florida Waters more than one swordfish (consistent with the Federal Standard established in 50 C.F.R. §635.22(f)).

(b) Private Vessel Limit – The persons aboard a private vessel in or on Florida Waters may not collectively possess more than four swordfish, regardless of the number of licensed or license-exempt persons onboard. This provision will not be construed to authorize harvest or possession of swordfish in excess of the applicable bag limits.

(c) Vessel for Hire Limit – Possession of more than the daily bag limit of swordfish multiplied by the number of customers fishing, or 15 swordfish, whichever is less, aboard any vessel for hire is prohibited. This provision will not be construed to authorize harvest or possession of swordfish in excess of the applicable bag limits.

(2) Captain and Crew Harvest Prohibited – On a vessel for hire, a person who is the captain or a crew member may

not harvest or possess a swordfish (consistent with the Federal Standard established in 50 C.F.R. §635.22(f)).

(3) Exception for Commercial Harvest – The bag and vessel limits established in subsection (1) do not apply to a person who is harvesting pursuant to a saltwater products license and a federal Limited Access Permit (LAP) for swordfish issued pursuant to 50 C.F.R. 635.4(f).

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-58.007 Requirements for Sale.

A person who harvests a swordfish within or without Florida Waters may not sell a swordfish unless the harvester possesses a valid saltwater products license and a federal Limited Access Permit (LAP) for swordfish issued pursuant to 50 C.F.R. 635.4(f), and presents both the saltwater products license and the LAP to the buyer of the swordfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-58.011 Reporting Requirement for Non-tournament Landings.

A person who harvests a swordfish from Florida Waters pursuant to subsection 68B-58.004(1), F.A.C. shall report the landing of the swordfish as required by 50 C.F.R. § 635.5(c)(2) unless the person harvested the swordfish as a participant in a fishing competition in which participants must register or an award is offered for catching or landing a swordfish.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-59.001	Designation as Restricted Species
68B-59.002	Definitions
68B-59.003	Size Limit; Landed in Whole Condition Requirement
68B-59.004	Bag Limits; Bycatch Allowance
68B-59.006	Allowed and Prohibited Gear and Methods of Harvest; Bycatch Exception
68B-59.011	Aquaculture Exemption

PURPOSE AND EFFECT: This rule chapter has been created to relocate the sheepshead rules originally found in the flounder chapter (68B-48) in the Florida Fish and Wildlife Conservation Commission’s (Commission) rules. The sheepshead rules have also been reformatted to simplify the rule language, making it easier to understand and improving the enforceability of the regulations. This rulemaking is part of a rule cleanup effort of Division 68B that will standardize chapters by using the same format for each rule that regulates species, making specific provisions easier to find. Additionally, rule language has been clarified and outdated language has been removed.

The effect of this new chapter will be improved rule clarity and enforceability and simplified rule language, making the language easier to understand. Creation of this chapter will not affect the meaning of the sheepshead regulations nor change the intent of the rules.

SUMMARY: Chapter 68B-59 (Sheepshead) will be created and the sheepshead rule language will be reformatted and reorganized in accordance with the new format developed for Division 68B during the Commission’s marine fisheries rule cleanup process.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 2013, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn, 3839 Don Emerson Drive, Lakeland, FL 33811

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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-59.001 Designation as Restricted Species.

Sheepshead are hereby designated as restricted species pursuant to Section 379.101(32), F.S.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-59.002 Definitions.

“Sheepshead” means a fish of the species *Archosargus probatocephalus*, or any part thereof.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-59.003 Size Limit; Landed in Whole Condition Requirement.

(1) Size Limit – A person may not harvest or land from Florida Waters or possess in or on Florida Waters, a sheepshead that is less than 12 inches in total length.

(2) Landed in Whole Condition Requirement – A person harvesting sheepshead shall land each sheepshead in whole condition. A person may not possess in or on Florida Waters a sheepshead that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a sheepshead or removal of gills from a sheepshead.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-59.004 Bag Limits; Bycatch Allowance.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land from Florida Waters more than 15 sheepshead per day, or possess in or on Florida Waters more than 15 sheepshead.

(2) Commercial Limits –

(a) Except as provided in paragraph (2)(b), a commercial harvester is not subject to a harvest or possession limit for sheepshead.

(b) Sheepshead Bycatch Allowance – A commercial harvester may not harvest or land from Florida Waters more than 50 lbs of sheepshead per day or possess in or on Florida Waters more than 50 lbs of sheepshead, pursuant to subsection 68B-59.006(3), F.A.C. as incidental bycatch of gear that is being used to lawfully harvest another target species.

PROPOSED EFFECTIVE DATE: September 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-59.006 Allowed and Prohibited Gear and Methods of Harvest; Bycatch Exception.

(1) Allowed Gear and Method of Harvest – A person may harvest or attempt to harvest a sheepshead from Florida Waters only by or with the use of beach or haul seine, cast net, hook and line gear, or by spearing.

(2) Prohibited Gear and Method of Harvest –

(a) A person may not harvest or attempt to harvest a sheepshead from Florida Waters with gear or methods that are not expressly permitted in subsection (1).

(b) A person may not use a multiple hook in conjunction with live or dead natural bait to harvest or attempt to harvest sheepshead from Florida Waters.

(c) A person may not harvest or attempt to harvest a sheepshead from Florida Waters by snagging the sheepshead or land a sheepshead so harvested.

(3) Bycatch Exception – Notwithstanding subsection (1), a commercial harvester who is in possession of a valid saltwater products license with a restricted species endorsement may harvest a sheepshead captured as incidental bycatch of gear other than the gear expressly permitted in subsection (1) if the gear is being used to lawfully harvest another target species, only to the limit specified in paragraph 68B-59.004(2)(b), F.A.C. This provision will not be construed to authorize a commercial harvester to intentionally harvest a sheepshead by or with the use of any gear or method that is not expressly permitted in subsection (1).

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

68B-59.011 Aquaculture Exemption.

(1) The provisions of Chapter 68B-59, F.A.C., do not apply to sheepshead artificially spawned and raised in a commercial aquaculture facility.

(2) A person who is in possession of or offering for sale a sheepshead that was artificially spawned and raised in a

commercial aquaculture facility shall maintain and be able to produce the appropriate receipts, bills of sale, and bills of lading to establish the chain of possession of the sheepshead beginning with the initial transaction after harvest at the commercial aquaculture facility.

PROPOSED EFFECTIVE DATE: September 1, 2013.
Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 9-1-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012

61G5-31.004(3) shall read as: “(3) All body wrapping courses taught for purposes of qualifying an individual for initial registration as a body wrapper shall be a two-day, 12-hour course; and, shall be approved by the Board prior to the course being taught for registration qualification purposes. To be considered for approval by the Board, the course shall consist of the following:”

61G5-31.004(7) shall read as: “(7) Completion of hair braiding, hair wrapping, and body wrapping courses may be offered by providers and completed by students for course credit by way of online learning.”

Rulemaking Authority shall read as: 477.0132, 477.016 FS., ~~Chapter 99-251, Laws of Florida.~~

Law Implemented shall read as: 477.0132 FS., ~~Chapter 99-251, Laws of Florida.~~

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32399-5377

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:
61G5-32.001 Continuing Education
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 39, No. 25, February 6, 2013 issue of the Florida Administrative Register.

The changes are in response to concerns stated by the Joint Administrative Procedures Committee in a letter dated February 15, 2013. The changes are as follows:

61G5-32.001(1)(b)1. shall read as :“Standard cleaning and disinfecting Universal sanitation and sterilization precautions, including;”

61G5-32.001(6)(a)1. shall read as: 1. A completed application on Form #DBPR COSMO 10, Application for Continuing Education Provider Approval ~~DBPR 3001 32PA, Cosmetology Continuing Education Provider Approval/Renewal Application, which is hereby incorporated by reference, effective 3-25-99,~~ copies of which may be obtained from the department at Myfloridalicense.com ~~Board office,~~ or if the Department shall contract with a private entity to administer the continuing education program then from such private entity;”

61G5-32.001(7)(c)1. shall read as: “A completed application on Form #DBPR COSMO 9, Application for Continuing Education Course Approval or Renewal ~~DBPR 3001 32CA, Cosmetology Continuing Education Course Approval Application, which is hereby incorporated by reference, effective 3-25-99,~~ copies of which may be obtained from the department at Myfloridalicense.com ~~Board office,~~ or if the Department shall contract with a private entity to administer the continuing education program then from such private entity;”

Rulemaking Authority shall read as: 455.2178, 455.2179, 455.219(3), 455.2228, 477.016, 477.019(7) FS.

Law Implemented shall read as: 455.2178, 455.2179, 455.219(3), 455.2228, 477.019(7) FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32399-5377

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.002	Physical Environment
65C-22.003	Training
65C-22.005	Food and Nutrition
65C-22.006	Record Keeping
65C-22.007	Evening Child Care
65C-22.008	School Age Child Care

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 29, July 20, 2012 issue of the Florida Administrative Register.

In addition to rule edits reflected below, CF-FSP Form 5017 and 5316 as incorporated by reference, have been changed. CF-FSP Form 5017 Section 3 has been changed to include attestation language required in Section 402.3055(1)(a), Florida Statute. CF-FSP Form 5316 includes technical changes to Rule and Florida Statute citations throughout the form.

**CHAPTER 65C-22
CHILD CARE STANDARDS**

65C-22.001	General Information
65C-22.0011	Definitions
65C-22.002	Physical Environment
65C-22.003	Training
65C-22.004	Health Related Requirements
65C-22.005	Food and Nutrition
65C-22.006	Record Keeping
65C-22.007	Evening Child Care
65C-22.008	School Age Child Care
65C-22.009	Gold Seal Quality Care Program
65C-22.010	Enforcement

65C-22.001 General Information.

(1) No change.

(a) through (b) No change.

(c) The completed CF-FSP Form 5017 must be signed by the individual owner, prospective owner, or the designated representative of a partnership, association, or corporation, and must include background screening clearance documents for the owner/operator/director, and an approved fire inspection. Child care facilities that have a well ~~or septic~~ system must maintain current written records indicating the well ~~and/or septic~~ system meets the requirements of the Department of Health on an annual basis.

(d) through (e) No change.

(2) through (4) No change.

(5) Supervision.

(a) through (b) No change.

(c) During feeding times, children shall be individually fed or supervised appropriately for their ages and developmental abilities.

1. Infants shall be held for bottle feedings until they are developmentally ready to sit in a high chair with good head control. Children shall not be left in hHigh chairs or other types of feeding chairs outside of shall be used for infants at feeding times. The use of safety straps to prevent falls is required whenever children are placed in high chairs.

2. No change.

(d) through (e) No change.

(6) through (7) No change.

(a) No change.

1. Promote emotional, social, intellectual and physical growth. Children shall not be left in confining devices such as car seats as an alternative to active play or adult/child interaction, supervision, or discipline. ~~If television, videos, movies, and/or computer games are used, they shall be limited to a maximum combined total of two hours per day, or in the case of school age children, the length of one movie if the movie is more than two (2) hours in length.~~

2. Do not utilize electronic media time (television, videos, movies, or computer games) with children younger than 2 years of age. Electronic media may only be used for educational purposes or physical activity for children older than 2 years of age.

3. Limit electronic media time to no more than 1 to 2 hours per day for children older than 2 years of age.

~~4.2.~~ Include quiet and active play, both indoors and outdoors.

~~5.3.~~ No change.

(b) through (c) No change.

(8) No change.

(a) through (b) No change.

(c) Children may not be denied active play as a consequence of misbehavior.

(d) A copy of the facility's current written disciplinary policy must be available to the licensing authority to review for compliance with Section 402.305(12), F.S.

(9) through (11) No change

Rulemaking Authority 402.305, 402.309 FS. Law Implemented 402.305, 402.309, 402.3055, 402.308, 402.310 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10,_____.

65C-22.0011 Definitions.

~~(1) Definitions~~

(1)(a) Caterer – A food service business that prepares food at a remote or distant location and transports ready-to-be-served meals to a provider for a fee. Caterers must be licensed

and/or permitted by the applicable state or federal agency. A copy of the license or permit must be in the child care facility and available for review by licensing authority.

(2)(b) Classroom – Rooms occupied by children, arranged with materials and equipment intended to implement a plan of activities.

(3)(c) Food equipment – All stoves, ranges, crock pots, microwaves, hoods, tables, counters, cabinets, refrigerators, freezers, sinks, dishwashing machines, and other items used in the preparation, reheating, and serving of food, with the exception of utensils.

(4)(d) Potentially Hazardous Food – Any food that requires time-temperature control (refrigeration or hot holding) and contains in whole or in part: milk, milk products, eggs, meat, poultry, fish, shellfish, cooked plant food (rice, beans, vegetables, and baked potatoes), tofu, other soy-protein products, mushrooms, cut melon, cut tomatoes, raw sprouts, and untreated garlic/oil mixtures.

(5)(e) Preparation of food – Includes the selection, measurement and combining of ingredients in an ordered procedure to create a meal intended for consumption. This definition is not limited to cooking. ~~Bottle preparation is and the cutting of fruits and vegetables are~~ included in this definition. Excludes warming of pre-prepared bottles and pre-prepared food (including catered food and food brought from home), distributing snacks, and learning activities provided by a child care program that may include raw and prepared food. A learning activity may not replace a regularly scheduled meal.

(6)(f) Sanitize – The process of destroying or reducing organisms to a safe level. Includes properly cleaned equipment and surfaces, such as sinks and sleep mats. Sanitation shall be accomplished with the application of ~~an approved~~ chemical sanitizer or the use of hot water or steam. Sanitizing agents must be used according to the manufacturer label. Sanitizing agents used on food contact surfaces must be labeled by the manufacturer safe for use on food contact surfaces and have specific instructions designed for use on food contact surfaces. The manufacturer’s directions must be followed.

(7)(g) Serving food – for the purpose of this definition, serving food is limited to meals and snacks, as indicated on the posted menu.

(8)(h) Single-service articles – Any cups, containers, plates, straws, place mats, napkins, doilies, spoons, stirrers, paddles, knives, forks, wrapping materials and all similar articles that are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials, and which are intended by the manufacturers to be for one-time, one-person use, then to be discarded.

(9)(i) Tableware – utensils used for eating, drinking, and serving food including forks, knives, spoons, bowls, cups and serving dishes. Tableware may be either multi-use or single service.

(10)(j) Utensils – pots, pans, ladles, pitchers, cutting boards, knives, or food containers used in the preparation, storage, transportation, or serving of food.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History–New_____.

65C-22.002 Physical Environment.

(1) through (3) No change.

(a) through (c) No change.

(d) Where infants are in care, they shall have open indoor floor space outside of cribs and playpens. The space used for play may be interchangeable with space used for cribs and play pens. Infants birth to 12 months should have adequate time and space to engage in activities that promote development of movement skills (tummy time, crawling, turning over, sitting, etc.). Infant seats (swings, bouncers, etc.) should be used only for short periods of time, no more than 15 to 30 minute intervals per infant and no more than two times per day that the child is in care.

(e) through (f) No change.

(4) through (6) No change.

(a) No change.

(b) For facilities having from one to 15 children, there shall be one toilet and one ~~sink wash basin~~. There shall be one additional toilet and ~~sink basin~~ for every 30 children thereafter. For design and construction of a new child care facility or modification to an existing facility, paragraph (1)(j) above shall apply.

(c) through (g) No change.

(7) No change.

(a) through (b) No change.

(c) The facility must properly maintain fire extinguishers with a minimum rating of 2A10BC at all times. All staff shall be proficient trained in the use and operation of a fire extinguisher. Travel distance to the nearest extinguisher shall not be more than 75 50 feet from rooms occupied by children. A fire extinguisher must be present in areas where food is prepared a kitchen.

(d) through (g) No change.

(h) The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures to be taken by the facility during a fire, lockdown and inclement weather (for example: hurricanes, tropical storms, or tornadoes), and to facilitate parent/guardian reunification. The plan shall describe how the facility will meet the needs of all children, including children with special needs, during and following an emergency event.

(i) Emergency preparedness drills shall be conducted when children are in care. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and may substitute for up to three monthly fire drills as referenced in paragraph 65C-22.002(7)(e), ~~65C-22.003(7)(e)~~, documentation of which must be maintained for one year. A current attendance record must accompany staff during the drill or actual emergency and must be used to account for all children.

(j) through (l) No change.

(m) Automatic range-top fire suppression systems are required in the kitchen for facilities that produce steam or grease laden vapors or shallow fry or deep fry food. Suppression hood systems must be maintained and inspected in accordance with the Florida Fire Prevention Code as adopted in Chapter 69A-60, F.A.C. Documentation of an approved annual inspection of the suppression system per the Fire Prevention Code is required by local fire safety authority.

~~(n) The use of portable equipment utilized to fry food is allowable in a kitchen beneath an automatic range top fire suppression system.~~

(8) Food Preparation Area. A food preparation area is a designated room, such as a kitchen, or a designated space in a facility not used in normal day-to-day operations - such as indoor play, classroom, work, or nap spaces - and not included when calculating usable indoor floor space. A food preparation area is required for facilities that choose to prepare food in a manner consistent with the definition of "preparation of food" in subsection 65C-22.0011(5), ~~65C-22.002(1)(e)~~, F.A.C.

(a) The food preparation area must include the following:

1. Ventilation provided either by mechanical or natural means to provide fresh air and control of unpleasant odors, such as, a fan, vent, or open window with a screen.

2. through 5. No change.

6. Ceiling must be easily cleanable or replaceable in the event of water and other damage, mildew, or mold. Nonabsorbent walls and ceilings by means of surface material or applied coating/sealant.

7. through 8. No change.

(b) Employees, volunteers, and substitutes, while working in the food preparation area, must wear ~~clean outer garments and~~ proper head covering, such as a hair net or hat, To prevent barehand contact with ready-to-eat foods, staff and must use disposable gloves, utensils, or similar items in the food preparation area to prevent barehand contact with ready-to-eat foods.

(c) No change.

(d) The food preparation area must be clean and free of dust, dirt, food particles, pest and grease deposits.

(9) No change.

(a) Food containers, such as, but not limited to cans, plastic containers, boxes, and bags, shall be stored above the floor, ~~a minimum of six inches~~, on clean surfaces protected from splash and other contamination.

(b) through (c) No change.

(d) Opened packages of perishable or leftover food items must be properly covered or sealed in containers or bags, labeled with date, properly stored, and discarded within seven calendar days.

(e) through (f) Refrigerators/freezers.

1. An accurate thermometer must be inside each refrigeration unit used to verify adequate cold storage temperature. Refrigerators must be maintained at 41 degrees Fahrenheit or below and freezers must be maintained at 0 degrees Fahrenheit.

2. through 3. No change.

(10) No change.

(a) No change.

1. No change.

2. Employees, volunteers, substitutes, and children shall wash their hands with soap and running water, dry thoroughly, and follow personal hygiene procedures for themselves, or while assisting others. Examples of activities when hand washing is required include, but are not limited to: before and after eating, immediately following outdoor play, after toileting, following the use of any cleaners or toxic chemical, before and after administering medication, and during food preparation and snack distribution.

a. Employees, volunteers, substitutes, and children must follow the Centers for Disease Control guidelines for hand washing, form CS221687C, January 2013, which are incorporated by reference, ~~for hand washing~~ and encourage the children in care to develop good hand washing habits. Copies of the Center for Disease Control guidelines may be obtained from the Center for Disease Control website at www.cdc.gov.

b. through c. No change.

3. through 4. No change.

(b) through (d) No change.

1. No change.

a. No change.

b. No change.

1. The first compartment must be used for washing, the second compartment must be used for rinsing, and the third compartment must be used for sanitizing. If only an installed two compartment sink is available, the second compartment must be used for rinsing and a non-stationary or portable compartment receptacle must be available and used to sanitize.

2. If chemical sanitization is used, an exposure time of at least seven seconds is required for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least

75 degrees Fahrenheit. If other sanitizers are used, ~~equipment/dishes/utensils must be immersed for a period of at least one minute in sanitizing solution at a temperature not less than 75 degrees Fahrenheit. [The sanitizing solution must contain the minimum concentration per manufacturer instructions must be strictly followed.~~

3. through 4. No change.

(e) No change.

1. through 3. No change.

4. Employees, volunteers, and substitutes, while distributing snacks or serving food, must use items such as napkins, disposable gloves, utensils, or similar items to prevent skin contact with food.

5. Food provided by parents must be stored and handled in a sanitary manner at all times.

~~(11)(9)~~ No change.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-13-03, 9-12-04, 6-30-05, 4-12-07, Repromulgated 5-1-08, Amended 1-13-10, _____.

65C-22.003 Training.

(1) No change.

(a) through (d) No change.

(e) “Director,” means “operator” as defined in Section 402.302(13)(44), F.S. and is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision, and administration of a child care facility.

(f) through (s) No change.

(2) through (8) No change.

Rulemaking Authority 402.305 FS. Law Implemented 402.305; ~~402.309~~ FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 10-10-01, 4-2-02, 7-17-03, 9-12-04, 6-30-05, 4-12-07, 5-1-08, 1-13-10, _____.

65C-22.004 Health Related Requirements.

(1) through (3) No change.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 4-2-02, 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10.

65C-22.005 Food and Nutrition.

(1) Nutrition.

(a) through (b) No change.

1. through 6. No change.

7. To prevent food from becoming potentially hazardous, hot foods shall be maintained at a temperature of 135 degrees Fahrenheit or above, and cold foods shall be maintained at a temperature of ~~41~~ 40 degrees Fahrenheit or below. The facility must supply adequate equipment to maintain temperature requirements.

8. No change.

9. Food must be thoroughly cooked and or reheated according to the following table:

Food	Minimum Internal Temperature
Fruits, Vegetables, Grains, and Legumes	135 °F
Roasts (<u>Fresh</u> Beef, Pork and <u>Lamb Ham</u>)	145° F (with a 3 minute rest time)
Fish	145° F
Eggs to be served immediately	145° F (whites and yolks are firm) <u>Cook until yolk and white are firm</u>
Eggs dishes cooked and held for service	160-155 °F
Ground meats (beef, pork, and lamb) and fresh ham (raw)	160-155 °F
Poultry – whole, parts, or ground	165 °F
Leftovers	165 °F
Foods cooked in microwave	165 °F
Sauces, gravy, soups, <u>casseroles</u>	165 °F

(c) No change.

1. No change.

2. Parents or legal guardians must be advised in advance of each ~~Written permission slips for all~~ food-related activities, such as special occasions and learning activities, which include food consumption. Written parental permission may be obtained in the form of a general or specific permission slip. Documentation of parent permission for food activities must be maintained for a minimum of four months from the date of each activity.

(d) through (f) No change.

(2) Breastmilk, Infant Formula and Food.

(a) ~~1- Breastmilk and fFormula and breast milk~~ must be handled in a sanitary manner at all times and according to manufacturer’s instructions and instructions by parent. The provider must ensure aAll formulas and food brought from home are shall be labeled with the child’s first and last name. The provider is responsible for the label; therefore if the label is not completed by the parent, the facility staff must complete the label upon receipt of the formula and food. Bottles of formula prepared from powder or concentrate ready to feed formula must be labeled with the time and date the bottle was prepared. Frozen breast milk shall be dated when expressed. Breastmilk or infant formula provided for a specific infant by a parent or guardian shall not be fed to other children. Prepared bottles shall be placed immediately in the refrigerator and used within 48 hours.

~~1.a.~~ In the event that the wrong formula or breastmilk or infant formula is provided to an infant in care, the provider must immediately inform the child's parent or legal guardian of the incident as well as the parent or legal guardian of the infant that the formula/breast milk was intended. These events must be documented as an accident/incident referenced in subparagraph 65C-22.004(2)(d)3., F.A.C.

~~2.b.~~ Due to extreme risk of choking, solid foods, including cereal, shall not be given in bottles or with infant feeders to children with normal eating abilities unless authorized by a physician. Solid foods must not be fed to an infant younger than 4 months of age unless directed by a physician. Solid foods must be of a safe consistency and must be developmentally appropriate for the age and developmental ability of the infant.

~~(b)2.~~ Bottle warming. For optimum digestion, breastmilk and infant formula is to be served at body temperature.

~~1.a.~~ Bottle warming devices and crock pots, including cords shall be kept inaccessible to children at all times; shall be maintained at the devices' lowest available temperature setting; and shall be secured in such a manner as to prevent them from tipping over, splashing, or spilling. Any bottle warming device that has a water reservoir must be emptied, washed, and refilled each day.

~~2.b.~~ Bottled breast milk, infant bottles, and formula shall not be heated in a microwave oven.

~~3.e.~~ Heated bottles or food must be tested before feeding to ensure heat is evenly distributed and to prevent injury to children.

~~4.d.~~ A bottle may be warmed only once; a Once milk has been warmed bottle may, it shall not be returned to the refrigerator or re-warmed or returned to the refrigerator. Facility staff must document each bottle warmed in preparation to feed an infant in such a manner to prevent multiple warmings. All breastmilk and infant formula remaining in bottles after feeding shall be discarded within one hour after serving an infant.

~~(c)3.~~ Previously opened baby food jars shall not be accepted in the center. If food is fed directly from the jar by the caregiver, the jar shall be used for only one feeding and the remainder discarded.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, Repromulgated 5-1-08, Amended 1-13-10, _____.

65C-22.006 Record Keeping.

(1) No change.

(2) No change.

(a) through (b) No change.

(c) The child care facility is responsible for obtaining for each child in care a current, complete and properly executed

Florida Certification of Immunization form Part A-1, B, or C, DH 680 (July 2010 April 2009), or the Religious Exemption from Immunization form, DH 681 (July 2008), which are incorporated herein by reference, from the custodial parent or legal guardian. DH Form 680 and DH Form 681 may be obtained from the local county health department. Immunizations received out-of-state are acceptable; however immunizations must be documented on the Florida Certification of Immunization form and must be signed by a physician practicing in the State of Florida. Specific immunization requirements are included and detailed in the most current edition of the "Immunization Guidelines-Florida Schools, Child Care Facilities and Family Day Care Homes" as promulgated by the Florida Department of Health.

(3) Enrollment Information. The facility operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting a child in care. This information shall be documented on CF-FSP Form 5219, March 2009 June 2012, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent form that contains all the information required by the department on CF-FSP Form 5219. CF-FSP Form 5219 may be obtained from the licensing authority or on the department's website at www.myflorida.com/childcare.

(a) through (c) No change.

1. No change.

2. No change.

3. The child care facility's food and nutrition policies that includes language on food safety and food allergens.

4. Annually, during the months of August and September, the child care facility director must provide parents with information detailing the causes, symptoms, and transmission of the influenza virus. To assist providers the department developed a brochure, CF/PI 175-70, June 2009, Influenza Virus, Guide to Parents, which may be obtained from the department's website at www.myflorida.com/childcare.

5. Prior to beginning volunteering in a child care facility, a CF-FSP 5217, July 2012, Volunteer Acknowledgment, which is incorporated by reference, and may be obtained from the department's website www.myflorida.com/childcare, must be completed and on file at the child care facility for the volunteer.

(4) No change.

(a) through (c) No change.

(d) Initial Screening. Screening information must be documented on CF-FSP Form 5131, July 2012, Background Screening and Personnel File Requirements, which is incorporated by reference and may be obtained from the department's website www.myflorida.com/childcare. Screening includes the following:

1. through 3. No change.

(e) No change.

(f) Copies of training information and credentials as described in subsections 65C-22.003(4), (6) and (7) ~~65C-22.004(4), (6) and (7)~~, F.A.C., as applicable.

(g) No change.

(5) No change.

(a) No change.

(b) Documentation of parental permission for field trips and food activities/special occasions must be retained for a minimum of four months as referenced in paragraphs 65C-22.001(7)(c) and 65C-22.005(1)(c)2. ~~65C-22.006(1)(e)~~, F.A.C.

(c) through (d) No change.

(e) Written record of fire drills must be maintained for a minimum of one year as referenced in paragraph 65C-22.002(7)(f), 65C-22.003(7)(f), F.A.C.

(f) Documentation of staff members that have met the first aid and infant and child cardiopulmonary resuscitation (CPR) training requirement as referenced in paragraph 65C-22.004(2)(b), 65C-22.005(2)(b) F.A.C.

(g) Posted emergency telephone numbers, the facility address, and directions to the facility as referenced in subparagraph 65C-22.004(2)(d)1., 65C-22.005(2)(d)1., F.A.C.

(h) Documentation of accidents/incidents must be maintained for one year as referenced in subparagraph 65C-22.004(2)(d)3., 65C-22.005(2)(d)3., F.A.C.

(i) Emergency evacuation plan and emergency preparedness plan as referenced in subparagraph 65C-22.002(7)(h)-(k), 65C-22.003(7)(h)-(k), F.A.C. Written records of emergency preparedness plan drills must be maintained for one year from each drill.

(j) Record for each child receiving medication must be maintained for a minimum of four months after the last day the child received the dosage as referenced in paragraph 65C-22.004(3)(f), 65C-22.005(3)(f), F.A.C.

(k) Sample meal plan for special diet (if applicable). A copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet must be maintained for as long as the child is in care as referenced in paragraph 65C-22.005(1)(e), 65C-22.006(1)(e), F.A.C.

(l) Written documentation of known food allergies (if applicable). Must be maintained for as long as the child is in care as referenced in paragraph 65C-22.005(1)(e), 65C-22.006(1)(e), F.A.C.

(m) Daily meal and snack menus, including meal substitutions must be maintained for four months as referenced in paragraph 65C-22.005(1)(f), 65C-22.006(1)(f), F.A.C.

(n) Food Acceptance Log must be retained for a minimum of four months as referenced in paragraph 65C-22.005(1)(c)1., 65C-22.006(1)(e), F.A.C.

(o) Copy of license or permit for caterers, as referenced in rule 65C-22.0011(1), F.A.C., if applicable.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10, _____.

65C-22.007 Evening Child Care.

(1) Hours of Care. Evening Child Care, as defined in Section 402.302(7)(6), F.S., means child care provided during evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m.

(2) No change.

(3) Exemptions. Child care standards, as outlined in Sections 402.301 through 402.305, F.S., and rules 65C-22.001 through 65C-22.006, 65C-22.007, F.A.C., apply to Evening Child Care with the following exceptions:

(a) through (c) No change.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 7-2-98, Amended 9-12-04, 4-12-07, Repromulgated 5-1-08, Amended 1-13-10, _____.

65C-22.008 School Age Child Care.

(1) No change.

(2) No change.

(a) through (c) No change.

1. through 3. No change.

a. through c. No change.

d. Does not serve or prepare any meals, except those provided through the USDA federal Afterschool Meal Nutrition Program (AMNP) administered by the Florida Department of Health. The Department will consider a meal to be provided through the AMNP only if the program is actively participating in the AMNP, is in good standing with the Department of Health, and the meal meets AMNP requirements. Programs not participating in the AMNP may choose to provide drinks, snacks, and vending machine items that do not require refrigeration; or

4. No change.

(d) No change.

1. through 3. No change.

4. A completed CF-FSP Form 5017 for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed CF-FSP Form 5017 at least 45 days prior to the expiration date of the current license constitutes a licensing violation as defined in paragraph 65C-22.010(2)(d), 65C-22.011(2)(d), F.A.C.

(e) No change.

(3) No change.

(a) through (c) No change.

1. through 4. No change.

5. During feeding times, children shall be individually fed or supervised appropriately for their ages and developmental abilities.

(d) through (g) No change.

(h) Restrooms.

1. No change.

2. For facilities having from one to fifteen children, there shall be at least one toilet and one ~~sink wash basin~~. There shall be one additional toilet and ~~sink basin~~ for every 30 children thereafter. For design and construction of a new child care facility or modification to an existing facility, subparagraph (3)(e)8., above shall apply.

3. through 5. No change.

(i) No change.

1. through 2. No change.

~~3,4.~~ No change.

~~4,5.~~ No change.

(j) through (k) No change.

1. No change.

2. No change.

a. Employees, volunteers, substitutes, and children must follow the Centers for Disease Control guidelines for hand washing, ~~which are incorporated by reference in paragraph 65C-22.005(1)(a), F.A.C.~~ and encourage the children in care to develop good hand washing habits. Copies of the Center for Disease Control guidelines may be obtained from the Center for Disease Control website at www.cdc.gov.

b. The use of hand sanitizers does not substitute for hand washing.

c. Employees, volunteers, and substitutes with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, shall not prepare food.

3. through 4. No change.

a. No change.

b. No change.

(I) ~~The first compartment must be used for washing, the second compartment must be used for rinsing, and the third compartment must be used for sanitizing. If only an installed two compartment sink is available, the second compartment must be used for rinsing and a non-stationary or portable compartment receptacle must be available and used to sanitize.~~

(II) If chemical sanitization is used, an exposure time of at least seven seconds is required for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 75 degrees Fahrenheit. ~~If other sanitizers are used, equipment/dishes/utensils must be immersed for a period of at least one minute in sanitizing solution at a temperature not less than 75 degrees Fahrenheit. [The sanitizing solution must contain the minimum concentration per manufacturer instructions must be strictly followed.~~

(III) through (IV) No change.

5. No change.

(l) through (n) No change.

1. through 3. No change.

4. Do not withhold active play from children who misbehave.

(o) No change.

(p) No change.

1. through 2. No change.

a. through f. No change.

g. To prevent food from becoming potentially hazardous, hot foods shall be maintained at a temperature of 135 degrees Fahrenheit or above, and cold foods shall be maintained at a temperature of ~~41~~ degrees Fahrenheit or below. The facility must supply adequate equipment to maintain temperature requirements.

h. No change.

i. Food must be thoroughly cooked and or reheated according to the following table:

Food	Minimum Internal Temperature
Fruits, Vegetables, Grains, and Legumes	135 °F
Roasts (<u>Fresh Beef, Pork and Lamb Ham</u>)	145° F (with a 3 minute rest time)
Fish	145° F
Eggs —to be served immediately	145° F (whites and yolks are firm) <u>Cook until yolk and white are firm</u>
Eggs dishes —cooked and held for service	160 155 °F
Ground meats (<u>beef, pork, and lamb</u>) and fresh ham (<u>raw</u>)	160 155 °F
Poultry – whole, parts, or ground	165 °F
Leftovers	165 °F
Foods cooked in microwave	165 °F
Sauces, gravy, soups ₁ , casseroles	165 °F

3. No change.

a. No change.

b. Parents of legal guardians must be advised in advance of each ~~Written permission slips for all~~ food-related activities, such as special occasions and learning activities, which include food consumption. ~~Written parental permission may be obtained in the form of a general or specific permission slip. Documentation of parent permission for food activities must be maintained for a minimum of four months from the date of each activity.~~

4. through 6. No change.

(q) Food Preparation Area. A food preparation area is a designated room, such as a kitchen, or a designated space in a facility not used in normal day-to-day operations - such as that available for indoor play, classroom, work, or nap spaces – and not included when calculating usable indoor floor space. A food preparation area is required for facilities that choose to prepare food in a manner consistent with the definition of “preparation of food” in subsection 65C-22.0011(5), ~~65C-22.002(1)(c)~~, F.A.C.

1. No change.

a. Ventilation provided either by mechanical or natural means to provide fresh air and control of unpleasant odors, ~~such as, a fan, vent, or open window with a screen.~~

b. through e. No change.

f. Ceiling must be easily cleanable or replacable in the event of water and other damage, mildew, or mold. Nonabsorbent walls and ceilings by means of surface material or applied coating/sealant.

g. through i. No change.

2. Employees, volunteers, and substitutes, while working in the food preparation area, must wear ~~clean outer garments and proper head covering, such as a hair net or hat,~~ To prevent barehand contact with ready to eat foods, staff and must use disposable gloves, utensils, or similar items in the food preparation area to prevent barehand contact with ready to eat foods.

3. No change.

(r) No change.

1. Food containers, such as, but not limited to cans, plastic containers, boxes, and bags, shall be stored above the floor, ~~a minimum of six inches,~~ on clean surfaces protected from splash and other contamination.

2. through 3. No change.

4. Opened packages of perishable or leftover food items must be properly covered or sealed in containers or bags, labeled with date, properly stored, and discarded within seven calendar days.

5. through 6. No change.

a. An accurate thermometer must be inside each refrigeration unit used to verify adequate cold storage temperature. Refrigerators must be maintained at 41 degrees Fahrenheit or below and freezers must be maintained at 0 degrees Fahrenheit.

b. through c. No change.

(s) No change.

1. through 2. No change.

3. The child care facility must properly maintain fire extinguishers with a minimum rating of 2A10BC at all times. All staff shall be proficient trained in the use and operation of a fire extinguisher. Travel distance to the nearest extinguisher

shall not be more than 75 ~~50~~ feet from rooms occupied by children. A fire extinguisher must be present in areas where food is prepared ~~a kitchen.~~

4. through 7. No change.

8. The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures to be taken by the child care facility during a fire, lockdown, and inclement weather (for example: hurricanes, tropical storms, or tornadoes), and facilitating parent/guardian reunification. The plan shall describe how the facility will meet the needs of all children, including children with special needs, during and following an emergency event,

9. Emergency preparedness drills shall be conducted when children are in care. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and may substitute for up to three monthly fire drill as referenced in paragraph 65C-22.002(7)(e), ~~65C-22.003(7)(e)~~, F.A.C., documentation of which must be maintained for one year. A current attendance record must accompany staff during the drill or actual emergency and must be used to account for all children.

10. through 12. No change.

13. Automatic range-top fire suppression systems are required in the kitchen for facilities that produce steam or grease laden vapors or shallow fry or deep fry food. Suppression hood systems must be maintained and inspected in accordance with the Florida Fire Prevention Code as adopted in Chapter 69A-60, F.A.C. Documentation of an approved annual inspection of the suppression system per the Fire Prevention Code is required by local fire safety authority.

~~14. The use of portable equipment utilized to fry food is allowable in a kitchen beneath an automatic range top fire suppression system.~~

(t) No change.

1. through 11. No change.

12. No change.

a. No change.

(I) Promote emotional, social, intellectual and physical growth. ~~If television, videos, movies, and/or computer games are used, they shall be limited to a maximum combined total of two hours per day or the length of a movie if more than two (2) hours in length.~~ Limit electronic media time (television, videos, movies, or computer games) to no more than 1 to 2 hours per day. Computer use should be limited to no more than fifteen-minute increments.

(II) through (III) No change.

b. No change.

(u) No change.

1. No change.

2. No change.

3. Enrollment Information. The facility operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting a child in care. This information shall be documented on CF-FSP Form 5219, Child Care Application for Enrollment, which is incorporate by reference in subsection 65C-22.006(3), ~~65C-22.007(3)~~, F.A.C., or an equivalent form that contains all the information required by the department on CF-FSP Form 5219. CF-FSP Form 5219 may be obtained from the licensing authority or by going to the department's website at www.myflorida.com/childcare.

a. through c. No change.

(I) The department's child care facility brochure, CF/PI 175-24, Know Your Child Care Facility, which is incorporated by reference in subparagraph 65C-22.006(3)(c)1., ~~65C-22.007(3)(a)1.~~, F.A.C. This brochure may be obtained from the licensing authority or by going to the department's website at www.myflorida.com/childcare. Local licensing agencies may use an equivalent brochure approved by the department.

(II) No change.

(III) No change.

4. No change.

a. No change.

b. No change.

c. CF-FSP Form 5337, Child Abuse & Neglect Reporting Requirements, which is incorporated by reference in paragraph 65C-22.006(4)(c), ~~65C-22.007(4)(e)~~, F.A.C., must be signed annually by all child care personnel.

d. Prior to beginning volunteering in a school-age program, a CF-FSP 5217, July 2012 Volunteer Acknowledgement Affidavit, which is incorporated by reference, and may be obtained from the department's website www.myflorida.com/childcare, must be completed and on file at the facility for the volunteer.

e. Initial Screening. Screening information must be documented on CF-FSP Form 5131, Background Screening and Personnel File Requirements, which is incorporated by reference in paragraph 65C-22.006(4)(d), ~~65C-22.007(4)(d)~~, F.A.C. Screening includes the following:

(I) through (II) No change.

(III) CF Form 1649A, July 2012 Child Care Affidavit of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel at time of initial screening or upon a change in employers. CF Form 1649A may be obtained from the department's website at www.myflorida.com/childcare.

f. through h. No change.

i. Copies of training information and credentials as described in subsection 65C-22.008(4), ~~65C-22.009(4)~~, below.

j. No change.

5. No change.

a. through k. No change.

(4) No change.

(a) No change

1. through 2. No change.

3. "Begin training for child care personnel" refers to a candidate's commencement of at least one of the child care training courses listed in Section 402.305(2)(d), F.S. and paragraph 65C-22.008(4)(c), ~~65C-22.009(4)(e)~~, F.A.C. This may be accomplished by classroom attendance in a department-approved training course, acquiring an educational exemption from a department-approved training course, beginning a department-approved online child care training course, or by receiving results from a department-approved competency examination within the first 90 days of employment in the child care industry in any licensed Florida school-age child care program. The child care facility is responsible for obtaining documentation from child care personnel.

4. No change.

5. "Director" means "operator" as defined in Section 402.302(13)(11), F.S., is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision and administration of a child care facility.

6. through 13. No change.

(b) No change.

(c) No change.

1. through 5. No change.

6. School-age child care personnel in compliance with paragraph 65C-22.003(2)(a), ~~65C-22.004(2)(a)~~, F.A.C., shall be considered in compliance with the school-age child care personnel training requirements.

7. through 8. No change.

(d) No change.

(e) School-age child care personnel are exempt from the training requirement of five clock-hour early literacy and language development of children from birth to five years of age, under paragraph 65C-22.003(2)(b), ~~65C-22.004(2)(b)~~, F.A.C.

(f) School-age child care programs are exempt from the staff credential requirement as outlined in subsection 65C-22.003(7) ~~65C-22.004(7)~~, F.A.C.

(g) No change.

(h) No change.

1. Upon successful completion of the 40-hr introductory training requirements, as referenced in paragraph 65C-22.008(4)(c), ~~65C-22.009(4)(e)~~, F.A.C., child care must complete a minimum of 10 clock-hours or one CEU of in-service training annually during the state's fiscal year beginning July 1 and ending June 30.

2. No change.

3. Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268, Child Care In-Service Training Record, which is incorporated by reference in paragraph 65C-22.003(6)(c), 65C-22.004(6)(e) F.A.C., and included in the child care facilities' personnel records. CF-FSP Form 5268 may be obtained from the department's website at www.myflorida.com/childcare. A new in-service training record is required each fiscal year. The in-service training records for the previous two fiscal years must also be maintained at the school-age child care program for review by the licensing authority.

4. through 5. No change.

(i) No change.

1. Director Credential Requirement. Pursuant to Section 402.305(2)(f), F.S., a child care facility must have a credentialed director. An individual with an inactive Director Credential is ineligible to be the director of a child care facility. An applicant for the Director Credential must meet the requirements referenced in CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal Application which is incorporated by reference in paragraph 65C-22.003(8)(a), 65C-22.004(8)(a) F.A.C. CF-FSP Form 5290 may be obtained from the department's website at www.myflorida.com/childcare. All applications and documentation will be verified, and if complete, the credential will be issued by the department or designated representative on CF-FSP Form 5252, April 2006, Florida Director Credential Certificate, which is incorporated by reference in paragraph 65C-22.003(8)(a), 65C-22.004(8)(a) F.A.C.

a. through e. No change.

2. No change.

a. through b. No change.

c. In counties where the public school district has included four year-old children in public before-school and after-school programs, the school district may participate in the multi-site supervision option. Public school districts that serve four year old children in the before-school and after-school programs are required to have a credentialed staff person pursuant to the credentialing requirements in paragraph 65C-22.003(7)(a), 65C-22.004(7)(a) F.A.C., in order to accommodate the four year-old children.

d. No change.

3. through 4. No change.

Rulemaking Authority 402.305 FS. Law implemented 402.305 FS. History-New 9-12-04, Amended 4-12-07, 5-1-08, 1-13-10,_____.

65C-22.009 Gold Seal Quality Care Program.

(1) through (3) No change.

Rulemaking Authority 402.281 FS. Law Implemented 402.281 FS. History-New 5-1-08, Amended 1-13-10,_____.

65C-22.010 Enforcement.

(1) through (2) No change.

Rulemaking Authority 402.305,402.310 FS. Law Implemented 402.305, 402.310 FS. History-New 5-1-08, Amended 1-13-10,_____.

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE NO.: RULE TITLE:

53ER13-29 MEGA MILLIONS® Retailer Promotion

SUMMARY: The rule sets forth the provisions for the MEGA MILLIONS® Retailer Promotion.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Department of the Lottery, 250 Marriott, Tallahassee, Florida 32301

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER13-29 MEGA MILLIONS® Retailer Promotion.

(1) Beginning Wednesday, May 15, 2013, through Tuesday, June 4, 2013, the Florida Lottery will conduct the MEGA MILLIONS® Retailer Promotion.

(2) During the promotion period, for every \$10 in MEGA MILLIONS or MEGA MILLIONS with Megaplier® sales in their stores, Florida Lottery retailers will receive an entry into one of eighteen drawings for a chance to win \$10,000. Drawings will be held on June 12, 2013.

(3) One corporate retailer drawing and one independent retailer drawing will be held for each of the nine Florida Lottery sales districts to randomly select winning retailers. One corporate and one independent retailer winner will be selected in the Tallahassee, Pensacola, Jacksonville, Gainesville, Ft. Myers and West Palm Beach sales districts; two corporate and two independent retailer winners will be selected in the Orlando and Tampa sales districts; and two corporate and four independent retailer winners will be selected in the Miami sales district. Each winning retailer will be awarded \$10,000. Prizes will be awarded in accordance with the following table.

<u>Lottery Sales District</u>	<u>Prize Per Retailer</u>	<u>Number of Corporate Retailer Prizes</u>	<u>Number of Independent Retailer Prizes</u>
<u>District 1- Tallahassee</u>	<u>\$10,000</u>	<u>1</u>	<u>1</u>
<u>District 3- Pensacola</u>	<u>\$10,000</u>	<u>1</u>	<u>1</u>
<u>District 4- Jacksonville</u>	<u>\$10,000</u>	<u>1</u>	<u>1</u>

District 5- Gainesville	\$10,000	<u>1</u>	<u>1</u>
District 6- Orlando	\$10,000	<u>2</u>	<u>2</u>
District 9- Tampa	\$10,000	<u>2</u>	<u>2</u>
District 10- Ft. Myers	\$10,000	<u>1</u>	<u>1</u>
District 11- West Palm Beach	\$10,000	<u>1</u>	<u>1</u>
District 13- Miami	\$10,000	<u>2</u>	<u>4</u>

(4) A total of twenty-six \$10,000 prizes will be awarded in the MEGA MILLIONS Retailer Promotion.

(5) Retailers will receive their MEGA MILLIONS Retailer Promotion prize check within three weeks of the drawing.

(6) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the promotional prize award shall be paid the promotional prize provided the termination or inactivation was not due to non-compliance with Chapter 24, Fla. Stat., Chapter 53, Fla. Admin. Code or contract terms.

(7) A promotional prize will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply the promotional prize awarded against a retailer's outstanding debt to the Florida Lottery.

Rulemaking Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History—New 5-13-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: May 13, 2013

DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER13-30
RULE TITLE: MEGA MILLIONS® Retailer Bonus Commission Program

SUMMARY: The rule describes the MEGA MILLIONS® Retailer Bonus Commission Program in which the Florida Lottery will award bonus commissions to Florida Lottery retailers that sell a winning MEGA MILLIONS jackpot ticket for a Tuesday or Friday MEGA MILLIONS drawing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER13-30 MEGA MILLIONS® Retailer Bonus Commission Program.

(1) The Florida Lottery will conduct, as a retailer sales incentive, a MEGA MILLIONS® Retailer Bonus Commission Program (“Program”) in which the Florida Lottery will award bonus commissions to Florida Lottery retailers that sell a winning jackpot MEGA MILLIONS ticket for a Tuesday or Friday MEGA MILLIONS drawing.

(2) The bonus commission will start at \$10,000 for a \$12 million starting jackpot. In the event no winning jackpot ticket is sold for a MEGA MILLIONS drawing, the bonus commission amount will increase by \$5,000 per drawing until a winning jackpot ticket is sold, up to a maximum bonus commission of \$100,000. An additional \$5,000 bonus commission will be paid to the retailer if the winning jackpot ticket was a MEGA MILLIONS with Megaplier® ticket.

(3) If multiple winning jackpot tickets are sold in Florida for the same MEGA MILLIONS drawing, the retailers selling such tickets will share the bonus commissions. Each retailer selling a winning jackpot ticket will receive a share of the bonus equal to the number of winning jackpot tickets sold by that particular retailer divided by the total number of winning jackpot tickets sold in Florida for that drawing.

(4) Florida Lottery retailers who sell a MEGA MILLIONS with Megaplier ticket that wins \$1,000,000 for matching 5+0 numbers will receive a \$1,000 bonus commission.

(5) Award of a bonus commission is not dependent upon the MEGA MILLIONS winning jackpot ticket being claimed by the winner.

(6) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the bonus commission award shall be paid the bonus commission earned provided said termination or inactivation was not due to noncompliance with Chapter 24, Fla. Stat., Chapter 53, Fla. Admin. Code or contract terms.

(7) A bonus commission will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply a bonus commission earned against a retailer's outstanding debt to the Florida Lottery, and to award the remaining balance of the bonus commission, if any.

(8) MEGA MILLIONS bonus commissions are subject to availability of funds appropriated for retailer incentives. This Program is subject to cancellation by future emergency rule if retailer incentive funding is not appropriated or if the Florida Lottery determines that it is no longer in the state's best interest to use such funds for this purpose.

(9) The effective date of this emergency rule is May 15, 2013.

Rulemaking Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History—New 5-15-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: May 15, 2013

DEPARTMENT OF THE LOTTERY

RULE NO.: RULE TITLE:

53ER13-31 Payment of Prizes

SUMMARY: This emergency rule replaces Emergency Rule 53ER12-80 and sets forth the procedures that the Florida Lottery shall apply to awarding prizes.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER13-31 Payment of Prizes.

(1) Claiming Prizes. For purposes of this rule, the provisions for claiming a prize as set forth in paragraph 24.115(1)(f), Florida Statutes, will be deemed satisfied upon the claimant meeting the following requirements:

(a) Online Terminal Game Prizes.

1. For online terminal game prizes, the claimant must submit the winning online terminal ticket for validation at a Lottery office or retailer on or before the 180th day after the winning drawing. Winning online terminal tickets submitted to the Lottery by mail for validation must be addressed to the Lottery's prize payment address in an envelope postmarked on or before the 180th day after the winning drawing.

2. If the claimant is not paid at the time of ticket validation, he or she must submit the validated winning online terminal ticket, along with the documents specified in paragraph (14)(c) below, for prize payment at a Lottery office on or before the 210th day after the winning drawing. If the claimant chooses to submit the validated winning online terminal ticket for prize payment by mail, the ticket and all required documents must be sent to the Lottery's prize payment address and received by the Lottery on or before the 210th day after the winning drawing. Failure of a claimant to submit all required documentation, and receipt by the Lottery thereof, on or before the 210th day after the winning drawing shall result in forfeiture of the prize.

(b) Instant Game Prizes.

1. For instant game prizes, the claimant must submit the winning instant ticket for validation at a Lottery office or retailer on or before the 60th day after the official end of the

game. Winning instant tickets submitted to the Lottery by mail for validation must be addressed to the Lottery's prize payment address in an envelope postmarked on or before the 60th day after the official end of the game.

2. If the claimant is not paid at the time of ticket validation, he or she must submit the validated instant winning ticket, along with the documents specified in paragraph (14)(c) below, for prize payment at a Lottery office on or before the 90th day after the official end of the game. If the claimant chooses to submit the validated instant winning ticket for prize payment by mail, the ticket and all required documents must be sent to the Lottery's prize payment address and received by the Lottery on or before the 90th day after the official end of the game. Failure of a claimant to submit all required documentation, and receipt by the Lottery thereof, on or before the 90th day after the official end of the game shall result in forfeiture of the prize.

(2) Prize Payment Address. The Lottery's prize payment address is: Florida Lottery, Claims Processing, 250 Marriott Drive, Tallahassee, Florida 32399-4027.

(3) Risk of Mailing Tickets. A person who mails a winning ticket shall bear the risk that the U.S. Postal Service or other carrier may fail to timely postmark or deliver the ticket to the Lottery, or both.

(4) Winning Tickets Submitted to the Address for a Drawing. Winning tickets submitted to the address for a drawing for a game or promotion will not be paid or honored unless selected during the drawing. The time periods provided in subparagraphs (1)(a)1. and 2. and (1)(b)1. and 2. shall also apply to this subsection.

(5) Unclaimed Prizes. If a winning ticket is not submitted for validation within the applicable time period, or if a validated ticket is not submitted to the Lottery for prize payment within the applicable time period, the prize shall constitute an unclaimed prize and shall be distributed as required by law. Unclaimed prizes shall not be distributed to other winners within the same prize pool.

(6) Free Ticket Claims - Florida Claimants. A person who submits by mail a lottery ticket that entitles the claimant to a prize of a "ticket" or "free ticket" and whose mailing address is inside the state of Florida will be mailed a prize of a ticket as follows:

(a) If the ticket submitted for payment is an instant lottery ticket, the claimant will receive an instant lottery ticket or combination of tickets having the same total retail sales price as the instant lottery ticket submitted for prize payment. The free ticket(s) may or may not be from the same instant game in which the prize was won.

(b) If the prize is a free online terminal game quick pick ticket, the claimant will receive a free online terminal game quick pick ticket, from the same online terminal game in

which the prize was won, for the next drawing after the ticket is validated; or if the free online terminal game ticket is part of an online terminal game multi-play ticket, the claimant will receive prize payment in accordance with the provisions of subsection (21) below.

(7) Free Ticket Claims – Claimants Outside Florida. A person who submits by mail a lottery ticket that entitles the claimant to a prize of a “ticket” or “free ticket” and whose mailing address is outside the state of Florida will receive a check in the amount of the retail sales price of the ticket in lieu of an actual ticket.

(8) Advance Play Ticket Claims – Florida Claimants. A claimant who claims a prize through a retailer or the Lottery on a winning advance play lottery ticket before all the drawings on the ticket have occurred will be issued a continuation ticket for the remaining drawings with the same play numbers as the original ticket. The original ticket will be recorded as “paid” in the gaming system and the continuation ticket automatically issued for the claimant shall be the instrument from which claims on remaining drawings are paid.

(9) Advance Play Ticket Claims – Claimants Outside of Florida. If a claimant whose mailing address is outside the state of Florida submits by mail an advance play lottery ticket that has drawings remaining that have not yet occurred, the Lottery will hold the claimant’s advance play ticket until all the drawings have occurred. The Lottery will then validate the advance play ticket and mail the claimant one payment for the total amount of any prizes won. If an out-of-state claimant requests prize payment prior to the date of the last advance play drawing, the Lottery will validate the ticket, mail the claimant payment for the total amount of any prizes won as of the date of ticket validation, and issue and maintain possession of a continuation ticket for the remaining drawings.

(10) Online Terminal Game Ticket Validation.

(a) In order to be a valid winning online terminal lottery ticket, the ticket must be identifiable as a Florida Lottery ticket and have either a complete, legible Transaction Serial Number (“TSN”) or a readable bar code. To the extent that a ticket is not identifiable as a Florida Lottery ticket or does not have a TSN or bar code, the ticket will be invalid. The Florida Lottery will not attempt to reconstruct any tickets received in multiple pieces.

(b) The ticket must not be counterfeit in whole or in part.

(c) The TSN of an apparent winning ticket must validate on the Lottery’s gaming system, and must not have been previously paid.

(d) The ticket must pass any additional validation tests determined necessary by the Florida Lottery. For security reasons, some validation tests may be confidential in nature.

(e) Any ticket not meeting the criteria set forth in paragraphs (10)(a) through (d) above is ineligible for any prize

and shall not be paid as a winning ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Florida Lottery shall be the replacement of the defective ticket with an unplayed ticket or tickets of equivalent sales price from a current Florida Lottery game, or refund of the retail sales price.

(11) Instant Game Ticket Validation.

(a) In order to be a valid winning instant lottery ticket, the ticket must be identifiable as a Florida Lottery ticket and have either a complete, legible validation number (sometimes referred to as “Void If Removed Number” or “VIRN”), or a readable bar code. The Florida Lottery will not attempt to reconstruct any tickets received in multiple pieces.

(b) The ticket must not be counterfeit in whole or in part.

(c) The validation elements must not be altered or tampered with in any manner.

(d) The ticket must not appear on any list of omitted ticket stock on file at the Florida Lottery.

(e) The ticket must not have been stolen.

(f) The ticket must have been issued to a retailer by the Florida Lottery in an authorized manner.

(g) The validation number of an apparent winning ticket must validate on the Lottery’s gaming system and must not have been previously paid.

(h) The validation elements of a ticket must not be misprinted or illegible.

(i) The ticket must pass any additional validation tests determined necessary by the Florida Lottery. For security reasons, some validation tests may be confidential in nature.

(j) Any ticket not meeting the criteria set forth in paragraphs (11)(a) through (i) above is ineligible for any prize and shall not be paid as a winning ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Florida Lottery shall be the replacement of the defective ticket with an unplayed ticket or tickets of equivalent sales price from a current Florida Lottery game, or refund of the retail sales price.

(12) Disputes Regarding the Amount or Validity of Ticket.

(a) Players shall be instructed by a retailer or the Lottery to file a claim when any dispute arises between a player and a retailer regarding the amount or validity of an apparent winning ticket or when an apparent winning ticket will not validate using the terminal.

(b) In the event a dispute between the Florida Lottery and a ticket bearer occurs as to whether a ticket is a valid winning ticket, or as to the prize amount of a valid winning ticket, the decision of the Florida Lottery shall be final. If the prize is not paid on a disputed ticket and the basis for the dispute is attributable to the Florida Lottery or its ticket vendor, the Florida Lottery will replace the disputed ticket with an

unplayed ticket from the same game or with a ticket from another game of equivalent sales price. This shall be the sole and exclusive remedy of the bearer of the ticket.

(13) Winning Tickets Valued at Less than \$600.

Payment of any winning ticket valued at less than \$600 that is submitted to a Lottery retailer, Lottery district office or Lottery Headquarters shall be made to the claimant upon successful ticket validation. Upon request by the Lottery, the claimant shall file a Winner Claim Form in accordance with the provisions set forth in paragraph (14)(c) below.

(a) Payment by Retailers.

1. Winning tickets of \$50 or less that are submitted to a retailer shall be paid in cash by the retailer unless:

a. It is impossible or impracticable to do so due to a company or store policy which, for safety or security reasons, limits the amount of cash available to the clerk; or

b. It is impossible or impracticable to do so due to an applicable local government ordinance that limits the amount of cash available to the clerk.

2. Winning tickets with a value greater than \$50 but less than \$600 that are submitted to a retailer shall be paid by cash, check, or money order.

3. No charge or fee shall be imposed by a retailer on a player for paying a winning ticket. This prohibition includes charging a fee for a money order issued to the player in payment of a prize when that is the only method of prize payment made available by the retailer.

(b) Payment by the Florida Lottery.

1. Winning tickets of \$200 or less that are presented to a Lottery district office will be paid by cash, check or issued lottery tickets at the claimant's option.

2. Winning tickets with a value greater than \$200 that are submitted to a Lottery district office shall be paid by check and/or issued lottery tickets, or paid a maximum of \$200 in cash and the balance of the prize paid by check and/or issued lottery tickets at the claimant's option.

3. Winning tickets of less than \$600 that are submitted to Lottery Headquarters for payment shall be paid by check.

4. A player who submits a winning ticket of less than \$600 in person to a Lottery district office for payment by check shall be required to present identification as set forth in paragraphs (15)(b) or (c). The identification is required to ensure proper check distribution.

5. Winning tickets of less than \$600 shall be subject to and paid in accordance with subsections (16), (17), (18) and (19) below.

(14) Winning Tickets Valued at \$600 or Greater.

(a) Payment of winning tickets valued at \$600 or greater shall be made only by a Lottery office. Payment of winning tickets valued at \$600 or greater cannot be made by a retailer.

(b) A player may submit a winning ticket valued at \$600 or greater to any Lottery retailer or Lottery office for ticket validation. If a winning ticket valued at \$600 or greater is validated at a retailer location, the player shall retain the original ticket and any player claim instructions ticket produced by the retailer terminal to submit with his or her claim to a Lottery office for prize payment processing. If the winning ticket produces a continuation ticket for future drawings, the player shall also retain the continuation ticket in addition to the original ticket and player claim instructions ticket.

(c) After successful validation of a winning ticket, the player shall file a claim by submitting to the Lottery a completed Winner Claim Form DOL 173-2, revised 02/11, or Spanish Winner Claim Form DOL 173-2S, revised 02/11 along with the ticket(s) as set forth in subsection (18) and the identification described in paragraphs (15)(b) or (c) below. The Winner Claim Forms are incorporated herein by reference and may be obtained at any Lottery office or retailer, from the Florida Lottery's website at flalottery.com, or by writing the Florida Lottery, Customer Service, 250 Marriott Drive, Tallahassee, Florida 32399-4016. Claims may be submitted in person to any Lottery district office or to Lottery Headquarters, or submitted by mail to Florida Lottery, Claims Processing, 250 Marriott Drive, Tallahassee, Florida 32399-9939.

(d) Winning tickets valued at \$600 through \$250,000 that are submitted to a Lottery district office shall be paid by check and in accordance with subsections (16), (17), (18) and (19) below, except that winning tickets valued in excess of \$50,000 may be paid by wire or electronic funds transfer. Powerball® and Mega Millions® winning tickets valued to \$1,000,000 may be presented at a Lottery district office or submitted by mail to Florida Lottery, Claims Processing, 250 Marriott Drive, Tallahassee, Florida 32399-9939. All other winning tickets valued at greater than \$250,000 must be presented at Lottery Headquarters for payment.

(e) Winning tickets valued at \$600 or more that are submitted to Lottery Headquarters shall be paid as follows and in accordance with subsections (16), (17), (18) and (19) below:

1. If the prize value is \$600 through \$50,000, payment shall be made by check.

2. If the prize value is greater than \$50,000 or is a prize for which there is a lump-sum option, payment shall be made by check or wire or electronic funds transfer at the claimant's option. In addition to the Winner Claim Form, claimants for such prizes shall be required to complete Form DOL-416 Top Prize Method of Prize Payment, Revised 5/13, and Form DOL-475 Security Verification Questions, Effective 1/09, at the time the prize is claimed, if they select payment by wire or

electronic funds transfer. Forms DOL-416 and DOL-475 are incorporated herein by reference and may be obtained at any Lottery office or by writing the Florida Lottery, Claims Processing, 250 Marriott Drive, Tallahassee, Florida 32399-9939.

(15) Presentation of Identification.

(a) The claimant of a prize valued at \$600 or more will be required to present identification as detailed below. The Lottery shall be permitted to make a photocopy of such identification for its records. The name on the identification presented to the Lottery must match the name on the back of the winning ticket, unless the name on the back of the winning ticket is that of a legal entity. In such case, an authorized agent of that legal entity and all shareholders, partners, beneficiaries, or other persons ultimately entitled to receive a portion of the legal entity's Lottery winnings shall submit a photocopy of required identification as detailed below. The Lottery reserves the right to require proof of authenticity for such photocopies. If the name on the back of the ticket and the identification presented do not match, the Lottery may request another form of identification listed below or request additional information to use in making its payment determination.

(b) For prizes valued at \$600 or more, one form of identification is required that is current or was issued within the past five years and bears a serial or other identifying number. Acceptable forms of identification include the following:

1. A Florida identification card or driver's license issued by the public agency authorized to issue driver's licenses;
2. A passport issued by the Department of State of the United States;
3. A passport issued by a foreign government;
4. A driver's license or an identification card issued by a public agency authorized to issue driver's licenses in a state other than Florida, a territory of the United States, or Canada or Mexico;
5. An identification card issued by any branch of the armed forces of the United States; or
6. An identification card issued by the United States Bureau of Citizenship and Immigration Services; or
7. Another form of identification authorized for use by notaries public in subparagraph 117.05 (5)(b)2., Florida Statutes.

(c) If a claimant is unable to produce one of the acceptable forms of identification identified in paragraph (15)(b) above, the Lottery will accept as satisfactory evidence of the claimant's identity a completed Affidavit to Establish Identity, DOL-483 Effective 5/13. The Affidavit to Establish Identity is incorporated herein by reference and may be obtained at any Lottery office or by writing the Florida

Lottery, Customer Service, 250 Marriott Drive, Tallahassee, Florida 32399-4016.

(d) A photocopy of required identification shall accompany claims valued at \$600 or greater that are submitted by mail. The Lottery reserves the right to require proof of authenticity for such photocopies.

(16) Payment to One Person or Entity. Regardless of how many persons or entities claim an ownership interest in a winning ticket, payment will be made to only one person or entity. For prizes valued at \$600 or more, a winner may submit an Internal Revenue Service Form 5754, *Statement by Person(s) Receiving Gambling Winnings*, revised 12/08, if more than one person or a person other than the claimant is entitled to the prize winnings. The form must be presented to the Lottery along with the Winner Claim form prior to ticket validation. The Internal Revenue Service Form 5754 is incorporated by reference and may be obtained at any Lottery office, by writing the Florida Lottery, Customer Service, 250 Marriott Drive, Tallahassee, Florida 32399-4016, or from the Internal Revenue Service.

(17) Federal Withholding Taxes. Federal withholding taxes shall be deducted from prizes in accordance with the Internal Revenue Code and Code of Federal Regulations.

(18) Ticket Submission and Payment. In accordance with the applicable provisions of subsections (13), (14) and (21) a claimant must submit an original winning ticket or an original continuation ticket, if issued, to the Lottery or to a retailer to claim a prize. In the event an original winning ticket or an original continuation ticket is not available for submission, a claimant must submit an original player claim instructions ticket produced from validation of an original winning ticket or original continuation ticket to the Lottery to claim a prize.

(a) If a claimant submits an original winning ticket or an original continuation ticket and an original player claim instructions ticket produced from an original winning ticket or from an original continuation ticket, payment will be made in accordance with subsections (16) and (17).

(b) If a claimant submits only an original winning ticket or an original continuation ticket, the ticket will be validated and payment will be made in accordance with subsections (16) and (17).

(c) If a claimant submits only an original player claim instructions ticket, the player claim instructions ticket will be validated and payment will be made in accordance with subsections (16) and (17) and as follows:

1. For online terminal prizes, if the absence of the original ticket or the original continuation ticket is determined to the Lottery's satisfaction to be attributable to actions of a retailer, payment will be made following expiration of 30 days after the date the player claim instructions ticket is submitted for

prize payment, or following expiration of 210 days after the winning draw date, whichever date occurs sooner.

2. For instant prizes, if the absence of the original ticket is determined to the Lottery's satisfaction to be attributable to actions of a retailer, payment will be made following expiration of 30 days after the date the player claim instructions ticket is submitted for prize payment, or following expiration of 90 days after the official end of the game, whichever date occurs sooner.

3. If the absence of the original ticket or the original continuation ticket is attributable to any reason other than the actions of a retailer, payment will be made as follows:

a. For winning online terminal tickets, payment will be made following expiration of 210 days after the winning draw date, provided that payment for the original winning ticket is not made before the expiration of 210 days.

b. For winning instant tickets, payment for prizes valued at \$600 through \$1,000 will be made following expiration of 180 days from the date the claim was filed or following expiration of 90 days after the official end of the game, whichever occurs sooner, provided that payment for the original winning ticket is not made before expiration of the 180-day or 90-day time period, whichever is applicable. Payment for prizes greater than \$1,000 will be made following expiration of 90 days after the official end of the game, provided payment for the original winning ticket is not made before expiration of the 90-day time period.

4. If the original winning ticket or original continuation ticket is submitted prior to expiration of the time periods set forth in subparagraphs (18)(c)1., 2. and 3., an investigation will be conducted to determine to whom payment should be made, if anyone.

(d) If a claimant submits only an original advance play winning ticket that has been recorded as "paid" in the Lottery's gaming system as the result of the issuance of a continuation ticket, an investigation will be conducted and payment will be made as follows:

1. If the investigation concludes to the Lottery's satisfaction that the absence of the continuation ticket is attributable to actions of a retailer, payment will be made following expiration of 30 days after the date the original winning ticket is submitted for prize payment, or following expiration of 210 days after the winning draw date, whichever date occurs sooner, provided that payment for the continuation ticket is not made prior to the expiration time frames set forth above.

2. If the investigation concludes to the Lottery's satisfaction that the absence of the continuation ticket is attributable to any reason other than the actions of a retailer, payment will be made following expiration of 210 days after the winning draw date, provided that payment for the

continuation ticket is not made before the expiration of 210 days.

(e) In the event a claim for payment is made without an original ticket, an original continuation ticket, or a player claim instructions ticket, the claim will be denied unless the following occurs:

1. The claimant establishes to the Lottery's satisfaction that the absence of the original ticket, the original continuation ticket, or the player claim instructions ticket is attributable to an act or omission of the Lottery. Acts or omissions of Lottery retailers shall not be considered attributable to the Lottery; and

2. The Lottery determines that the available evidence is sufficient to validate the claim.

If the Lottery determines that the provisions set forth in subparagraphs 1. and 2. above are sufficiently met, payment will be made to the claimant following the expiration of the applicable deadline set forth in subsection (1) for validating and submitting a winning ticket for prize payment.

(19) Determination of Prize Winner. The person to whom payment will be made for winning tickets submitted to the Lottery shall be determined as follows:

(a) If only one name appears on the back of the ticket, payment will be made to that person or entity.

(b) If the back of a ticket is blank or incomplete, data from the Winner Claim Form, if any, player correspondence, or the mailing envelope, in that order, shall be used to supplement the information.

(c) Instant tickets. If more than one name appears on the back of an instant ticket, payment shall be made to the person whose name appears first on the line designated for the name.

(d) Online terminal tickets.

1. If one player information section is completely filled out, payment shall be made to the person whose name appears first on the name line in the player information section that is completed.

2. If more than one player information section is completely filled out, payment shall be made to the person whose name appears first on the name line in the player information section nearest the top of the ticket.

3. If no player information section is completely filled out and more than one name appears on the back of the ticket, payment shall be made to the person whose name appears first on the name line in the player information section nearest the top of the ticket in which a name is present.

(e) If the name on the back of a ticket is that of a trust, corporation or other legal entity, payment shall be made to the trust, corporation or other legal entity. For those tickets valued at \$600 or more, no payment shall be made to a legal entity until the Lottery has received a copy of the entity's organizational documents which set forth the names and Social Security numbers of all shareholders, partners,

beneficiaries, or other persons ultimately entitled to receive Lottery winnings.

(f) For prizes less than \$600, payment to the person determined in accordance with paragraphs (19)(a) through (e) above shall be made in that person's name as it appears on the back of the winning ticket. For prizes of \$600 or more, payment shall be made in that person's name as it appears on the Winner Claim Form as described in paragraph (14)(c) above.

(g) If the back of a ticket valued at \$600 or more is altered, defaced, or contains erasures, correction fluid, overwriting, or obliteration in the line designated for a name, an investigation will be conducted to determine to whom payment should be made, if anyone, in accordance with paragraphs (19)(c), (d) and (e) above. As a part of the investigation, the claimant shall be required to complete Form DOL-419, Security Affidavit, Revised 5/13, or Form DOL-419S Spanish Security Affidavit, Revised 5/13, and provide an explanation of the circumstances surrounding his or her claim for the ticket. Forms DOL-419 and DOL-419S are incorporated herein by reference and may be obtained at any Lottery office or by writing the Florida Lottery, Division of Security, 250 Marriott Drive, Tallahassee, Florida 32301. If the ticket is valued at less than \$600, payment will be made to the person submitting the ticket for payment.

(h) If the Lottery is presented with undisputed information that payment of a prize as provided in paragraphs (19)(a) through (e) would result in payment to a person or entity who has no claim to the ticket, the Lottery will make payment to the person or entity it determines to be the rightful claimant based upon the undisputed information submitted to the Lottery. This paragraph shall not apply if the person submitting the claim for payment is determined to owe an outstanding debt to a state agency, child support collected through a court, or spousal support or alimony as provided in subsection 24.115(4), Florida Statutes.

(i) If the Lottery receives notification of a dispute of ownership of a specific ticket prior to prize payment, an investigation will be conducted to determine to whom payment should be made, if anyone.

(j) Any claimant of a prize of \$600 or more, and any person whose name appears on an Internal Revenue Service Form 5754 filed by a claimant and whose portion of the prize is \$600 or more, will be analyzed for state-owed debt. All persons ultimately entitled to receive Florida Lottery winnings from a claim valued at \$600 or more filed by a legal entity, other than a corporation whose shares are publicly traded, will be analyzed for state-owed debt. If such claimant or other person is identified as owing an outstanding debt to a state agency or owing child support collected through a court or spousal support or alimony as provided in subsection

24.115(4), Florida Statutes, following deduction of federal tax withholding, the remaining prize amount will be allocated as follows:

1. If the debt is owed by the claimant and an Internal Revenue Service Form 5754 is not filed at the time the claim is submitted, an amount sufficient to cover the amount owed, up to the total remaining prize amount, will be transferred to the state agency owed the debt. Any monies remaining after federal tax withholding and after collection of the debt will be paid to the claimant.

2. If the debt is of a claimant who submits an Internal Revenue Service Form 5754 at the time of filing the claim, or of a person whose name appears on an Internal Revenue Service Form 5754 or who is entitled to receive Lottery winnings claimed by a legal entity, an amount sufficient to cover the claimant's or other person's debt, but not to exceed his or her percentage interest in the prize or entity, will be transferred to the state agency owed the debt. The monies remaining will be paid to the claimant and any other persons entitled to receive a portion of the Lottery winnings.

(20) Payment after Death of Prizewinner Receiving Deferred Payments. If a prizewinner dies during the scheduled payment period of a deferred payment prize, the Lottery will make payment to the estate of the deceased prizewinner upon its receipt of a certified copy of the winner's death certificate and a certified copy of the Letters of Administration or equivalent document establishing the personal representative or executor of the winner's estate. Upon its receipt of a certified copy of a court order directing payment to identified persons or entities in accordance with a prizewinner's will or state law, the Lottery will make payment in accordance with the court order. Upon receipt by the Lottery of notification of the death of a prizewinner, no payments will be made by the Lottery until it has received a certified copy of the winner's death certificate and either a certified copy of the Letters of Administration or its equivalent or a court order as described above. Payments withheld because appropriate documents have not been received will be subject to the provisions of Chapter 717, Florida Statutes, the "Florida Disposition of Unclaimed Property Act."

(21) Payment of Online Terminal Game Multi-play Tickets Including a Cash Prize and a Free Quick Pick Ticket Prize. Additional payment provisions applicable only to winning online terminal game multi-play tickets (tickets with more than one panel played for a single draw date) that include a cash prize and a prize of a free quick pick ticket are as follows:

(a) A \$1.00 value for each free quick pick ticket on a multi-play ticket shall be included in the total prize value of the ticket.

(b) Online terminal game multi-play tickets with a total prize value less than \$600 shall be paid by Lottery retailers or a Lottery office upon successful ticket validation. The claimant shall be paid the cash amount of the prize and given a ticket with one free quick pick play for the same online terminal game in which the prize was won, for the next available drawing for each free quick pick ticket prize.

(c) Online terminal game multi-play tickets with a total prize value of \$600 or more shall be claimed at a Lottery office. Retailer locations cannot print free quick pick tickets that are part of a claim with a total value of \$600 or more.

1. If the claim is submitted to a Lottery office in person and the online terminal game multi-play ticket is successfully validated, the Lottery will pay the claimant the cash prize and give the claimant a ticket with one free quick pick play for the next available drawing of the same online terminal game in which the prize was won for each free quick pick ticket prize.

2. If the claim is submitted by mail to a Lottery office and the online terminal game multi-play ticket is successfully validated, the Lottery will pay the cash prize and, if the claimant's address is in Florida, print a ticket with one free quick pick play for the next available drawing of the same online terminal game in which the prize was won for each free quick pick ticket prize. The payment and the free ticket shall be mailed to the claimant by the Lottery, except as set forth in subsection (7) above. A free ticket shall be mailed prior to the drawing applicable to that ticket.

3. If the claimant is identified as owing an outstanding debt as set forth in paragraph (19)(j), in an amount less than the cash portion of the prize net of any federal income tax withholding, the non-cash portion of the prize and the amount owed to the claimant after his or her debt is satisfied and taxes have been withheld shall be awarded. If the claimant is identified as owing an outstanding debt in an amount greater than the cash portion of the prize net of any federal income tax withholding, the cash portion of the prize remaining after taxes have been withheld will be applied toward the outstanding debt as provided in subsection 24.115(4), Florida Statutes, and the claimant will receive the remaining non-cash portion of the prize.

(22) Canceled and Previously Paid Tickets. No payment shall be made upon a ticket submitted for payment that is reflected in the Lottery's records as having been canceled or previously paid.

(23) Disclosure of Source of Ticket. The Lottery reserves the right to require the claimant of any winning ticket to disclose the source of the ticket.

(24) Final Payment Decision. The Lottery's decision and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes shall be final and binding upon all participants in the

lottery unless otherwise provided by law or these rules. In the event a question arises relative to a winning ticket, or the payment or awarding of any prize, the Lottery is authorized to:

(a) Deposit the prize winnings into an escrow fund until the dispute is resolved; or

(b) Petition a court of competent jurisdiction for instructions and a resolution of the controversy.

(25) All tickets and claim forms presented to the Florida Lottery shall become the property of the Florida Lottery.

(26) Information for claiming a prize can be obtained by writing the Florida Lottery, Customer Service, 250 Marriott Drive, Tallahassee, Florida 32399-4016, or by calling (850) 487-7777.

(27) Payment of winning tickets is subject to all other applicable statutes and rules.

(28) This emergency rule replaces Emergency Rule 53ER12-80, Fla. Admin. Code.

(29) The effective date of this emergency rule is May 15, 2013.

Rulemaking Authority 24.105(9)(e), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(e), 24.115(1), (4) FS. History—New 5-15-13. Replaces 53ER12-80, Fla. Admin. Code.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: May 15, 2013

DEPARTMENT OF THE LOTTERY

RULE NO.: RULE TITLE:

53ER13-32 MEGA MILLIONS

SUMMARY: This emergency rule sets forth the provisions for the conduct of MEGA MILLIONS®.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER13-32 MEGA MILLIONS®.

(1) Definitions.

The following words and terms, when used in this rule, have the following meanings, unless the context clearly indicates otherwise:

(a) Annuity prize – A Jackpot Prize paid in twenty-six annual installments.

(b) Finance & Audit Committee- The committee established by the Multi-State Lottery Association Agreement.

(c) MEGA MILLIONS Lottery or Lotteries – Lotteries that have joined under the MEGA MILLIONS Lottery Agreement;

the group of lotteries that has reached a Cross-Selling Agreement with the MUSL Product Group for the selling of the MEGA MILLIONS Game.

(d) MUSL – The Multi-State Lottery Association.

(e) MUSL Board – The governing body of MUSL which is comprised of the chief executive officer of each party lottery.

(f) Participating Lottery or Selling Lottery – A state lottery or lottery of a political subdivision or entity that is participating in selling the MEGA MILLIONS game.

(g) Party Lottery – A State lottery or lottery of a political subdivision or entity that has joined MUSL and, in the context of the MEGA MILLIONS Product Group Rules, that has joined in selling the games offered by the Product Group.

(h) Product Group – The group of lotteries that has joined together to offer the MEGA MILLIONS lottery game under the terms of its Cross-Selling Agreement with the MEGA MILLIONS Lotteries, the MUSL Agreement and the MUSL MEGA MILLIONS Product Group rules.

(i) Set prize – All prizes except the Jackpot Prize that are advertised to be paid by a single lump-sum payment and, except as set forth in paragraph (7)(f), will be equal to the prize amount established by the MUSL Board for the prize level.

(2) How to Play MEGA MILLIONS.

(a) MEGA MILLIONS is a multi-state lottery online terminal game. In MEGA MILLIONS, players select five numbers from a field of one through fifty-six and one number (the “Mega Ball”) from a separate field of one through forty-six.

(b) Players may make their ticket selections by marking a play slip or by telling the retailer their desired selections. There are five panels on a play slip, each containing an upper play area and a lower play area. Each panel played will cost \$1.00 per drawing. Players may mark their desired numbers on the play slip by selecting five numbers in the upper play area and one number in the lower play area from each panel played. Players may also mark the “QP” (Quick Pick) box located at the bottom of each play area for the terminal to randomly select one or more numbers from the applicable play area. A “Void” box is also located at the bottom of each panel and should be marked by the player if an error was made in his or her selections in a panel. For each panel played, the first five of the six numbers appearing in a single horizontal row on a ticket shall be the numbers selected from the upper play area of the play slip, and the last number shall be the number selected from the lower play area of the play slip.

(c) For an additional \$1.00 per play, players may mark the Megaplier® box to multiply the third through ninth prizes and increase the second prize. Megaplier will apply to all panels played.

(d) Players must use only blue or black ink or pencil for making selections. Play slips must be processed by a retailer in order to obtain a ticket. Retailers also are authorized to manually enter numbers selected by a player.

(e) Players may play up to twenty-six consecutive drawings by using the “advance play” feature. To use the advance play feature, players may either mark the number of drawings desired in the “Advance Play” section of a play slip or tell the retailer their desired number of consecutive advance drawings. The number of consecutive drawings marked will include the next available drawing and will apply to each panel (A-E) played.

(3) Drawings.

(a) MEGA MILLIONS drawings shall be conducted two times per week, on Tuesdays and Fridays at approximately 11:00 p.m. Eastern Time (ET).

(b) The Florida Lottery shall not be responsible for incorrect circulation, publication or broadcast of official winning numbers.

(4) Determination of Prize Winners.

In order for a ticket to be a winning ticket, numbers appearing in a single horizontal row on the ticket must match the official winning numbers in any order for the drawing date for which the ticket was purchased, in one of the following combinations:

(a) Jackpot Prize: Five numbers selected from the first set of balls plus the number selected from the second set of balls.

(b) Second Prize: Five numbers selected from the first set of balls and not the number selected from the second set of balls.

(c) Third Prize: Four numbers selected from the first set of balls plus the number selected from the second set of balls.

(d) Fourth Prize: Four numbers selected from the first set of balls and not the number selected from the second set of balls.

(e) Fifth Prize: Three numbers selected from the first set of balls plus the number selected from the second set of balls.

(f) Sixth Prize: Two numbers selected from the first set of balls plus the number selected from the second set of balls.

(g) Seventh Prize: Three numbers selected from the first set of balls and not the number selected from the second set of balls.

(h) Eighth Prize: One number selected from the first set of balls plus the number selected from the second set of balls.

(i) Ninth Prize: No numbers selected from the first set of balls and the number selected from the second set of balls.

(5) Limited to Highest Prize Won. The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(6) Odds of Winning.

(a) The odds of winning the prizes described in subsection (4) are as follows:

- 1. Jackpot Prize- 1:175,711,536.00
- 2. Second Prize- 1:3,904,700.80
- 3. Third Prize- 1:689,064.85
- 4. Fourth Prize- 1:15,312.55
- 5. Fifth Prize- 1:13,781.30
- 6. Sixth Prize- 1:843.75
- 7. Seventh Prize- 1:306.25
- 8. Eighth Prize- 1:140.63
- 9. Ninth Prize- 1:74.80

(b) The overall odds of winning a prize in a MEGA MILLIONS drawing are 1:39.89.

(7) Prize Pool.

(a) Prize Pool. The prize pool for all categories shall consist of up to fifty-five percent of each drawing period's sales after the prize reserve accounts are funded to the amounts set by the Product Group, but may be higher or lower based upon the number of winners at each prize level, as well as the funding required to meet a guaranteed annuity prize.

(b) Prize Reserve Accounts. An amount up to five percent of a Party Lottery's sales shall be added to a Party Lottery's Jackpot Prize Pool contribution and placed in trust in one or more prize reserve accounts held by the Product Group at any time that the Party Lottery's share of the prize reserve account(s) is below the amounts designated by the Product Group. The maximum amount of the prize reserve account is \$45,000,000.00. The Product Group may determine to expend all or a portion of the funds in the reserve accounts for:

- 1. the purpose of indemnifying the Participating Lotteries in the payment of prizes to be made by the Participating Lotteries, subject to the approval of the MUSL Board; and
- 2. for the payment of prizes or special prizes in the game, subject to the approval of the Finance and Audit Committee.

The shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve account(s) as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the Product Group in accordance with jurisdictional law.

(c) Expected Prize Payout Percentages.

The Jackpot Prize shall be determined on a pari-mutuel basis. Except as provided in these rules, all other prizes awarded shall be paid as set prizes with the following expected prize payout percentages, that does not include an additional amount held in prize reserves:

<u>Tickets Containing the Following</u>	<u>Prize Category</u>	<u>Prize Payment</u>	<u>Approximate Percentage of Winnings Pool Allocated to Prize Category</u>
<u>Five first set numbers and the one number of the second set</u>	<u>Jackpot Prize</u>	<u>Jackpot Prize</u>	<u>63.60%</u>
<u>Five first set numbers and none of the second set</u>	<u>Second Prize</u>	<u>\$250,000.00</u>	<u>12.80%</u>
<u>Four first set numbers and the one number of the second set</u>	<u>Third Prize</u>	<u>\$10,000.00</u>	<u>2.90%</u>
<u>Four first set numbers and none of the second set</u>	<u>Fourth Prize</u>	<u>\$150.00</u>	<u>1.96%</u>
<u>Three first set numbers and the one number of the second set</u>	<u>Fifth Prize</u>	<u>\$150.00</u>	<u>2.18%</u>
<u>Two first set numbers and the one number of the second set</u>	<u>Sixth Prize</u>	<u>\$10.00</u>	<u>2.38%</u>
<u>Three first set numbers and none of the second set</u>	<u>Seventh Prize</u>	<u>\$7.00</u>	<u>4.58%</u>
<u>One first set number and the one number of the second set</u>	<u>Eighth Prize</u>	<u>\$3.00</u>	<u>4.26%</u>
<u>None of the first set numbers and the one number of the second set</u>	<u>Ninth Prize</u>	<u>\$2.00</u>	<u>5.34%</u>

(d) Prize money allocated to the Jackpot Prize category will be paid on a pari-mutuel basis, divided equally by the number of plays determined to be winners of the Jackpot Prize.

(e) The number of plays determined to be winners of the Second through Ninth Prize levels will be paid as set prizes, except as provided in paragraph (7)(f) below. If all or any portion of the set prize pool is not awarded in the current MEGA MILLIONS drawing, that portion of the set prize pool shall be carried forward to subsequent MEGA MILLIONS drawings.

(f) Liability Cap. If the total prize liability for all lotteries selling MEGA MILLIONS (exclusive of any jackpot prize carried forward) exceeds three hundred percent of drawing sales or fifty percent of drawing sales plus \$50,000,000.00, whichever is less (both hereinafter referred to as the "Liability Cap"), the Second through Fifth Prizes shall be paid on a pari-mutuel basis, provided, however, that in no event shall the pari-mutuel prize be greater than the official advertised prize.

The amount to be used for the allocation of such pari-mutuel prizes (two through five) shall be the Liability Cap less the amount paid for the jackpot prize and prize levels six through nine. To fund their portion of the Liability Cap, the Party Lotteries may utilize the following sources:

1. The amount allocated to the set prizes, including any Megaplier prizes, and carried forward from previous draws, if any; and

2. An amount from the prize reserve account.

(g) In the event the Liability Cap is met, the amount to fund the Jackpot Prize together with the amounts to fund prize levels six through nine shall be first paid from the Liability Cap amount. The balance of the Liability Cap, after deducting the Jackpot Prize and payment for prize levels six through nine (hereinafter referred to as the "Liability Cap Balance"), shall be applied to prize levels two through five on a pari-mutuel basis in accordance with the following formula:

1. Prize level two (normally \$250,000.00) shall be an amount equal to 64.53% of the Liability Cap Balance divided by the number of winners in prize level two;

2. Prize level three (normally \$10,000.00) shall be an amount equal to 14.63% of the Liability Cap Balance divided by the number of winners in prize level three; and

3. Prize levels four and five (normally \$150.00) shall be an amount equal to 20.84% of the Liability Cap Balance divided by the number of combined winners in prize levels four and five.

(h) Any interest or earnings accrued on a set prize prior to prize payment shall accrue to the State of Florida and not to the winner.

(8) Jackpot Prize.

(a) The prize money available in the Jackpot Prize pool will be divided equally among all jackpot prize winners in all participating lotteries. Jackpot prizes won shall be funded by the Selling Lotteries in accordance with the formula set by the MEGA MILLIONS Lotteries. The minimum guaranteed annuity prize amount is \$12 million. If the Jackpot Prize is not won in a drawing, the prize money allocated for the Jackpot Prize shall roll over and be added to the Jackpot Prize pool for the following drawing.

(b) Players can choose one of two payment options for receiving their portion of the MEGA MILLIONS Jackpot Prize. Payment options are "Cash Option" and "Annual Payment."

(c) Jackpot Prize winners have sixty days after the winning draw date to choose between the two payment options. Once the Jackpot Prize winner signs the Winner Claim Form, files a claim and exercises the winner's chosen option, the election of that option shall be final and cannot be revoked, withdrawn or otherwise changed except as provided in paragraph (8)(j) below.

(d) In order to select the Cash Option, the Jackpot Prize winner must submit his or her ticket for payment within sixty days after the winning draw date. If the Jackpot Prize winner does not elect the Cash Option within sixty days after the winning draw date, the Annual Payment option will be applied, except as provided in paragraph (8)(g) below.

(e) A Jackpot Prize winner who chooses the Cash Option will receive the cash option amount determined by the Product Group, less applicable withholding taxes.

(f) If a Jackpot Prize winner elects the Annual Payment option, his or her share of the Jackpot Prize will be paid in twenty-six equal annual installments, each less applicable withholding taxes. The initial payment shall be paid upon completion of internal validation procedures. The subsequent twenty-five payments shall be paid annually to coincide with the month of the Federal auction date at which the bonds were purchased to fund the annuity. All such payments shall be made within seven days of the anniversary of the annual auction date. MUSL shall purchase securities through a competitive purchase with a minimum of three primary brokerage firms of its choice.

(g) If individual winners' shares of the cash held to fund Annual Payments are less than \$250,000.00, the Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Jackpot Prize pool.

(h) Annuitized payment of the Jackpot Prize or a share of the Jackpot Prize will be rounded to the nearest one thousand dollars to facilitate the purchase of an appropriate funding mechanism. Rounding differences on an annuitized Jackpot Prize win shall be added to the first cash payment to the winner or winners. Prizes other than the Jackpot Prize, which under this rule may become single-payment, pari-mutuel prizes, will be rounded down so that prizes can be paid in multiples of whole dollars. Rounding differences resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(i) The Florida Lottery will make the initial and any subsequent payments of a prize upon receipt of funds for such prize from MUSL.

(j) In the event of the death during the annuity payment period of a MEGA MILLIONS winner who elected the Annual Payment option, the estate of the deceased winner (the "Estate") may file a petition with the Florida Lottery to accelerate payment of all the remaining prize proceeds to the Estate. Such petition will be forwarded by the Florida Lottery to MUSL for processing.

(k) Federal income taxes shall be applied and withheld from the prize amount at the time payment is made, pursuant to applicable provisions of the Internal Revenue Code and Code of Federal Regulations.

(l) Any interest or earnings accrued on a MEGA MILLIONS Jackpot Prize prior to prize payment shall accrue to MUSL and not to the winner.

(9) MEGA MILLIONS Megaplier®.

(a) The Megaplier option shall be available in association with the MEGA MILLIONS game.

(b) At the time of purchasing a ticket, a player may choose the Megaplier feature for an additional \$1.00 per play for each play on the MEGA MILLIONS ticket to increase the guaranteed prize amount for the second through ninth tier prizes.

(c) Megaplier drawing. A separate random Megaplier drawing will occur before every MEGA MILLIONS drawing to determine one multiplier number for that drawing. The multiplier number that will be selected will be either, a 2, 3, or 4. The multiplier number drawn will be used to multiply the value of the prizes for the third through ninth tiers. In the event the multiplier drawing does not occur prior to the MEGA MILLIONS drawing, the multiplier number will be a 4. The multiplier number may also be referred to as the Megaplier number.

(d) The following table sets forth the probability of the various multiplier numbers being drawn during a single Megaplier drawing.

Multiplier	Probability of Prize Increase
4X	12 in 21
3X	7 in 21
2X	2 in 21
Multiplier numbers do not apply to the MEGA MILLIONS Jackpot Prize or to the Match 5+0 Prize.	

(e) Application of multiplier number.

1. Third through Ninth Prizes. The multiplier number selected is the number that is used to increase the prize amount, for the Third through the Ninth Prizes. A Third through the Ninth Prize winner who purchases the Megaplier feature with his or her MEGA MILLIONS ticket shall be paid a prize in the amount of the guaranteed prize amount multiplied by the multiplier number for that drawing.

2. Second Prize. The Second Prize for a winning MEGA MILLIONS with Megaplier ticket will always be a \$1,000,000.00 prize, except as provided in (9)(i) and (l). The multiplier number drawn does not apply to, affect or alter the Second Prize.

3. Jackpot Prize. The Megaplier feature does not apply to the Jackpot Prize.

(f) On occasion, the Product Group may change one or more of the multiplier numbers and/or the Match 5+0 Megaplier prize amount for special promotions.

(g) MEGA MILLIONS tickets that win the Second through Ninth Prizes with the Megaplier option will pay the amounts shown below:

Match	Prize	Without Megaplier	With Megaplier 2X	With Megaplier 3X	With Megaplier 4X
Match 5+0	Second	\$250,000.00	1,000,000.00	1,000,000.00	\$1,000,000.00
Match 4+1	Third	10,000.00	\$20,000.00	\$30,000.00	\$40,000.00
Match 4+0	Fourth	\$150.00	\$300.00	\$450.00	\$600.00
Match 3+1	Fifth	\$150.00	\$300.00	\$450.00	\$600.00
Match 2+1	Sixth	\$10.00	\$20.00	\$30.00	\$40.00
Match 3+0	Seventh	\$7.00	\$14.00	\$21.00	\$28.00
Match 1+1	Eighth	\$3.00	\$6.00	\$9.00	\$12.00
Match 0+1	Ninth	\$2.00	\$4.00	\$6.00	\$8.00

(h) The prize pool for Megaplier set prizes shall consist of up to fifty-five percent of each drawing period's sales as determined by the Product Group. The prize pool percentage allocated to Megaplier set prizes shall be carried forward to subsequent drawings if all or a portion of the percentage is not required to pay the set prizes for the current drawing or may be held in a prize reserve account.

(i) In certain rare instances, the MEGA MILLIONS set prize amount may be less than the amount shown. In such case, the seven lowest Megaplier prizes will be a multiple of the changed MEGA MILLIONS prize amount announced after the draw. For example, if the Match 4+1 MEGA MILLIONS set prize amount of \$10,000.00 becomes \$5,000.00 under the rules of the MEGA MILLIONS game, a Megaplier player winning that prize amount with a 4X multiplier would win \$20,000.00 (\$5,000.00 x 4). The Match 5+0 prize with the Megaplier option, that normally pays \$1,000,000.00, will be reduced by the same percentage that the Match 5+0 \$250,000.00 prize is reduced.

(j) If, with respect to a single MEGA MILLIONS drawing, the total of the MEGA MILLIONS set prizes and the Megaplier prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, the amount needed to fund the set prizes (including Megaplier prize amounts) shall be drawn from the following sources in the following order:

1. The amount allocated to the set prizes (including Megaplier prize amounts) and carried forward from previous drawings, if any.

2. An amount from the MEGA MILLIONS set prize reserve account not to exceed the lesser of three hundred percent of drawing sales or fifty percent of drawing sales plus \$50,000,000.

(k) If the sources set forth in paragraph (9)(j) are depleted and there still are not sufficient funds to pay the set prizes for a particular MEGA MILLIONS drawing (including Megaplier prize amounts), then the prize levels two through five shall become a pari-mutuel prize, as set out in paragraph (7)(g). The MEGA MILLIONS and Megaplier prize pools shall be combined in the rare instance when the set prizes, pursuant to the rules, are paid on a pari-mutuel basis, so that the multipliers, as provided for in the rules, will remain in effect for all applicable prize levels. The Match 5+0 prizes may be reduced as announced by the Product Group.

(l) MEGA MILLIONS set prizes that become pari-mutuel will be rounded down so that they can be paid in multiples of whole dollars. Funds remaining after rounding shall be carried forward to the prize pool for the next MEGA MILLIONS drawing.

(m) MEGA MILLIONS with Megaplier prizes shall be paid in single, lump-sum payment.

(10) Rules and Prohibitions.

(a) By purchasing a MEGA MILLIONS ticket, a player agrees to comply with and abide by all rules of the Florida Lottery.

(b) Florida prizes shall be claimed only through a Florida Lottery retailer or Lottery office beginning on the day following the drawing. The Florida Lottery is not authorized to accept claims or pay prizes for MEGA MILLIONS tickets purchased in other jurisdictions. MEGA MILLIONS prize payments shall be made in accordance with rules of the Florida Lottery governing payment of prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

(c) Subject to a retailer's hours of operation and on-line system availability, MEGA MILLIONS lottery tickets are available for purchase daily between the hours of 6:00 a.m. and 12:00 midnight, ET. Ticket sales for a specific MEGA MILLIONS drawing will close at 10:00 p.m., ET, on the night

of the drawing. Any ticket sold after the close of game will be printed with the next MEGA MILLIONS drawing date.

(d) MEGA MILLIONS tickets cannot be canceled.

(11) The effective date of this emergency rule is May 15, 2013.

Rulemaking Authority 24.105(9)(a), (b), (c), (e), (f), (h), 24.109(1), 24.115(1) FS. Law Implemented, 24.105(9)(a), (b), (c) (e), (f), (h), 24.115(1), 24.116(1), 24.117(2), 24.124(1) FS. History--New 5-15-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: May 15, 2013

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT
Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-35.0011: Requirements for Applicant Admission into a Law Enforcement, Correctional, and Correctional Probation Basic Recruit Training Program

The Criminal Justice Standards and Training Commission hereby gives notice: The Criminal Justice Standards and Training Commission has issued an order. On April 23, 2013, the Criminal Justice Standards and Training Commission received a petition for a permanent waiver of subsection 11B-35.0011(1), F.A.C., from Department of Corrections on behalf of David Herbert. The Petitioner wished to waive that portion of the rule that states a Basic Abilities Test (BAT) score is only good for four years from the date of the test. The Petitioner stated that Officer Herbert passed the BAT, but the score expired before his hire date in October of 2012. Notice of receipt of the petition was published in the Florida Administrative Register Volume 39, Number 83, on April 29, 2013.

On May 9, 2013, at its regularly scheduled business agenda meeting held in Sarasota, FL, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The application of the rule violates the principles of fairness in Petitioner's situation because he has in hand a conditional offer of employment. Petitioner will suffer economic hardship under the rule as it is applied. The Commission found that the purposes of the underlying statute, Section 943.1395(1), F.S., to ensure that officers meet strict qualification criteria and

minimum training requirements, would be addressed in an alternative method by granting this rule waiver. The Commission granted the Petitioner's waiver request. The Officer Herbert's BAT scores are deemed timely and his SOCE scores may be released and he may be employed full-time as a Correctional Officer.

A copy of the Order or additional information may be obtained by contacting Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-27.002: Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers

The Criminal Justice Standards and Training Commission hereby gives notice: The Criminal Justice Standards and Training Commission has issued an order on May 9, 2013.

On April 29, 2013, the Criminal Justice Standards and Training Commission received a petition for a waiver of subsection 11B-35.003(4), F.A.C., by Scot Hollingsworth. Petitioner wished to waive that portion of the rule which requires an officer to take and pass high liability courses as part of the basic recruit curriculum in order to become a certified full-time law enforcement officer.

Petitioner believed that his employment as a reserve deputy holding auxiliary law enforcement certification at the Hillsborough County Sheriff's Office has more than prepared him at a high level for dealing with all aspects of the high liability courses. He wished to have his attendance at these courses waived in favor of his achievements as a reserve deputy. Petitioner requested a one-year waiver to begin September 1, 2013. Notice of receipt of the petition was published in the Florida Administrative Register Volume 39, Number 85 on May 1, 2013.

On May 9, 2013, at its regularly scheduled business agenda meeting held in Sarasota, Florida, the Commission found that the Petitioner's situation is not unique. The Petitioner failed to demonstrate that the strict application of the Commission's rules in this case would violate the principles of fairness. The Commission found that the purposes of the underlying statute, which is to ensure that officers receive adequate instruction in high liability topics, will not be met by granting this waiver request. The Commission denied the Petitioner's request for a waiver.

A copy of the Order or additional information may be obtained by contacting Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box

1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-35.0011: Requirements for Applicant Admission into a Law Enforcement, Correctional, and Correctional Probation Basic Recruit Training Program

The Criminal Justice Standards and Training Commission hereby gives notice: The Criminal Justice Standards and Training Commission has issued an order. The Petitioner wishes to waive that portion of the rule that states a Basic Abilities Test (BAT) score is only good for four years from the date of the test. The Petitioner stated that Howard passed the BAT on October 22, 2008. Petitioner then hired Howard on a Temporary Employment Authorization (TEA). Budget cuts forced Petitioner to terminate Howard and 190 other TEAS in 2011. Petitioner rehired Howard in September of 2012. Howard's BAT score expired October 22, 2012. Howard entered basic recruit training December 3, 2012, and graduated February 19, 2013. She took the State Officer Certification Examination on February 27, 2013, but her scores will not be released without a waiver of the rule. Notice of receipt of the petition was published in the Florida Administrative Register Volume 39, Number 79, on April 23, 2013.

On May 9, 2013, at its regularly scheduled business agenda meeting held in Sarasota, FL, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The application of the rule violates the principles of fairness in Petitioner's situation because he has in hand a conditional offer of employment. Petitioner will suffer economic hardship under the rule as it is applied. The Commission found that the purposes of the underlying statute, Section 943.1395(1), F.S., to ensure that officers meet strict qualification criteria and minimum training requirements, would be addressed in an alternative method by granting this rule waiver. The Commission granted the Petitioner's waiver request. The Officer Howard's BAT scores are deemed timely and her SOCE scores may be released and she may be employed full-time as a Correctional Officer.

A copy of the Order or additional information may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-35.001: General Training Programs; Requirements and Specifications

The Criminal Justice Standards and Training Commission hereby gives notice: The Criminal Justice Standards and Training Commission has issued an order. The Petitioner wishes to waive that portion of paragraph 11B-35.001(9)(b), F.A.C., that requires students in the General Instructor Techniques Course to pass with a score of 85%. An audit of the records at FPSA showed that Petitioner was passed with a score of 84%. The Petitioner relied upon his certificate as proof of passing and his instructor had declared to the class that a passing score was 80% or higher. The Petitioner would have passed the end-of-course examination except for a change in the rule on September 28, 2009, in which the passing score was changed from 75% to 85%. Notice of receipt of the petition was published in the Florida Administrative Register Volume 39, Number 65, on April 3, 2013.

On May 9, 2013, at its regularly scheduled business agenda meeting held in Sarasota, FL, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The application of the rule violates the principles of fairness in Petitioner's situation because he relied upon his instructor's declaration that a passing score was 80% or higher on the end-of-course examination. Petitioner will suffer economic hardship under the rule as it is applied. The Commission found that the purposes of the underlying statute, Section 943.17, F.S., to ensure that instructors meet strict qualification criteria and minimum training requirements, would be addressed in an alternative method by granting this rule waiver. The Commission granted the Petitioner's waiver request.

A copy of the Order or additional information may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-35.0021: Courses and Requirements for Basic Recruit Training, Advanced, and Instructor Training Requiring Proficiency Demonstration

The Criminal Justice Standards and Training Commission hereby gives notice: The Criminal Justice Standards and Training Commission has issued an order. On April 12, 2013,

the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of paragraphs 11B-20.0014(2)(d) and 11B-35.0021(6)(d), F.A.C., by Santa Fe College Institute of Public Safety on behalf of First Aid Instructor, Jon Duff. Petitioner wished to waive that portion of subparagraph 11B-20.0014(2)(d)6., F.A.C., that requires a Florida certified Paramedic to obtain CJSTC certification before instructing basic recruit training first aid courses. The Petitioner wished to waive that portion of paragraph 11B-35.0021(6)(d), F.A.C., which requires a specified student/instructor ratio in high liability courses, including First Aid. The Petitioner stated that it hired Instructor Duff to teach First Aid to law enforcement basic recruit students. At all times pertinent to the waiver, Instructor Duff was a certified Florida Paramedic and was eligible to use that certification to obtain a CJSTC First Aid instructor certificate upon application. However, Instructor Duff did not apply for certification. Notice of receipt of the petition was published in the Florida Administrative Register Volume 39, Number 75, on April 17, 2013.

On May 9, 2013, at its regularly scheduled business agenda meeting held in Sarasota, FL, the Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness. The application of the rule violates the principles of fairness in Petitioner's situation because its First Aid Instructor, Jon Duff, is a certified Florida Paramedic and is eligible to use that to obtain an Instructor certification to teach First Aid if he were to apply for such certification. Petitioner permitted Instructor Duff to teach First Aid to recruits without applying for and receiving a certificate from the CJSTC. Instructor Duff was eligible for such certificate at all times pertinent to this waiver. Petitioner will suffer economic hardship under the rule as it is applied. The Commission found that the purposes of the underlying statute, Section 943.17, F.S., to ensure that instructors meet strict qualification criteria and minimum training requirements, would be addressed in an alternative method by granting this rule waiver. The Commission granted the Petitioner's waiver request.

A copy of the Order or additional information may be obtained by contacting Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, or by telephoning (850)410-7676.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-4.010: Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on May 10, 2013, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for Subparagraph 3-305.11(A)(2), 2009 FDA Food Code, Paragraph 3-305.14, 2009 FDA Food Code, Paragraph 6-202.15, 2009 FDA Food Code, Paragraph 6-202.16, 2009 FDA Food Code, subsection 61C-4.010(1), Florida Administrative Code, and subsection 61C-4.010(6), Florida Administrative Code from Gerardo Fiallos Mobile Unit located in Orlando. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: RULE TITLE:

61J1-4.009: Post Licensing Education for Registered Trainee Appraisers

The Florida Real Estate Appraisal Board hereby gives notice of the issuance of an Order regarding the Petition for Variance, filed on July 17, 2012, by Brian Lee Roper. The Notice of Petition for Waiver or Variance was published in Vol. 38, No. 31, of the August 3, 2012, Florida Administrative Register. The Board considered the Petition at a duly-noticed public meeting held on August 14, 2012. Petitioner sought a waiver or variance of Rule 61J1-4.009, F.A.C., in regards to the hour requirements for continuing education for registered trainee appraisers.

The Board's Order, filed on November 27, 2012, denies the petition finding that Petitioner's trainee status became void as a matter of law pursuant to Section 475.6175(2), Florida Statutes. Granting of this petition would conflict with such statutory requirement, and the Board does not have authority to waive a statutory requirement.

A copy of the Order or additional information may be obtained by contacting:

Juana Watkins, Division Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801.

Section VI

Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

The Agricultural Feed, Seed and Fertilizer Advisory Council announces a public meeting to which all persons are invited.

DATE AND TIME: June 6, 2013, 9:00 a.m.

PLACE: Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Eyster Auditorium, Tallahassee, Florida 32399 or via WebEx at <https://suncom.webex.com/suncom/j.php?ED=180319002&UID=1386974232&RT=MiMxMQ%3D%3D>, (888)670-3525, access code 880 293 4969

GENERAL SUBJECT MATTER TO BE CONSIDERED:

The Council discusses and makes recommendations regarding actions to be taken with respect to the regulation and enforcement of agricultural feed, seed and fertilizer.

A copy of the agenda may be obtained by contacting: The Bureau of Compliance Monitoring, (850)617-7850 or from the Council website <http://consensus.fsu.edu/AFSFAC/index.html> For more information, you may contact: Ms. Kelly Friend, Chief, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-1650, (850)617-7850, Kelly.Friend@FreshFromFlorida.com.

DEPARTMENT OF EDUCATION

State Board of Education

The State Board of Education announces a public meeting to which all persons are invited.

DATE AND TIME: May 21, 2013, 9:00 a.m.

PLACE: Duval County School Board Office, 1701 Prudential Drive, Jacksonville, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:

The meeting agenda will consist of approval of minutes of the State Board meeting held April 16, 2013, and updates on various reports and status of education initiatives by the Commissioner. Updates will be provided on the 2013 Legislative Session and other critical education initiatives. Items for consideration include action relating to the following: Amendment to Rule 6A-10.0315, College Preparatory Testing, Placement, and Instruction and Amendment to Commission for Independent Education Rule 6E-2.004, Standards and Procedures for Licensure. Other items for consideration include: Appointment of Vice Chair of the State Board of Education; Approval of the 2013 Voluntary Prekindergarten Provider Good Cause Exemption Staff Recommendations to the State Board of Education (Summer

VPK programs only); Request for Approval of Baccalaureate Proposal by Gulf Coast State College for a BAS in Digital Media; Approval of the Order on Notice of Appeal of Denial of Charter School Application for Florida Virtual Academy at Pinellas County; Charter School Appeals: Orange Park Performing Arts Academy, Inc. vs. School Board of Clay County; Stephen Biko Charter High School vs. School Board of Duval County; and Traneshia L. Galloway Charter School of Business & Integrated Technology vs. School Board of Gadsden County; Approval of Designation of Academically High-Performing School Districts; and Approval of Appointment to the Education Practices Commission.

A copy of the agenda may be obtained by contacting: Lynn Abbott at (850)245-9661, lynn.abbott@fldoe.org, or by visiting the Department's website at: <http://www.fldoe.org>.

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 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or lynn.abbott@fldoe.org. 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).

For more information, you may contact: Lynn Abbott at (850)245-9661 or lynn.abbott@fldoe.org.

DEPARTMENT OF TRANSPORTATION

The Florida Department of Transportation (FDOT) announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, May 21, 2013, 1:00 p.m.

PLACE: Orlando Urban Office, 133 South Semoran Blvd., Orlando, FL 32807

GENERAL SUBJECT MATTER TO BE CONSIDERED: Financial Management No. 43219315201; Project Description: I-4 Ultimate Project.

The purpose of the meeting is for the Project Selection Committee to meet and make decisions regarding the Short-Listing of Proposers on the I-4 Ultimate Project.

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 7 days before the workshop/meeting by contacting: Michelle Sloan, michelle.sloan@dot.state.fl.us or (386)943-5528.

Public participation is solicited without regard to race, color, national origin, age, sex, disability or family status.

Persons who require translation services (free of charge) should contact Michelle Sloan at the phone number above. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Either Michelle Sloan, the FDOT Procurement Manager at (386)943-5528 or email at michelle.sloan@dot.state.fl.us.

Additional information on the project is also available at <http://www.moving-4-ward.com/>.

DEPARTMENT OF TRANSPORTATION

The Florida Department of Transportation (FDOT) announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, June 11, 2013, 6:00 p.m. – 8:00 p.m. An Informal Open House: 6:00 p.m. – 8:00 p.m.

PLACE: The Rock Church of Central Florida, 6641 W. State Road 46, Sanford, FL 32771

GENERAL SUBJECT MATTER TO BE CONSIDERED: Financial Management No.: 240200-4.

Project Description: Wekiva Parkway Section 8.

This is a Design-Build project of 2.63 miles of limited access toll road. The limits of the project are from Orange Boulevard to East of Rinehart Road. The project includes the new Wekiva Parkway interchange at I-4 that will connect with State Road 417, completing the beltway around Central Florida. Work includes designing bridges, drainage, lighting, sign and pavement markings, utilities, and other roadway features.

A copy of the agenda may be obtained by contacting: A flyer will be distributed at the meeting.

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 7 days before the workshop/meeting by contacting: Ms. Mary Brooks, Public Information Officer at (407)694-5505, or via email at info@wekivaparkway.com.

Public participation is solicited without regard to race, color, national origin, age, sex, disability or family status.

Persons who require translation services (free of charge) should contact Ms. Brooks at the phone number above. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Kevin Moss, the FDOT Project Manager, at (386)943-5255 or via email at Kevin.Moss@dot.state.fl.us. You also may log onto the project website at www.wekivaparkway.com.

PUBLIC SERVICE COMMISSION

The Florida Public Service Commission announces public customer meetings in the following docket to which all persons are invited.

DATE AND TIME: Wednesday, May 29, 2013, 6:00 p.m.

PLACE: Hillsborough Community College/Dale Mabry Campus, Student Services Auditorium – DSTU Building, Room 111, 4001 West Tampa Bay Boulevard, Tampa FL 33614.

DATE AND TIME: Thursday, May 30, 2013, 10:00 a.m.

PLACE: Chain of Lakes Complex – Poolside Room, 210 Cypress Gardens Boulevard, Winter Haven, FL 33880

GENERAL SUBJECT MATTER TO BE CONSIDERED: Docket No. 130040-EI – Petition for rate increase by Tampa Electric Company.

The purpose of the meeting is to give customers and other interested persons an opportunity to offer comments regarding the quality of service the utility provides, the proposed rate increase, and to ask questions and comment on other issues. One or more of the Commissioners of the Florida Public Service Commission may attend and participate in this meeting. For questions, contact Commission staff, Martha Brown at (850)413-6187.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, via (800)955-8770 (Voice) or (800)955-8771 (TDD), Florida Relay Service.

DEPARTMENT OF ELDER AFFAIRS

The Department of Elder Affairs announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, May 28, 2013, 9:00 a.m. – 11:00 a.m. (EST)

PLACE: <https://www2.gotomeeting.com/register/342778978>. Audio information: This webinar will be presented using Voice Over Internet Protocol (VOIP). To utilize VOIP, please have speakers and a microphone connected to your computer. If speakers and a microphone are not available to you, or your computer doesn't have a sound card, please login to the webinar and follow the prompts to call the conference line (long distance charges apply). To avoid long distance charges, please see the audio options below. If you have any questions prior to the webinar regarding the audio options, please contact: Shandra McGlohon, Florida Department of Elder

Affairs, email: mcglohonsa@elderaffairs.org, (850)414-2317. Audio options (USB equipment is ideal): (1) USB or analog headset. (2) Headphones and microphone. (3) Speakers and microphone. (4) Speakers only – Questions and comments can be submitted via the Question Pane. After registering you will receive a confirmation email containing information about joining the Webinar. System Requirements, PC-based attendees: required - Windows® 7, Vista, XP, 2003 Server or 2000. Macintosh®-based attendees: required - Mac OS® X 10.4.11 (Tiger®) or newer.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The work of the Purple Ribbon Task Force will be discussed.

A copy of the agenda may be obtained by contacting: Danielle Bist, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, (850)414-2140, email: bistd@elderaffairs.org.

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 72 hours before the workshop/meeting by contacting: Danielle Bist, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, (850)414-2140, email: bistd@elderaffairs.org. 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).

For more information, you may contact: Danielle Bist, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, (850)414-2140, email: bistd@elderaffairs.org.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

The Agency for Health Care Administration announces a public meeting to which all persons are invited.

DATE AND TIME: May 28, 2013, 1:00 p.m. – 4:00 p.m.

PLACE: AHCA Headquarters, 2727 Mahan Drive in Tallahassee

GENERAL SUBJECT MATTER TO BE CONSIDERED: Medical Care Advisory Committee quarterly meeting.

A copy of the agenda may be obtained by contacting: Carla Sims in the Medicaid Director's Office at (850)412-4013, or by email at carla.sims@ahca.myflorida.com

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 24 hours before the workshop/meeting by contacting Carla Sims in the Medicaid Director's Office at (850)412-4013, or by email at carla.sims@ahca.myflorida.com. 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).

For more information, you may contact Carla Sims in the Medicaid Director's Office at (850)412-4013, or by email at carla.sims@ahca.myflorida.com.

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

The Board of Hearing Aid Specialists announces a public meeting to which all persons are invited.

DATE AND TIME: July 12, 2013, 10:00 a.m.

PLACE: Sheraton Sand Key Resort, 1160 Gulf Blvd., Clearwater, FL 33767, (727)595-1611.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general board business.

A copy of the agenda may be obtained by contacting: Sue Foster, Executive Director, Department of Health, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3258. If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made. Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System at 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Sue Foster at (850)245-4474.

DEPARTMENT OF HEALTH

Division of Environmental Health

The Bureau of Radiation Control announces a public meeting to which all persons are invited.

DATE AND TIME: May 28, 2013, 10:00 a.m. – 3:00 p.m.

PLACE: Hyatt Regency International Airport, 9300 Jeff Fuqua Boulevard, Orlando, Florida 32827

GENERAL SUBJECT MATTER TO BE CONSIDERED: Routine meeting of the Advisory Council on Radiation Protection to discuss and make recommendations on, or issues relating to, the following: radiation protection; radiation exposure and dose; national organizations and professional societies/associations, including their standards, recommendations, registrants and certificate holders; radiation requirements of federal agencies; radiation machines; radioactive materials including medical radioisotopes; radiation procedures and practices; radiologic technologists, radiologist assistants, specialty technologists, medical physicists, and other radiation-related personnel including their titles, duties, scopes of practice and supervision; educational programs and training courses; authorized operator/user/physicist requirements; emergency response and preparedness; radiation incidents/accidents; environmental monitoring; food irradiation; radiation therapy; fees; forms; license, certification, registration, and examination; Chapters

64E-3, 64E-4, 64E-5, F.A.C.; Chapters 404 and 468, Part IV, F.S., including the implementation of legislation affecting these Chapters; the Bureau of Radiation Control, including its internet site; and other business.

A copy of the agenda may be obtained by contacting: Brenda Andrews, Bureau of Radiation Control, Bin C21, 4052 Bald Cypress Way, Tallahassee, FL 32399-1741, (850)245-4266, or Brenda_Andrews@doh.state.fl.us.

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 10 days before the workshop/meeting by contacting: Brenda Andrews, Bureau of Radiation Control, Bin C21, 4052 Bald Cypress Way, Tallahassee, FL 32399-1741, (850)245-4266, or Brenda_Andrews@doh.state.fl.us. 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).

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

The Florida Fish and Wildlife Conservation Commission announces a telephone conference call to which all persons are invited.

DATE AND TIME: May 28, 2013, 1:15 p.m. – 2:15 p.m.

PLACE: Teleconference

GENERAL SUBJECT MATTER TO BE CONSIDERED: Evaluation of the FY 13-14 Florida's Wildlife Legacy Initiative's State Wildlife Grant project ideas for habitat monitoring.

A copy of the agenda may be obtained by contacting: Kelly Rezac, Regional Wildlife Legacy Biologist at (863)648-3822. 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).

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

The Department of Economic Opportunity announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, May 22, 2013, 2:30 p.m. – 4:30 p.m.

PLACE: Tampa Bay WorkForce Alliance Corporate Offices, 5100 W. Kennedy Blvd. Suite 300, Tampa, FL 33609; or by conference call dial-in number: (888)670-3525, conference code: 2967573617

GENERAL SUBJECT MATTER TO BE CONSIDERED: Ongoing meeting of the Executive Steering Committee for the Workforce Information Technology Procurement Project.

A copy of the agenda may be obtained by contacting: Mable Hicks at: mable.hicks@deo.myflorida.com.

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 48 hours before the workshop/meeting by contacting: Mable Hicks at: mable.hicks@deo.myflorida.com. 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).

SANTE FE COMMUNITY COLLEGE

The CJSTC Region IV Training Council announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, May 21, 2013, 2:00 p.m.

PLACE: Santa Fe College Institute of Public Safety, 3737 NE 39th Avenue, Gainesville, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: A meeting to discuss region IV training centers activities, CJST Commission updates, Advanced and Specialized courses, and the close of the 2012/2013 fiscal year.

A copy of the agenda may be obtained by contacting: Kathyleen Hardage at Santa Fe College Institute of Public Safety, (352)271-2943 or email: kathyleen.hardage@sfcollege.edu.

Section VI

Notice of Petitions and Dispositions Regarding Declaratory Statements

NONE

Section VIII

Notice of Petitions and Dispositions Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

Section IX

Notice of Petitions and Dispositions Regarding Non-rule Policy Challenges

NONE

Section X

Announcements and Objection Reports of the Joint Administrative Procedures Committee

NONE

Section XI

Notices Regarding Bids, Proposals and Purchasing

NONE

Section XII

Miscellaneous

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Motor Werks, LLC, for the establishment of FSTI mcyl line

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Puma Cycles Corporation, intends to allow the establishment of Motor Werks, LLC, as a dealership for the sale of motorcycles manufactured by Foshan City Fosti Motorcycle Manufacturing Co. Ltd. (line-make FSTI) at 1265 South US 1, Rockledge, (Brevard County), Florida 32955, on or after June 12, 2013.

The name and address of the dealer operator(s) and principal investor(s) of Motor Werks, LLC, are dealer operator(s): Elena Swiden, 430 Sundoro Court, Merritt Island, Florida 33953, Kevin Rude, 430 Sundoro Court, Merritt Island, Florida 33953; principal investor(s): Elena Swiden, 430 Sundoro Court, Merritt Island, Florida 33953, Kevin Rude, 430 Sundoro Court, Merritt Island, Florida 33953.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Lawrence Y. Luo, Puma Cycles Corporation, 576 Explorer Street, Brea, California 92821.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

FINANCIAL SERVICES COMMISSION

FSC - Financial Institution Regulation

Financial Institutions
NOTICE OF FILINGS

Financial Services Commission
Office of Financial Regulation

Notice is hereby given that the Office of Financial Regulation, Division of Financial Institutions, has received the following applications. Comments may be submitted to the Division Director, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for inclusion in the official record without requesting a hearing. However, pursuant to provisions specified in Chapter 69U-105, Florida Administrative Code, any person may request a public hearing by filing a petition with the Agency Clerk as follows:

By Mail or Facsimile	OR	By Hand Delivery
Agency Clerk		Agency Clerk
Office of Financial Regulation		Office of Financial Regulation
P.O. Box 8050		
Tallahassee, Florida 32314-8050		The Fletcher Building,
Phone (850)410-9800		Suite 118
Fax: (850)410-9548		101 East Gaines Street
		Tallahassee, Florida
		32399-0379
		Phone: (850)410-9643

The Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., June 3, 2013):

APPLICATION FOR A NEW FINANCIAL INSTITUTION
Applicant and Proposed Location: Trust Company of Florida, 1850

Avondale Circle, Jacksonville, Duval County, Florida 32205
Correspondent: Mary Biggers Knauer, 1850 Avondale Circle, Jacksonville, Florida 32205

Received: May 9, 2013

APPLICATION TO MERGE

Constituent Institutions: Harbor Community Bank, Indiantown,

Florida and Bank of St. Augustine, St. Augustine, Florida

Resulting Institution: Harbor Community Bank

With Title: Harbor Community Bank

Received: May 10, 2013

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

FINAL ORDER NO. DEO-13-043

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

In re: LAND DEVELOPMENT REGULATIONS

ADOPTED BY CITY OF AUBURNDALE

ORDINANCE NO.1408

FINAL ORDER

The Department of Economic Opportunity (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., approving City of Auburndale Ordinance No. 1408 (the "Ordinance") as it relates to the Green Swamp Area of Critical State Concern.

FINDINGS OF FACT

1. The Green Swamp Area is a statutorily designated area of critical state concern. § 380.0551, Fla. Stat. The City of Auburndale is a local government within the Green Swamp Area.

2. The Ordinance was adopted by the City Commission of Auburndale, Florida, on April 1, 2013, and was rendered to the Department on April 8, 2013.

3. The Ordinance amends Ordinance No. 764, the City's land development regulations, Chapter 5, Zoning, and Chapter 6, Special Provisions, PUDs, Clusters, related to the Green Swamp ACSC. The Ordinance amends Sections in Chapters 5 and 6 zoning districts and uses allowed and prohibited in the Auburndale Green Swamp Protection Area; provides that bonuses and land use intensity ratings shall not increase densities, impervious surface ratios, or floor area ratios beyond that allowed by the Comprehensive Plan in the Auburndale Green Swamp Protection Area; provides for transfer of density within the Auburndale Green Swamp Protection Area from environmentally sensitive lands to adjacent non-environmentally sensitive property under certain circumstances; and provides for a minimum residential open space of 30% of the total land area. Open space is defined as

passive recreation, agriculture or conservation easement but does not include retention/detention areas and golf courses.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Green Swamp Area of Critical State Concern. §§ 380.05(6) and (11), Fla. Stat.

5. The City of Auburndale is a local government within the Green Swamp Area of Critical State Concern. § 380.0551, Fla. Stat., and Rule Chapter 28-26, Fla. Admin. Code.

6. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

7. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. § 380.05(6), Fla. Stat.; see Rathkamp v. Department of Community Affairs, 21 F.A.L.R. 1902 (Dec. 4, 1998), aff'd, 740 So. 2d 1209 (Fla. 3d DCA 1999). The principles for guiding development for the Green Swamp Area of Critical State Concern are set forth in Rule 28-26.003, Fla. Admin. Code. ("Principles").

8. Ordinance No. 1408 is consistent with the Principles in Rule 28-26.003, Fla. Admin. Code, as a whole and is not inconsistent with any Principle. The Ordinance specifically furthers the following Principles:

a. Minimize the adverse impacts of development on the resources of the Floridan Aquifer, wetlands, and flood-detection areas.

b. Protect the functions of the Green Swamp Potentiometric High of the Floridan Aquifer.

9. Ordinance No. 1408 is consistent with the City of Auburndale Comprehensive Plan as a whole and furthers Future Land Use Element Policies 11.2, 11.3, and 11.9.

WHEREFORE, IT IS ORDERED that City of Auburndale Ordinance No. 1408 is found to be consistent with the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.

_____/s/_____

William B. Killingsworth, Director
 Division of Community Development
 Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE RIGHT TO REQUEST AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN DOCUMENT ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN TWENTY-ONE (21) CALENDAR DAYS AFTER PUBLICATION OF THIS FINAL ORDER. IF THE DEADLINE TO FILE A PETITION FALLS ON A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, THE TIME PERIOD RUNS UNTIL 5:00 P.M. ON THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

A PETITION IS FILED WHEN IT IS RECEIVED BY:
AGENCY CLERK

DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON STREET, MSC 110
TALLAHASSEE, FLORIDA 32399-4128

Telephone: (850)245-7150

Fax (850)921-3230

Email: Miriam.Snipes@deo.myflorida.com

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION MUST CONTAIN THE INFORMATION REQUIRED BY RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION MUST CONTAIN THE INFORMATION REQUIRED BY RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN TWENTY-ONE (21) CALENDAR DAYS AFTER PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order was filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 13th day of May, 2013.

_____/s/_____
Miriam Snipes, Agency Clerk

By U.S. Mail:
The Honorable Richard Hamann, Mayor
City of Auburndale
1 Bobby Green Plaza
Auburndale, FL 33823

Shirley Lowrance, City Clerk
City of Auburndale
1 Bobby Green Plaza
Auburndale, FL 33823

Amy Palmer, AICP
Community Development Director
P. O. Box 186
Auburndale, FL 33823

By Hand Delivery or Interagency Mail:
Rebecca Jetton, Community Planning Administrator, DEO Tallahassee
Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

DEPARTMENT OF ECONOMIC OPPORTUNITY
Division of Community Development
DEO Final Orders

NOTICE IS HEREBY GIVEN that the Florida Department of Economic Opportunity issued Final Orders on May 13, 2013, in response to applications submitted by the Colony Don Pedro Phases IV & V Property Owners Association, Inc. (DEO-13-044) and the Lely Civic Association, Inc. (DEO-13-045 through DEO-13-049) for covenant revitalization under Chapter 720, Part III, Florida Statutes. The Department determined that the applications met the statutory requirements for covenant revitalization. Accordingly, the Department's Final Orders approved the applications for covenant revitalization. Copies of the final orders may be obtained by writing to Miriam Snipes, Agency Clerk, Department of Economic Opportunity, 107 E. Madison Street, MSC 110, Tallahassee, Florida 32399-4128 or miriam.snipes@deo.myflorida.com.

Section XIII
Index to Rules Filed During Preceding
Week

RULES FILED BETWEEN May 6, 2013
 through May 10, 2013

Rule No.	File Date	Effective	Proposed	Amended
	Date		Vol./No.	Vol./No.

DEPARTMENT OF EDUCATION

University of South Florida

6C4-4.0010	5/8/13	5/28/13	Newspaper	
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DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

69A-60.011	5/9/13	5/29/13	39/33	
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Rule No.	File Date	Effective	Proposed	Amended
		Date	Vol./No.	Vol./No.

LIST OF RULES AWAITING LEGISLATIVE APPROVAL
PURSUANT TO (CHAPTER 2010-279, LAWS OF
FLORIDA)

Rule No.	File Date	Effective	Proposed	Amended
		Date	Vol./No.	Vol./No.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

62-304.300	3/2/12	*****	38/3	
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62-304.330				
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(10)(11)	2/7/13	*****	38/81	
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62-304.520				
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(15)-(20)	3/20/13	*****	39/32	
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62-304.610	8/20/12	*****	35/31	
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62-304.645	3/8/13	*****	39/22	
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62-304.900	11/21/12	*****	38/39	
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DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

69L-7.020	10/24/11	*****	37/24	37/3
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