

NOTICE OF PROPOSED RULEMAKING

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE: Reef Fish

RULE TITLES:

RULE NOS.:

Regulation and Prohibition of Certain Harvesting

Gear: Allowable Gear, Incidental Bycatch, Violation.

68B-14.005

PURPOSE AND EFFECT: The purpose of this rule amendment is to include in new rules the substance of Section 370.1105, Florida Statutes, with respect to the regulation of black sea bass traps. This matter is within the constitutional authority of the Fish and Wildlife Conservation Commission. The effect of adopting this rule amendment will be to allow the repeal of the affected statute.

SUMMARY: Paragraph (2)(b) of Rule 68B-14.005, F.A.C., is amended to include in the rule a prohibition against use of black sea bass traps in South Florida and specifications for the allowable size of such traps. References to statutory provisions expected to be repealed are deleted.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for 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.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. to 5:00 p.m., each day, February 2-4, 2005.

PLACE: Edgewater Beach Resort, 11212 Front Beach Road, Panama City Beach, Florida.

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 calendar 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 by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation.

(1) Allowable gear. Except as provided in subsection (2), the following shall be the only gear types and methods allowed for the harvest in or from state waters of any of the species specified in subsection 68B-14.001(2), F.A.C.:

(a) No Change.

(b) A black sea bass trap, which shall only be used north of Latitude 27° North ~~meeting the requirements of Section 370.1105(1)(c), Florida Statutes.~~ Additionally, Each such trap shall comply with the following specifications:

1. The outer dimensions do not exceed 2 feet in height, 2 feet in width, and 2 feet in depth, and the throat or entrance does not exceed 5 inches in height and 2 inches in width at its narrowest point.

2. A biodegradable panel shall be part of each trap used to take black sea bass. ~~For purposes of Section 370.1105(1)(c), Florida Statutes,~~ A black sea bass trap shall be considered to have a "biodegradable panel" or a "degradable panel" if one of the following methods is used in construction of the trap:

a. The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no

longer be securely closed.

b. The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

c. The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

d. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

e. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed. "Untreated pine" means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

f. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire. When the wire or wire mesh degrades, the opening in the sidewall of the trap will no longer be obstructed.

g. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be

obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute twine. When the corner fasteners degrade, the panel will fall away and the opening in the sidewall of the trap will no longer be obstructed.

3.2- Escape vents. All black sea bass traps shall have an unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom, that complies with one of the following minimum sizes:

- a. A rectangular vent, 1.125 inches (2.9 cm) by 5.75 inches (14.6 cm).
 - b. A circular vent, 2 inches (5.1 cm) in diameter.
 - c. A square vent with sides of 1.75 inches (4.4 cm) measured inside the square.
- (c) No Change.

(2) - (3) No Change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03,_____.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Mr. Mark Robson.

NAME OF SUPERVISOR WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad,
Executive Director.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 23, 2004.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: October 1, 2004.

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.W.