

68B-35 F.A.C. Pompano, African Pompano, and Permit Rule

Rule No	Rule Title	Latest Version	Effective Date
68B-35.001	Purpose and Intent; Repeal of Certain Laws; Designation as Restricted Species, Aquaculture Exemption for Pompano		1/1/1996
68B-35.002	Definitions		1/1/2004
68B-35.003	Size and Bag Limits; Prohibition of Sale		3/1/2005
68B-35.004	Gear Specifications and Prohibited Gear		1/1/2004
68B-35.005	Commercial Pompano Harvest Requirements; Pompano Endorsement Criteria; State and Federal Waters Pompano Daily Harvest Limits and License Requirements for Sale or Purchase		1/1/2004

68B-35.001 Purpose and Intent; Repeal of Certain Laws; Designation as Restricted Species, Aquaculture Exemption for Pompano.

(1) The purpose and intent of this chapter are to protect and conserve Florida's pompano, African pompano, and permit resources and assure the continuing health and abundance of these species.

(2) It is the intent of this chapter to expressly repeal and replace Section 370.11(2)(a)2., F.S. (1988); and the remainder of Section 370.11(2)(a), F.S. (1988), as it pertains to pompano, and Section 370.1125, F.S. (1988); pertaining to permit.

(3) Pompano, African pompano, and permit, are hereby designated as restricted species pursuant to Section 379.101(32), F.S.

(4) Provisions of this rule chapter shall not apply to pompano artificially spawned and raised in commercial aquaculture facilities. However, anyone possessing such fish or offering such fish for sale or exchange shall maintain and be able to produce documentation, such as appropriate receipt(s), bill(s) of sale, or bill(s) of lading, to establish the chain of possession from the initial transaction after harvest at the facility. Failure to maintain such documentation shall constitute a violation of this rule chapter.

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 7-1-89, Amended 1-1-96, Formerly 46-35.001.

68B-35.002 Definitions.

As used in this rule chapter:

(1) "African pompano" means any fish of the species *Alectis ciliaris*, or any part thereof.

(2) "Fishing pier" means a platform extending from shore over water, used primarily to provide a means for persons to harvest or attempt to harvest fish therefrom. The term shall not be construed to include any residential dock, marina, or facility at which vessels are launched or moored, but shall include any abandoned bridge serving the function of a fishing pier.

(3) "Fork Length" means the length of a fish as measured from the most forward point of the head to the rear center edge of the tail.

(4) "Harvest" means the catching or taking of a fish by any means whatsoever, followed by a reduction of such

Current as of September 22, 2009

fish to possession. Fish that are caught but immediately returned to the water free, alive, and unharmed are not harvested. In addition, temporary possession of a fish for the purpose of measuring it to determine compliance with the minimum or maximum size requirements of this chapter shall not constitute harvesting such fish, provided that it is measured immediately after taking, and immediately returned to the water free, alive, and unharmed if undersize or oversize.

(5) "Land", when used in connection with the harvest of a fish, means the physical act of bringing the harvested fish ashore.

(6) "Pompano" means any fish of the species *Trachinotus carolinus*, or any part thereof.

(7) "Permit" means any fish of the species *Trachinotus falcatus*, or any part thereof.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-89, Amended 1-1-96, Formerly 46-35.002, Amended 1-1-04.

68B-35.003 Size and Bag Limits; Prohibition of Sale.

(1) Size Limits –

(a) No person shall harvest in or from state waters, or possess while in or on state waters, any pompano or permit, with a fork length less than 11 inches, or greater than 20 inches, except that a person harvesting pursuant to the bag limit specified in paragraph (2)(a) of this rule may harvest and possess one pompano or permit greater than 20 inches in fork length. However, the possession of more than two (2) permit or pompano in any combination greater than 20 inches fork length on any vessel is prohibited. No person shall purchase, sell, or exchange any pompano or permit with a fork length less than 11 inches, or greater than 20 inches.

(b) No person shall harvest in or from state waters, or possess while in or on state waters, any African pompano with a fork length less than 24 inches.

(c) All pompano, African pompano, and permit shall be landed in whole condition. The possession, while in or on state waters, on any public or private fishing pier, or on a bridge or catwalk attached to a bridge from which fishing is allowed, or on any jetty, of any such fish that have been deheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned is prohibited. Mere evisceration or "gutting" of such fish, or mere removal of gills, before landing is not prohibited.

(2) Bag Limits –

(a) Except for persons harvesting pompano commercially pursuant to the limits established by Rule 68B-35.005, F.A.C., or permit pursuant to a valid saltwater products license with a restricted species endorsement, no person shall harvest in or from state waters more than a total of 6 pompano or permit per day, in any combination of species, nor possess while in or on state waters more than 6 such fish. No more than one (1) of such pompano or permit may exceed 20 inches fork length. No more than two (2) permit or pompano in any combination exceeding 20 inches fork length shall be possessed onboard any vessel at any time.

(b) Each harvester of African pompano is subject to a bag limit of 2 African pompano per day; however, no more than 2 African pompano shall be possessed aboard any vessel while in or on state waters at any time.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-89, Amended 1-1-96, Formerly 46-35.003, Amended 11-1-01, 1-1-04, 3-1-05.

68B-35.004 Gear Specifications and Prohibited Gear.

(1) The harvest of pompano, African pompano, or permit in or from state waters by or with the use of any multiple hook in conjunction with live or dead natural bait, or the landing of such fish so harvested, is prohibited. Snagging (snatch hooking) of pompano, African pompano, or permit in or on state waters is also prohibited.

(2)(a) The harvest or attempted harvest of any African pompano or permit in or from state waters, by or with the use of any gear other than a hook and line gear is prohibited.

(b) The harvest or attempted harvest of any pompano in state waters by or with the use of any gear other than a beach or haul seine, a cast net, or hook and line gear is prohibited.

(3) Except as provided in this subsection, no person shall simultaneously possess aboard any vessel in state waters any pompano together with any gill or entangling net.

(a) Such possession is allowed by persons who have harvested pompano in adjacent federal Exclusive Economic Zone (EEZ) waters and who possess a valid saltwater products license with a restricted species endorsement and a pompano endorsement issued pursuant to subsection 68B-35.005(1), F.A.C., only in the area of state waters between 25°09' North Latitude and 26°00' North Latitude, between Cape Sable and Hurricane Pass.

(b) Such possession is allowed by persons who have harvested pompano in adjacent federal EEZ waters as an incidental bycatch in gill or entangling nets fished for other species, which persons possess a valid saltwater products license with a restricted species endorsement and provided that the amount of pompano does not exceed the harvest, possession, and landing limit specified in paragraph 68B-35.005(2)(c), F.A.C.

(c) Paragraphs (a) and (b) shall not apply to any person or vessel returning from federal EEZ waters that stops to fish in state waters or otherwise fails to meet all requirements of Section 379.2423, F.S.

(4) Each pompano gill or entangling net possessed in state waters or used in federal EEZ waters pursuant to subsection (3) shall meet the following specifications, except that the mesh size requirement in paragraph (c) shall not apply to the exception in paragraph (3)(b):

(a) Such net shall not be less than 400 yards in length, along the cork line and along the lead line.

(b) Such net shall be at least 70 meshes deep at its shallowest point.

(c) Such net shall have a mesh size of at least 4 1/2 inches stretched mesh, throughout the net.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.40 FS. History—New 7-1-89, Amended 1-1-96, Formerly 46-35.004, Amended 11-1-01, 1-1-04.

68B-35.005 Commercial Pompano Harvest Requirements: Pompano Endorsement Criteria; State and Federal Waters Pompano Daily Harvest Limits and License Requirements for Sale or Purchase.

(1) POMPANO ENDORSEMENT – No person shall be issued a pompano endorsement on their saltwater products license without first meeting each of the following criteria:

(a) The applicant must possess a Vessel Saltwater Products License with a Restricted Species Endorsement.

(b) The applicant must own a commercially registered vessel no smaller than 22 feet in documented length, except in the case of a vessel with the primary power mounted forward of the center point of the vessel, in which case the vessel shall not be smaller than 25 feet in documented length.

Current as of September 22, 2009

(c) No applicant shall receive a pompano endorsement who, in the previous three license years, has been charged with violating any provision of Article X, Section 16 of the State Constitution, Section 379.2423 or 379.2422, F.S., or subsection 68B-4.0081(2), F.A.C., and who has received a judicial disposition other than acquittal or dismissal on such charges.

(2) STATE AND FEDERAL WATERS DAILY COMMERCIAL HARVEST LIMITS – Persons harvesting pompano in state and federal waters pursuant to a saltwater products license with a restricted species endorsement, but who do not possess a pompano endorsement, shall be subject to a daily harvest and landing limit of 250 individual pompano; provided, however, that no more than 250 pompano harvested pursuant to this subsection shall be possessed aboard any vessel at any time. Such persons are subject to the gear limitations of paragraph 68B-35.004(2)(b), F.A.C.

(a) No person shall sell more than 250 individual pompano per day, unless such person possesses a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement. Pompano shall only be harvested with a gill or entangling net in federal EEZ waters specified in paragraph 68B-35.004(3)(a), F.A.C., and shall only be sold by a person harvesting such pompano pursuant to a Pompano Endorsement.

(b) No wholesale dealer shall purchase more than 250 individual pompano per day from any person who does not possess and present to the dealer a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement.

(c) Persons harvesting pompano as incidental bycatch pursuant to paragraph 68B-35.004(3)(b), F.A.C., shall be subject to a daily harvest, landing, and possession limit of 100 pompano.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.407 FS. History—New 11-1-01, Amended 1-1-04.