

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners
From: Jessica McCawley, Director, Marine Fisheries Management
Date: September 8, 2016
Subject: Consent Agenda: Draft Rule – Gear Regulations Clean Up

Purpose:

Staff is seeking approval to remove or update outdated rule language found in a variety of the Commission's older regulations that appears to authorize the use of net gear that is prohibited by Article X, Section 16 of the Florida Constitution (Net Limitation Amendment) or that references penalties for use of illegal net gear that have since been superseded by Legislative statutory changes.

Summary:

In 2015, the Joint Administrative Procedures Committee (JAPC) conducted a review of Rule Chapter 68B-3, FAC, Local Laws, and identified outdated local gear regulations that appear to authorize the use of net gear that is prohibited by the Net Limitation Amendment. These outdated local gear regulations were established by the Marine Fisheries Commission in 1992, and were not updated after the Net Limitation Amendment became effective on July 1, 1995. The FWC acquired these local laws when the agency was created in 1999.

Staff concurs that these outdated rules conflict with the provisions of the Net Limitation Amendment, and can easily lead someone to believe that net gear prohibited under the Net Limitation Amendment regulations is still allowable in certain parts of the state. Staff has also identified a series of other potentially confusing net-related regulations found in other portions of the Commission's marine fisheries regulations (68B, Florida Administrative Code) and in the Special Acts of Local Application that FWC acquired from the Legislature via the Marine Fisheries Commission, upon creation of the FWC in 1999. Repealing or amending the language in these various rules that appears to authorize gears prohibited by the Florida Constitution, or that appear to establish a different penalty for net-related violations than has subsequently been established by the Legislature will create greater clarity and improve the understandability of FWC's statewide gear regulations.

Staff will provide a comprehensive list of all the regulations recommended for repeal or amendment under this draft rule.

Staff Recommendation:

Staff recommends repealing or amending outdated rule language found in 68B-3 and 68B-4.014, Florida Administrative Code, and a variety of Special Acts of Local Application under the Commission's authority that appears to authorize the use of net gear that is prohibited by Article X, Section 16 of the Net Limitation Amendment or that references penalties for use of illegal net gear that have since been superseded by Florida Statutes.

Staff also recommends the rules be advertised and filed for adoption without further hearing, unless requested by a member of the public.

Staff Contact and/or Presenter:

Melissa Recks, Section Leader, Division of Marine Fisheries Management