

Gear Regulations Cleanup

Consent Agenda – Item # 5

SUMMARY OF PROPOSED CHANGES

**Draft Rule Hearing
September 8, 2016**

Local Laws (68B-3, FAC)

1. **68B-3.028(3) – (5), FAC**

- This rule includes outdated purse seine regulations for inside waters of Escambia and Santa Rosa counties.
 - i. Subsection (3) prohibits the use of a purse larger than 400 yards in length specifically for the harvest of menhaden from inside waters of Escambia and Santa Rosa counties. This outdated language may lead a person to believe that it is legal to use a purse seine with more than 500 square feet of mesh area, which is prohibited by the Net Limitation Amendment.
 - ii. Subsection (4) contains mesh size requirements for nets fished prior to January 1, 1995. Because the language in this subsection sunset in 1995, it is no longer in effect and can be repealed.
 - iii. Subsection (5) prohibits the use of a seine less than 350 yards in length in waters of Santa Rosa County. This outdated language may lead a person to believe that it is legal to use a seine that grossly exceeds 500 square feet of mesh area, contrary to the Net Limitation Amendment.
- *Staff recommend repealing subsections 68B-3.028(3) - (5), FAC. If repealed, existing statewide net gear regulations would apply.*

2. **68B-3.031(3)(b), FAC**

- This paragraph prohibits the use of a gill net with a stretched mesh size of less than 3 inches within Terra Ceia Bay in Manatee County, effective January 1, 1993.
- This outdated language appears to authorize the use of a gill net within Terra Ceia Bay as long as the stretched mesh size is 3 inches or greater. The Net Limitation Amendment prohibits the use of any gill net within nearshore and inshore waters.
- *Staff recommend amending paragraph 68B-3.031(3)(b) by deleting the outdated language that prohibits the use of a gill net with a stretched mesh size of less than 3 inches within Terra Ceia Bay. Deleting this language would reduce confusion by removing an outdated net regulation that is in conflict with the Net Limitation Amendment.*

3. **68B-3.032(3)(a), FAC**

- This paragraph prohibits the use of any nets within the inshore waters of Martin County, except for minnow seines less than 30 feet in length for catching bait, cast nets, and landing nets.
- While it is possible for a minnow seine that is 30 feet in length or less to have less than 500 square feet of mesh area, this paragraph does not specifically limit maximum net depth or the total mesh area. This paragraph can lead a person to believe that it is legal to use a minnow seine with greater than 500 square feet in mesh area provided that the net is 30 feet in length or less, contrary to the provisions of the Net Limitation Amendment.

- *Staff recommend amending paragraph 68B-3.032(3)(a) to specify that minnow seines used in the inshore waters of Martin County for catching bait cannot exceed 30 feet in length and cannot exceed 500 square feet of mesh area.*

Gear Regulations (68B-4, FAC)

1. 68B-4.014, FAC

- This rule prohibits the use of a purse seine with a total length greater than 600 yards or with a depth greater than 1,500 meshes in waters of Pinellas, Hillsborough, and Manatee counties within 3 miles west of the Colregs Line of Demarcation.
 - This rule appears to allow the use of purse seines up to 600 yards in length even if they exceed 500 square feet of mesh area within nearshore and inshore Florida waters, which is expressly prohibited by the Net Limitation Amendment.
- *Staff recommend repealing rule 68B-4.014, FAC.*

Tampa Bay (68B-25, FAC)

1. 68B-25.003(2)(d)

- This paragraph appears to allow the use of a gill or trammel net for the harvest of fish in and on the waters of Old Tampa Bay north of the Gandy Bridge, including any creek or bayou emptying into such waters.
 - The use of gill nets in nearshore and inshore Florida waters is expressly prohibited by the Net Limitation Amendment.
- *Staff recommend repealing paragraph 68B-25.003(2)(d), FAC.*

Special Acts of Local Application

1. Brevard County Ch. 28927 (1953)

- This Special Act prohibits the use of seines, gill nets, pocket nets, or any net other than a cast net or bait net within a specific area in Brevard County, and provides penalties for violation of this Special Act.
 - The regulations provided by this Special Act are largely redundant with statewide gear regulations and the penalties established are inconsistent with more recent statewide statutory penalties created by the Legislature. The conflict between the penalties this Special Act appears to establish and those provided in Florida Statutes could create confusion for both Law Enforcement and violators.
- *Staff recommend repealing Ch. 28927, Brevard County Special Acts*

2. Brevard County Ch. 30601 (1955)

- This Special Act prohibits the use of nets to harvest fish within one mile of Sebastian Inlet within Brevard and Indian River counties, includes references to predecessor agencies that are no longer relevant, and provides penalties for violation of this Special Act.
- Cast nets and bait seines no more than 80 feet in length are specifically exempted from the prohibitions established by this Special Act. This can lead someone to believe that it is legal to use cast nets and bait seines with more than 500 square feet of mesh area, contrary to provisions of the Net Limitation Amendment which prohibits the use of nets

with greater than 500 square feet of mesh area within nearshore and inshore Florida waters. This Special Act also appears to set penalties for violations of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.

➤ *Staff recommends repealing all of Ch. 30601, Brevard County Special Acts*

3. **Brevard County Ch. 63-910**

- This Special Act prohibits commercial seining in Sebastian Inlet within Brevard and Indian River counties, includes references to predecessor agencies that are no longer relevant, and provides penalties for violation of this Special Act.
- Cast nets and bait seines no more than 80 feet in length are specifically exempted from the prohibitions established by this Special Act. This can lead someone to believe that it is legal to use cast nets and bait seines with more than 500 square feet of mesh area, contrary to provisions of the Net Limitation Amendment which prohibits the use of nets with greater than 500 square feet of mesh area within nearshore and inshore Florida waters. This Special Act also appears to set penalties for violations of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.

➤ *Staff recommends repealing all of Ch. 63-910, Brevard County Special Acts*

4. **Citrus County Ch. 21147 (1941)**

- This Special Act specifically states that it is lawful to place or set gill nets or to take saltwater fish by means of gill nets from waters of the Homosassa River and all its tributary systems.
- The provisions of this Special Act contradict the Net Limitation Amendment, which prohibits the use of a gill or entangling net in any Florida waters.

➤ *Staff recommend repealing Ch. 21147, Citrus County Special Acts*

5. **Collier County Ch. 20159 (1939), Section 2**

- This Special Act prohibits the use of any drag nets, haul seines, gill net, or other nets within a portion of a canal in Collier County.
- Section 2 appears to set penalties for violations of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.

➤ *Staff recommend repealing Section 2 of Ch. 20159, Collier County Special Acts*

6. **Collier County Ch. 26045 (1949), Section 4**

- This Special Act prohibits the use of any net or seine in the waters of the Gulf of Mexico within 1,000 feet of the Naples municipal pier in Collier County.
- Section 4 appears to set penalties for violations of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.

➤ *Staff recommend repealing Section 2 of Ch. 20159, Collier County Special Acts*

7. **Dade County Ch. 6574 (1913)**

- This Special Act prohibits the use of gill nets, seines, purse seines, trammel nets, or any other net within certain waters of Dade County.
- Section 1 describes the area within Dade County where the Special Act applies.
- Section 2 specifically exempts any net provided that the mesh size is larger than 9 inches bar and 18 inches stretched. This conflicts with Commission regulations implementing the Net Limitation Amendment. This section can lead a person to believe that it is legal to use an entanglement net in certain waters of Dade County.

- Sections 3 and 6 appears to set penalties for violations of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - Sections 4-5 and 7-9 refer to outdated commercial licensing requirements, application processes, and fees that are no longer applicable.
 - *Staff recommend repealing all of Ch. 6574, Dade County Special Acts*
8. **Escambia County Ch. 78-501, Section 4**
- This Special Act prohibits the use of any net other than a cast net within certain waters of Escambia County. A portion of this Special Act is superseded in part by 46-3.028(3)(e)3., FAC, which authorized the use of purse seines for the harvest of menhaden within portions of Bayou Chico and portions of Bayou Texar. This rule reference to the FAC is outdated and actually should reference 68B-3.028(3)(e)3., FAC, which is under consideration for repeal as part of this rule change packet.
 - Section 4 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - *Staff recommend repealing Section 4 of Ch. 78-501, Escambia County Special Acts*
9. **Gulf County Ch. 79-466**
- This Special Act allows the use of any net with stretched mesh larger than 1 5/8 inches to harvest shrimp within waters of Gulf County, which could lead a person to believe that it is legal to use nets with mesh sizes large enough to act as gill or entangling nets, contrary to FWC regulations that implement provisions of the Net Limitation Amendment.
 - *Staff recommend repealing all of Ch. 79-466, Gulf County Special Acts*
10. **Hernando County Ch. 18571 (1937), Section 3**
- This Special Act prohibits the harvest of fish with any gill nets, stop nets, seines, or any kind of fish net or fish trap from certain waters of Hernando County.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - *Staff recommend repealing section 3 of Ch. 18571, Hernando County Special Acts*
11. **Hernando County Ch. 69-1103, Section 3**
- This Special Act prohibits the harvest of sardine-like fish with a purse seine, gill net, lampara net, or defined similar devices from Gulf of Mexico waters of Hernando County within 10 miles from shore.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - *Staff recommend repealing section 3 of Ch. 69-1103, Hernando County Special Acts*
12. **Lafayette County Ch. 6311 (1911), Sections 3 and 4**
- This Special Act prohibits the use of haul seines and drag nets in waters of Taylor and Lafayette counties.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - Section 4 provides for the seizure and destruction of such nets in a manner that is not consistent with due process legal requirements.

- *Staff recommend repealing sections 3 and 4 of Ch. 6311, Lafayette County Special Acts*

13. **Lee Ch. 15306 (1931)**

- This Special Act prohibits the use of any nets of any size, length, or depth, within a portion of Lee County; however, gill nets are specifically excluded from these established prohibitions. This Special Act can lead a person to believe that the use of gill nets is allowed in certain inside salt waters of Lee County. Section 3 also appears to set penalties for the use of gear used in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommends repealing all of Ch. 15306, Lee County Special Acts*

14. **Lee County Ch. 70-778, Section 3**

- This Special Act prohibits the harvest or attempted harvest of menhaden-like fish with a purse seine, purse gill net, lampara net, or similar net or device for any purpose within three marine leagues of shore in the Gulf of Mexico.
- Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 70-778, Lee County Special Acts*

15. **Martin County Ch. 18683 (1937), Section 2**

- This Special Act prohibits the use of haul seines, seines, gill nets, or any nets other than cast nets used for catching bait within a portion of Martin County waters.
- Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 18683, Martin County Special Acts*

16. **Martin County Ch. 19971 (1939), Section 2**

- This Special Act prohibits the harvest of fish from waters of the Loxahatchee River with seines, gill nets, stop nets, or any other kind of net, except for cast nets up to 6 feet in length.
- Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 19971, Martin County Special Acts*

17. **Martin County Ch. 71-770, Sections 7, 14, and 15**

- This Special Act prohibits the use of nets or fish traps within a certain area in Martin County, except for cast nets, dip nets, landing nets, or minnow seines up to 30 feet in length for the purpose of catching bait. Sections 4 and 5 were repealed by Rule 68B-3.032, FAC.
- Section 7 appears to authorize the use of trammel nets in the inshore waters of Martin County. This provision is in conflict with the Net Limitation Amendment, which prohibits the use of entangling nets, including trammel nets in any Florida waters.
- Section 14 includes a reference to a predecessor agency that is no longer relevant.
- Section 15 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing sections 7, 14, and 15 of Ch. 71-770, Martin County Special Acts*

18. **Palm Beach County Ch. 8796 (1921), Sections 2 and 3**
- Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - Section 3 provides for the disposition of portions of net gear seized pursuant to this Special Act by a predecessor agency that no longer exists.
- *Staff recommend repealing sections 2 and 3 of Ch. 8796, Palm Beach County Special Acts*
19. **Palm Beach County Ch. 20045 (1939), Sections 2 and 3**
- Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
 - Section 3 provides for the disposition of portions of net gear seized pursuant to this Special Act in a manner that conflicts with more recently established statewide statutory provisions created by the Legislature.
- *Staff recommend repealing sections 2 and 3 of Ch. 20045, Palm Beach County Special Acts*
20. **Palm Beach County Ch. 31137 (1955), Section 4**
- This Special Act prohibits the use of any seines, gill nets, or other nets except for cast nets in the certain waters of Palm Beach County.
 - Section 4 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 4 of Ch. 31137, Palm Beach County Special Acts*
21. **Pasco County Ch. 6638 (1913), Section 3**
- This Special Act prohibits the harvest of fish in waters of the Pithlachascotee River using seines, gill nets, or any other nets except for cast nets.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 6638, Pasco County Special Acts*
22. **Pasco County Ch. 14305 (1929), Section 3**
- This Special Act prohibits the taking of food fish from the salt waters of the Pithlachascotee River using seines, gill nets, spears or gigs.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 14305, Pasco County Special Acts*
23. **Pasco Ch. 65-2078, Section 3**
- This Special Act prohibits the harvest of any species of salt water fish by any means other than hook and line or cast net within any stream, river, creek, or manmade canal located within Pasco County, or within 50 feet of the mouth of such water body.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 65-2078, Pasco County Special Acts*

24. **Pasco County Ch. 71-838**

- This Special Act appears to authorize the use of purse seines, purse gill nets, lampara nets, and similar devices within waters of Pasco County for the purpose of harvesting bait and appears to set penalties for the use of net gear in violation of this Special Act.
 - The provisions of this Special Act conflict with the Net Limitation Amendment, which prohibits the use of gill nets in any Florida waters and prohibits the use of nets with more than 500 square feet of mesh in nearshore and inshore waters.
 - The penalties this Special Act appears to establish are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing all of Ch. 71-838, Pasco County Special Acts*

25. **Pinellas County Ch. 21099 (1941), Section 2**

- This Special Act prohibits the use of any net other than a cast net in the Anclote River.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 21099, Pinellas County Special Acts*

26. **Pinellas County Ch. 23480 (1945), Section 3**

- This Special Act prohibits the use of any net or seine except for cast nets to take fish from waters of Long Bayou.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 23480, Pinellas County Special Acts*

27. **Pinellas County Ch. 27467 (1951), Sections 3(a) and 4**

- This Special Act prohibits the use of any net or seine of any kind except for cast nets for the purpose of taking fish from certain water bodies within the City of Clearwater.
 - Section 3(a) authorizes the seizure and disposal of net gear in a manner that conflicts with more recently established statewide statutory provisions created by the Legislature.
 - Section 4 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing sections 3(a) and 4 of Ch. 27467, Pinellas County Special Acts*

28. **Pinellas County Ch. 29433 (1953), Section 2**

- This Special Act prohibits the use of nets or seines, except cast nets, within 100 yards of any bridge, dock, causeway or jetty.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 29433, Pinellas County Special Acts*

29. **Pinellas County Ch. 76-482, Section 4**

- This Special Act prohibits the use of any net or seine, except cast nets, for the purpose of taking fish from certain waters within the city of St. Petersburg.
 - Section 4 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 4 of Ch. 76-482, Pinellas County Special Acts*

30. **Pinellas County Ch. 81-465, Section 2**

- This Special Act prohibits the use of nets or seines, except cast nets, for the taking of food fish from the salt waters of Pinellas County within 50 yards of any dock or pier.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 81-465, Pinellas County Special Acts*

31. **Santa Rosa County Ch. 26212 (1949), Section 2**

- This Special Act prohibits the use of nets except hand crab nets and cast nets for any purpose in certain waters of Santa Rosa County.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 26212, Santa Rosa County Special Acts*

32. **Santa Rosa County Ch. 78-613, Section 2**

- This Special Act prohibits the use of any net in certain waters of Santa Rosa County.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 78-613, Santa Rosa County Special Acts*

33. **Sarasota County Ch. 24890 (1947), Section 3**

- This Special Act prohibits the use of haul seines, drag nets, or stop nets in the inside salt waters of Sarasota County north of Lemon Bay.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 24890, Sarasota County Special Acts*

34. **Sarasota County Ch. 70-930, Section 3**

- This Special Act prohibits the harvest of menhaden-like fish with a purse seine, purse gill net, lampara net, or similar net or device for any purpose within 3 marine leagues of shore.
 - Section 3 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 3 of Ch. 70-930, Sarasota County Special Acts*

35. **Walton County Ch. 65-2369, Section 2**

- This Special Act prohibits trawling for shrimp or operating a trawl in certain waters of Choctawhatchee Bay.
 - Section 2 appears to set penalties for the use of net gear in violation of this Special Act that are inconsistent with more recently established statewide statutory penalties created by the Legislature.
- *Staff recommend repealing section 2 of Ch. 65-2369, Walton County Special Acts*