

Special Acts of Local Application Rule Cleanup

Consent Agenda – Item # 1

SUMMARY OF PROPOSED CHANGES

Draft Rule Hearing September 26, 2018

1. **Bay County Ch. 24111 (1947)**

- This Special Act, implemented in 1947, regulated the harvest of shrimp in Bay, Washington, and Okaloosa counties.
- Sections 1-5 that implemented these regulations were previously repealed, and only Sections 6 and 7 remain. These sections are administrative only and have no language implementing the regulations mentioned in the preamble, and therefore have no effect.
- *Staff recommend repealing all of Ch. 24111, Bay County Special Acts, as amended by Ch. 25423, Laws of Florida (1949).*

2. **Broward County Ch. 25714 (1949), Section 2**

- This Special Act, implemented in 1949, prohibits the use of nets other than cast or throw nets up to 7 feet in length within salt waters of Broward 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. 25714, Broward County Special Acts.*

3. **Charlotte County Ch. 19719 (1939), Sections 2, 3, 4, and 6**

- This Special Act, implemented in 1939, prohibits the use of any net other than a cast net or bait net (up to 100' x 4') in certain waters of Charlotte County in specified waters.
- Section 2 prohibits the use of nets within Alligator Creek (Allapatchee River) east of an area known as "The Devil's Elbow." This area is not widely known and is not identified on nautical charts or maps, making this Section unenforceable.
- Section 3 provides for the seizure and destruction of nets used in violation of this Special Act in a manner that may be inconsistent with current statutory due process provisions.
- Section 4 requires a predecessor agency that no longer exists to post signage in areas where this act applies.
- Section 6 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 2, 3, 4, and 6 of Ch. 19719, Charlotte County Special Acts.*

4. **Charlotte County Ch. 27450 (1951), Sections 2, 3, 5, and 6**

- This Special Act, implemented in 1951, prohibits fishing for commercial purposes at all times in Alligator Creek (Allapatchee River).
- Sections 2 and 3 establish that all fishing with nets, seines, or traps is considered fishing for commercial purposes, regardless of how fish harvested with such gear are intended to be used. This is overly broad and is inconsistent with current marine fisheries regulations.
- Section 5 appears to set penalties for violation of this Special Act that are inconsistent with more recently established statewide statutory penalties for the unlawful use of net gear created by the Legislature.
- Section 6 provides for the seizure and disposition of nets, seines, or traps used in violation of this Special Act in a manner that may be inconsistent with current statutory due process provisions.
- *Staff recommend repealing Sections 2, 3, 5, and 6 of Ch. 27450, Charlotte County Special Acts.*

5. **Charlotte County Ch. 70-626 (1970), Section 3**

- This Special Act, implemented in 1970, prohibits the take of certain menhaden-like fish with a purse seine, purse gill net, lampara net, or similar net or device for any purpose within three (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. 70-626, Charlotte County Special Acts.*

6. **Citrus County Ch. 15123 (1931), Section 3**

- This Special Act, implemented in 1931, prohibits the use of any gear other than hook and line, rod and reel, and spear, gig or grain to take fish from waters of Crystal River upstream of the Salt River.
 - 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. 15123, Citrus County Special Acts.*

7. **Citrus County Ch. 30652 (1955), Sections 3 and 4**

- This Special Act, implemented in 1955, prohibits the use of any gear other than rod and reel, hook and line or pole and line to take fish from waters of the Homosassa or Halls rivers east of a line near Homosassa.
 - Section 3 includes a reference to a predecessor agency that no longer exists.
 - 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 and 4 of Ch. 30652, Citrus County Special Acts.*

8. **Citrus County Ch. 61-2001 (1961), Sections 3 and 4**

- This Special Act, implemented in 1961, prohibits the use of any gear other than pole and line, rod and reel, plug, bob, spinner, spoon, fly, troll, or other artificial bait or lure to take fish from waters of the Homosassa River, including Otter Creek and Peterson Creek.
 - 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 includes a reference to a predecessor agency that no longer exists.
- *Staff recommend repealing Sections 3 and 4 of Ch. 61-2001, Citrus County Special Acts.*

9. **Citrus County Ch. 63-1215 (1963), Section 2**

- This Special Act, implemented in 1963, prohibits the harvest of fish by any means other than pole and line, rod and reel, plug, bob, spinner, spoon, fly, troll or other artificial bait or lure within a portion of the Withlacoochee 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. 63-1215, Citrus County Special Acts.*

10. **Citrus County Ch. 69-938 (1969), Section 3**

- This Special Act, implemented in 1969, prohibits the take of certain sardine-like fish with a purse seine, purse gill net, lampara net or similar net or device for any purpose within ten (10) miles of the shoreline of Citrus 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. 69-938, Citrus County Special Acts.*

11. **Clay County Ch. 15125 (1931)**

- This Special Act, implemented in 1931 prior to statewide management of saltwater fishing, prohibits the use of seines in the salt waters of Clay County (defined in Section 2 to be the St. Johns river bordering Clay County and including Doctors Lake) during the months of July and August each year, and provides penalties for violation of this Special Act.

- Seines are not commonly used in the waters of the region. However, repealing this Special Act will allow modern statewide net gear regulations to apply in the area, including allowing the use of seines during July and August, as allowed for the rest of the year. Additionally, 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 all of Ch. 15125, Clay County Special Acts.*

12. **Collier County Ch. 70-639 (1970), Section 3**

- This Special Act, implemented in 1970, 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 three (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. 70-639, Collier County Special Acts.*

13. **Columbia County Ch. 23010 (1945)**

- This Special Act, implemented in 1945, states that it is legal to sell legally-caught saltwater fish in Columbia, Hamilton, and Suwannee Counties.
- This Special Act is overly broad and has the potential to conflict with more recently established statewide marine fisheries regulations created by the Legislature that provide for the legal sale of saltwater products.
- *Staff recommends repealing all of Ch. 23010, Columbia County Special Acts.*

14. **Dixie County Ch. 21093 (1941)**

- This Special Act, implemented in 1941, states that is legal to sell legally-caught saltwater fish in Levy, Dixie, Taylor, Jefferson and Wakulla counties, and in a portion of Franklin County (east of Indian Pass).
- This Special Act is overly broad and has the potential to conflict with more recently established statewide marine fisheries regulations created by the Legislature that provide for the legal sale of saltwater products.
- *Staff recommend repealing all of Ch. 21093, Dixie County Special Acts, as amended by Chapter 65-905, Laws of Florida (1965).*

15. **Dixie County Ch. 21188 (1941)**

- This Special Act, implemented in 1941, establishes a dividing line between salt and fresh waters of all rivers, streams, creeks or other running waters of Dixie County and Taylor County which empty into the Gulf of Mexico.
- Marine fisheries regulations apply to all saltwater species, regardless of whether they are found in salt or fresh water. Therefore, this Special Act has no effect and is unnecessary.
- *Staff recommend repealing all of Ch. 21188, Dixie County Special Acts.*

16. **Dixie County Ch. 77-660 (1977)**

- This Special Act, implemented in 1977, allows the harvest of sponges by diving in Dixie and Taylor counties.
- Repealing this Special Act will have no effect as the harvest of sponges by diving in these counties is allowed by other rules of the Commission, therefore this Special Act is unnecessary.
- *Staff recommend repealing all of Ch. 77-660, Dixie County Special Acts.*

17. **Escambia County Ch. 65-1519 (1965), Section 2**

- This Special Act, implemented in 1965, prohibits the use of any net, seine or similar device except hand cast nets within one-half mile of the shoreline along a portion of Santa Rosa Island from sunrise to sunset.
- 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. 65-1519, Escambia County Special Acts.*

18. **Escambia County Ch. 81-376 (1981), Sections 22 and 23**

- This Special Act, implemented in 1981, establishes the Escambia County Utility Authority, and prohibits any person, firm, or corporation from using any net other than cast nets in certain salt waters of Escambia County.
 - Sections 22 and 23 appear 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 22 and 23 of Ch. 81-376, Escambia County Special Acts, as amended by Ch. 89-473, Laws of Florida (1989).*

19. **Flagler County Ch. 7119 (1915), Sections 4 and 5**

- This Special Act, implemented in 1915, prohibits harvest of any fish, except flounders, in certain waters of Volusia County by any means other than a cast net, rod and reel or with hook and line.
 - Section 4 includes a reference to a predecessor agency that no longer exists.
 - Section 5 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 4 and 5 of Ch. 7119, Flagler County Special Acts.*

20. **Flagler County Ch. 25828 (1949), Section 2**

- This Special Act, implemented in 1949, prohibits the taking of fish with certain nets from the inland salt waters of Flagler 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. 25828, Flagler County Special Acts.*

21. **Flagler County Ch. 25830 (1949), Sections 2 and 3**

- This Special Act, implemented in 1949, prohibits the harvest of shrimp or prawn within one-half mile of the Flagler Beach municipal fishing pier with any drag net, haul seines, trawls or other devices or equipment other than cast nets or hand dip nets.
 - Section 2 includes a reference to a predecessor agency that no longer exists.
 - 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 Sections 2 and 3 of Ch. 25830, Flagler County Special Acts.*

22. **Flagler County Ch. 61-2162 (1961), Section 2**

- This Special Act, implemented in 1961, prohibits the catching or taking of shrimp, prawn, menhaden or other fish within a certain distance of the Flagler Beach municipal fishing pier with drag nets, haul seines or other devices, except for cast nets or hand dip nets.
 - 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. 61-2162, Flagler County Special Acts.*

23. **Flagler Ch. 76-374 (1976), Sections 2, 3, and 4**

- This Special Act, implemented in 1976, prohibits the use of any type of net or seine, except common cast nets, from the beaches bordering the Atlantic Ocean in Flagler County.
 - Section 2 states that the provisions of this Special Act shall be enforced by all law enforcement officers of Flagler County and the State of Florida and is unnecessary.
 - 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 includes a reference to a predecessor agency that no longer exists.
- *Staff recommend repealing Sections 2, 3, and 4 of Ch. 76-374, Flagler County Special Acts, as amended by Ch. 77-554, Laws of Florida (1977).*

24. **Lee County Ch. 63-1554 (1963), Subsection 1(2) and Section 2**

- This Special Act, implemented in 1963, prohibits the use of nets within a certain area surrounding the Matlatcha Bridge.

- Subsection 2 of Section 1, and Section 2 appear 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 Subsection 1(2) and Section 2 of Ch. 63-1554, Lee County Special Acts, as amended by Ch. 79-494, Laws of Florida (1979), Ch. 80-524, Laws of Florida (1980), Ch. 81-409, Laws of Florida (1981), and Ch. 83-441, Laws of Florida (1983).*

25. **Levy County Ch. 57-1531 (1957)**

- This Special Act, implemented in 1957, grants authority for regulation of the harvest of oysters from state owned, leased, or granted oyster bars within Levy County to the State Board of Conservation, and prohibits the harvest of oysters between April 1 - Sept. 30 each year until the State Board of Conservation exercises its authority.
- The State Board of Conservation no longer exists and the regulation of oysters has since been granted to the Florida Fish and Wildlife Conservation Commission and the Florida Department of Agriculture and Consumer Services.
- *Staff recommend repealing all of Ch. 57-1531, Levy County Special Acts.*

26. **Sarasota County Ch. 24890 (1947)**

- This Special Act, implemented in 1947 prior to statewide management of saltwater fishing, 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 appeared to set penalties for violation of this Special Act that were inconsistent with more recently established statewide statutory penalties created by the Legislature and was repealed effective February 1, 2017. Prior to repealing Section 3, Commission staff contacted the Sarasota County Attorney and requested feedback on the proposed repeal, and the potential for repealing the remainder of this Special Act in the future.
- Sarasota County staff sent a memorandum to the County Administrator and the Sarasota County Board of County Commissioners in November 2016 recommending that the County should not object to the Commission's proposed repeals and should support the repeal of this Special Act in its entirety.
- The repeal of this Special Act is not anticipated to have an impact on the natural resources of Sarasota County, as statewide regulations addressing the use of net gear will still apply.
- *Staff recommend repealing all of Ch. 24890, Sarasota County Special Acts.*

27. **Sarasota County Ch. 57-1844 (1957)**

- This Special Act, implemented in 1957 prior to statewide management of saltwater fishing, regulates the use of nets and seines for the catching and fishing for saltwater fish in the waters of Sarasota County.
- Sections 1-9, 11-14, and 16-19 were repealed by the Marine Fisheries Commission effective Jan. 1, 1995. Sections 10 and 15 are the only remaining provisions of this Special Act.
- Section 10 prohibits the use of any net in such a way that fish are confined in an area until the tide falls and fish can be harvested using hand nets, cast nets, or other seines. This practice is known as stop-netting, and has since been prohibited by the Legislature and in other rules of the Commission.
- Section 15 specifically exempts the use of bait nets and seines not to exceed 100 feet in length or 6 feet in depth from the provisions of this Special Act. This can lead someone to believe that it is legal to use bait seines with more than 500 square feet of mesh area, contrary to provisions of the Net Limitation Amendment of the Florida Constitution, which prohibits the use of nets with more than 500 square feet of mesh area in nearshore and inshore waters. The repeal of this Special Act is not anticipated to have an impact on the natural resources of Sarasota County, as statewide regulations addressing the use of net gear will still apply.
- *Staff recommend repealing all of Ch. 57-1844, Sarasota County Special Acts, as amended by Ch. 63-1915, Laws of Florida (1963).*

28. **Sarasota County Ch. 63-1907 (1963)**

- This Special Act, implemented in 1963 prior to statewide management of saltwater fishing, allows for nets to be pulled by hand up on shore to the mean high-water mark on the beaches in Sarasota County, provided that litter is not thereby deposited and allowed to remain on such beaches.

- Repealing this Special Act will have no effect because the depositing litter has since been prohibited statewide by the Legislature, therefore this Special Act is unnecessary.
- *Staff recommend repealing all of Ch. 63-1907, Sarasota County Special Acts.*

29. **Sarasota County Ch. 70-930 (1970)**

- This Special Act, implemented in 1970 prior to statewide management of saltwater fishing, prohibits the take of certain 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 appeared to set penalties for the use of nets in violation of this Special Act that were inconsistent with more recently established statewide statutory penalties created by the Legislature and was repealed effective February 1, 2017. Prior to repealing Section 3, Commission staff contacted the Sarasota County Attorney and requested feedback on the proposed repeal, and the potential for repealing the remainder of this Special Act in the future.
- Sarasota County staff sent a memorandum to the County Administrator and the Sarasota County Board of County Commissioners in November 2016 recommending that the County should not object to the Commission's proposed repeals and should support the repeal of this Special Act in its entirety.
- The repeal of this Special Act is not anticipated to have an impact on the natural resources of Sarasota County, as statewide regulations addressing the use of net gear will still apply.
- *Staff recommend repealing all of Ch. 70-930, Sarasota County Special Acts.*