

**CHAPTER 68B-23
SPANISH MACKEREL**

68B-23.001	Purpose, Intent and Repeal of Other Laws ; Designation as Restricted Species
68B-23.002	Definitions
68B-23.003	<u>Size Limit; Landed in Whole Condition Requirement</u> Gear Specifications and Prohibited Gear
68B-23.0035	Size Limit
68B-23.004	<u>Bag and Vessel Limits</u> Commercial Fishing Season for Spanish Mackerel; Commercial Vessel Limits
68B-23.005	<u>Open and Closed Seasons for the Harvest of Spanish Mackerel</u> Recreational Bag Limit for Spanish Mackerel
68B-23.006	<u>Allowable Gear; Prohibited Gear</u> Other Prohibitions
68B-23.011	<u>Other Prohibitions</u>

68B-23.001 ~~Purpose, Intent and Repeal of Other Laws~~; Designation as Restricted Species.

(1) ~~The purpose and intent of this chapter are to protect, manage, conserve and replenish Florida's Spanish mackerel resource, species *Scomberomorus maculatus*. Accordingly, this chapter is intended to repeal Section 370.08(7), F.S (1985).~~

(2) ~~If any provision of this chapter is held to be an invalid exercise of delegated legislative authority, it is the intent of the Commission that the invalidity not affect other provisions of the chapter which can be given effect without the invalid provision, and to this end, the provisions of this chapter are declared to be severable.~~

(3) ~~Spanish mackerel are hereby designated as a restricted species pursuant to Section 379.101(32)(23), F.S. (1985).~~

Rulemaking Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 11-28-85, Amended 10-30-86, 12-10-87, 10-1-88, 10-19-89, 9-30-96, Formerly 46-23.001, Amended _____.

68B-23.002 Definitions.

(1) ~~“Charter vessel” means a boat or vessel, including what is commonly known as a “headboat”, whose captain or operator is licensed by the U.S. Coast Guard to carry passengers and whose passengers fish for a fee. The “crew” of a charter vessel means those individuals who receive monetary or other compensation from the vessel owner, captain, or operator or from the passengers who are engaged in fishing from the vessel as anglers.~~

(2) ~~“Commercial harvest,” “harvest for commercial purposes,” or words of similar import, when used in connection with the harvest of Spanish mackerel, means the taking or harvesting of any Spanish mackerel for purposes of sale or with intent to sell. Spanish mackerel harvested from state waters in excess of the recreational bag limit shall constitute harvest for commercial purposes.~~

(3) ~~“Commission” means the Florida Fish and Wildlife Conservation Commission.~~

(4) ~~“East Coast Region” means Florida Waters state waters along the east coast of Florida north of the Miami-Dade/-Monroe county County line in the Atlantic Ocean.~~

(5) ~~“Harvest” means the catching or taking of a fish by any means whatsoever, followed by a reduction of such fish to possession. Fish that are caught but immediately returned to the water free, alive and unharmed are not harvested.~~

(6) ~~“Land”, when used in connection with the harvest of a fish, means the physical act of bringing the harvested fish ashore.~~

(7) ~~“Person” means any natural person, firm, entity or corporation.~~

(8) ~~“Recreational harvester” means a person harvesting Spanish mackerel for other than commercial purposes.~~

(2)(9) ~~“Spanish mackerel” means any fish of the species *Scomberomorus maculatus*, or any part thereof.~~

Agenda Item 5C – Spanish Mackerel Draft Rule Language
May 2019

(10) “Spearing” means the catching or taking of a fish by bow hunting, gigging, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear or by snagging (snatch hooking).

(11) “Vessel” means and includes every description of water craft used or capable of being used as a means of transportation on water, including nondisplacement craft and any aircraft designed to maneuver on water.

(3)(12) “West Coast Region” means all Florida Waters except those included in the East Coast Region state waters of the Atlantic Ocean south and west of the Dade Monroe County line in the Atlantic Ocean and all state waters of the Gulf of Mexico.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-28-85, Amended 10-30-86, 10-1-88, 10-1-90, 11-29-93, 9-30-96, 1-1-98, Formerly 46-23.002, Amended _____.

(Substantial rewording of Rule 68B-23.003 follows. See Florida Administrative Code for present text.)

68B-23.003 Size Limit; Landed in Whole Condition Requirement ~~Gear Specifications and Prohibited Gear.~~

(1) Size Limit – A person may not harvest or land from Florida Waters, or possess in or on Florida Waters, a Spanish mackerel that is less than 12 inches in fork length.

(2) Landed in Whole Condition Requirement – A person harvesting Spanish mackerel shall land each Spanish mackerel in whole condition. A person may not possess in or on Florida Waters, on any public or private fishing pier, on a bridge or catwalk attached to a bridge from which fishing is allowed, or on any jetty, a Spanish mackerel that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit the evisceration (gutting) of a Spanish mackerel or removal of gills from a Spanish mackerel.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-28-85, Amended 10-30-86, 12-10-87, 10-1-88, 2-16-93, 11-29-93, 9-30-96, 1-1-98, Formerly 46-23.003, Amended _____.

68B-23.035 Size Limit.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-1-99, Formerly 46-23.0035, Repealed _____.

(Substantial rewording of Rule 68B-23.004 follows. See Florida Administrative Code for present text.)

68B-23.004 Bag and Vessel Limits ~~Commercial Fishing Season for Spanish Mackerel; Commercial Vessel Limits.~~

(1) Recreational Bag Limit –

(a) A recreational harvester may not harvest from Florida Waters more than 15 Spanish mackerel per day. A recreational harvester may not possess in or on Florida Waters, on any dock, pier, bridge, beach, or other fishing site adjacent to such waters, more than 15 Spanish mackerel.

(b) The captain or crew of a vessel for hire may each temporarily possess more than the applicable possession limit for Spanish mackerel, once the vessel is docked, for the limited purposes of transporting, cleaning, or storing fish for customers, so long as the fish are segregated in bags or other containers by the customer and the customer has given written authorization to the captain to temporarily possess the fish for such limited purposes. The authorization shall remain attached to the bag or container containing the fish until they are returned to the customer.

(c) Spanish mackerel recreationally harvested may not be transferred between vessels within Florida Waters.

(2) Commercial Regional Vessel Limits –

(a) East Coast Region –

1. Beginning on March 1 and continuing through November 30 of each year, unless the provisions of

Agenda Item 5C – Spanish Mackerel Draft Rule Language
May 2019

subparagraphs 3. or 4. apply, a harvest, landing, and possession limit of 3,500 pounds of Spanish mackerel per vessel per day shall apply in the East Coast Region. During this period, commercial harvesters aboard a vessel in the East Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 3,500 pounds of Spanish mackerel.

2. Unless the provisions of subparagraphs 3. or 4. apply, the following harvest, landing, and possession limits shall apply beginning on December 1 each year and continuing through the end of the current season as specified in subsection 68B-23.005(2):

a. On Monday through Friday during this period, a harvest, landing, and possession limit of 3,500 pounds of Spanish mackerel per vessel per day shall apply. During this period, commercial harvesters aboard a vessel in the East Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 3,500 pounds of Spanish mackerel.

b. On Saturday through Sunday during this period, a harvest, landing, and possession limit of 1,500 pounds of Spanish mackerel per vessel per day shall apply. During this period, commercial harvesters aboard a vessel in the East Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 1,500 pounds of Spanish mackerel.

3. A harvest, landing, and possession limit of 1,500 pounds of Spanish mackerel per vessel per day shall apply in the East Coast Region from the date the commercial vessel limit in adjacent federal waters is reduced to 1,500 pounds of Spanish mackerel until the end of the current season as specified in subsection 68B-23.005(2), unless the provisions of subparagraph 4. apply. During this period, commercial harvesters aboard a vessel in the East Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 1,500 pounds of Spanish mackerel.

4. A harvest, landing, and possession limit of 500 pounds of Spanish mackerel per vessel per day shall apply in the East Coast Region from the date the commercial vessel limit in adjacent federal waters is reduced to 500 pounds of Spanish mackerel or from the date the commercial harvest of Spanish mackerel in adjacent federal waters is closed, whichever occurs first, and until the end of the current season as specified in subsection 68B-23.005(2). During this period, commercial harvesters aboard a vessel in the East Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 500 pounds of Spanish mackerel.

5. In the East Coast Region, a “day” starts at 6:00 a.m., local time, and extends for 24 hours. For example, Monday starts at 6:00 a.m. on Monday and extends until 6:00 a.m. on Tuesday. A commercial harvester aboard a vessel terminating a trip prior to 6:00 a.m., but who possesses Spanish mackerel aboard the vessel after that time shall not be considered to possess Spanish mackerel in excess of the daily limits provided the vessel is not underway after 6:00 a.m. and such Spanish mackerel are unloaded prior to 6:00 p.m. following termination of the trip.

6. A commercial harvester may not transfer Spanish mackerel between vessels within the East Coast Region.

(b) West Coast Region – There are no commercial vessel limits applicable in the West Coast Region. However, if at any time adjacent federal waters are closed to commercial harvest of Spanish mackerel, a limit of 500 pounds of Spanish mackerel per vessel per day shall apply in the West Coast Region for the remainder of the season as specified in subsection 68B-23.005(2). During this period, commercial harvesters aboard a vessel in the West Coast Region may not harvest or land in any one day, or possess aboard a vessel more than 500 pounds of Spanish mackerel.

(c) Notice of commercial regional vessel limit changes pursuant to paragraphs (a) or (b) will be given by the Executive Director of the Fish and Wildlife Conservation Commission in the manner provided in Section 120.81(5), F.S.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-30-86, Amended 12-10-87, 10-1-88, 11-1-89, 10-1-90, 11-26-92, 11-29-93, 9-30-96, 12-2-96, 1-1-98, Formerly 46-23.004, Amended 1-1-01, 8-3-10, _____.

Agenda Item 5C – Spanish Mackerel Draft Rule Language
May 2019

(Substantial rewording of Rule 68B-23.005 follows. See Florida Administrative Code for present text.)

68B-23.005 Open and Closed Seasons for the Harvest of Spanish Mackerel ~~Recreational Bag Limit for Spanish Mackerel.~~

(1) Recreational Open Season – The season for recreational harvest of Spanish mackerel is open throughout the year.

(2) Commercial Open and Closed Seasons –

(a) East Coast Region – Commercial harvest of Spanish mackerel in the East Coast Region is open beginning March 1 each year and continuing through the last day of February of the following year, subject to the specified East Coast Region commercial vessel limits established in Rule 68B-23.004.

(b) West Coast Region – Commercial harvest of Spanish mackerel in the West Coast Region is open beginning April 1 each year and continuing through March 31 of the following year, subject to any West Coast Region commercial vessel limits established in Rule 68B-23.004.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-30-86, Amended 12-10-87, 10-1-88, 10-1-90, 11-26-92, 2-14-94, 1-1-98, Formerly 46-23.005, Amended 7-1-00, _____.

(Substantial rewording of Rule 68B-23.006 follows. See Florida Administrative Code for present text.)

68B-23.006 Allowable Gear; Prohibited Gear ~~Other Prohibitions.~~

(1) A person may harvest or attempt to harvest Spanish mackerel from Florida Waters only by or with the use of a beach or haul seine, a cast net, hook and line gear, or by spearing.

(2) A person may not harvest or attempt to harvest Spanish mackerel from Florida Waters with gear not expressly permitted in subsection (1).

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-30-86, Amended 10-1-88, Formerly 46-23.006, Amended 6-1-99, 10-12-15, _____.

68B-23.011 Other Prohibitions.

(1) The Commission shall issue a permit pursuant to Rule 68B-2.010 to authorize Spanish mackerel caught in an organized tournament to be donated to a licensed wholesale dealer.

(2) The prohibitions of this chapter apply as well to any and all persons operating a vessel in Florida Waters, who shall be deemed to have violated any prohibition which has been violated by another person aboard such vessel.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New _____.