

**NOTICE OF PROPOSED RULE  
FISH AND WILDLIFE CONSERVATION COMMISSION**

**DIVISION:** Marine Fisheries

**RULE NO:      RULE TITLE:**

68B-5.003      Warren Bayou (Bay County) Special Seasonal Harvest Closure

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to repeal 68B-5.003, Florida Administrative Code, a seasonal harvest closure in Warren Bayou (Bay County), its tributaries, and all waters within 100 yards of the mouth of the bayou.

Warren Bayou is adjacent to West Bay (a segment of St. Andrews Bay in Bay County). In this area, a power plant has historically used water from the bay as a coolant for its energy-generating processes, specifically the coal-fired generators. As a result of this cooling process, artificially-heated water was released into a canal that empties into Warren Bayou. Artificially-heated water bodies can serve as thermal refuges for marine life in winter months and often result in dense aggregations of fish seasonally. In 1993, at the request of Bay County Board of County Commissioners (BOCC), a seasonal closure was implemented in the waters of Warren Bayou to reduce harvest pressure on saltwater fish aggregating in these waters during the cold weather months of November through February.

In March 2016, the power company phased out this power plant's coal-fired generator units and, as a result, warm water is no longer discharged into the surrounding water bodies. The seasonal closure is no longer needed because of the operational changes at the power plant. This rulemaking is being conducted at the request of Bay County BOCC and stakeholders.

The effect of this rule will be to remove an unnecessary closure to harvest of marine fish from Warren Bayou, its tributaries and within 100 yards of the mouth of Warren Bayou and give anglers increased fishing opportunities by allowing fishing in that area year-round.

**SUMMARY:** This rule will repeal the Warren Bayou Special Seasonal Harvest Closure and allow anglers year-round access to harvest opportunities in Warren Bayou. In addition, it will reduce confusion for anglers who are aware of the power plant's operational changes, but may be unaware the rule remains in effect. This rulemaking is being conducted at the request of Bay County BOCC and stakeholders.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** *[place an "X" in one of the choices for each of the two statements as directed by the memo on small business impacts] The agency has determined that this rule will \_\_\_ or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternatives must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE F.A.R.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, and (850) 487-0554.

**THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:**

**68B-5.003 Warren Bayou (Bay County) Special Seasonal Harvest Closure.**

*Specific Authority Art. IV, Sec. 9, Fla Const. Law Implemented Art. IV, Sec. 9, Fla Const. History—New 3-16-93, Formerly 46-5.003, Repealed -- .*

**BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.**

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850) 487-0554.

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Florida Fish and Wildlife Conservation Commission.

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:**

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.:** January 5, 2017