



This document summarizes a draft rule amendment for the Florida Fish and Wildlife Conservation Commission's (FWC) Local Laws, 68B-3, Florida Administrative Code (FAC), and Spearing rules, 68B-20, FAC. In February, the FWC received a letter from the Collier County Board of County Commissioners requesting that FWC repeal two Special Acts of Local Application for Collier County. The first act (Chapter 27473) prohibits the use of artificial light while spearing or gigging fish in state waters off Collier county, while the second (Chapter 30665) prohibits harvesting any fish from waters off Collier County using a spear, gig, or other spearing device.

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Special Acts of Local Application

- Laws originally enacted by the Legislature
- Laws repealed by the Legislature in 1983 and incorporated as rules of the Marine Fisheries Commission (MFC)
- Transferred to the FWC in 1999 as Special Acts
- FWC administers these regulations on behalf of the Counties
- FWC has the authority to modify or repeal these regulations
- Staff are working with the counties to identify Special Acts that are no longer needed as part of the rule cleanup process



The local acts under consideration for repeal are just a few of many Special Acts of Local Application (Special Acts) administered as rules by the FWC. These local laws were originally enacted by the Florida Legislature prior to the creation of the Marine Fisheries Commission (MFC) and the FWC.

When the MFC was created in 1983, the Legislature repealed many of these laws, which were then incorporated as rules of the MFC. When the FWC was created in 1999, the FWC acquired these rules, which are now referred to as Special Acts of Local Application.

These Special Acts fall under FWC's Constitutional authority to regulate hunting and fishing, and the Commission has the authority to modify or repeal them. FWC staff is currently working with the counties, through the rule cleanup process, to identify which Special Acts are no longer needed and should be repealed.

This document addresses two of these Special Acts that currently apply in Collier County.

Collier County Local Rules – History

- **1951:** the Legislature enacted Chapter 27473
 - Prohibited the use of artificial light when spearfishing or gigging
- **1955:** the Legislature enacted Chapter 30665
 - Prohibited all spearing
 - Approved by Collier County voters in 1956
- **1983:** MFC adopted existing acts as local rules
- **1999:** FWC acquired the rules as Special Acts of Local Application

Note: Collier County spearfishing ban is in Florida Statutes and is referenced by the FWC's spearfishing rule



Spearfishing is currently prohibited in all state waters off Collier County. These County regulations were enacted by the Florida Legislature prior to the development of statewide spearfishing regulations that govern where spearfishing can occur and which species can be targeted.

In 1951, the legislature enacted Chapter 27473, Laws of Florida, prohibiting the use of artificial light when spearing or gigging fish in state waters off Collier County. Chapter 30665, Laws of Florida, prohibiting spearfishing entirely in state waters off Collier County, was enacted in 1955, and became effective following approval of Collier County voters in 1956.

These laws were among those incorporated as rules of the MFC in 1983 and transferred to the FWC in 1999 as Special Acts of Local Application. As such, these Special Acts are now FWC rules and can be altered or repealed by the FWC.

However, unlike most of the Special Acts, the prohibition of spearfishing in Collier County also appears in the Florida Statutes (379.2425(2)(a), F.S.). This statutory prohibition is referenced in the Commission's spearfishing rule (68B-20, FAC).

Request for Rule Amendment

January 2013 – First lionfish caught in Collier County

- Petition signed by 327 fishermen requesting repeal of the ban on spearfishing

Collier County Board of Commissioners requested the FWC repeal spearfishing ban

- The county states the rules are antiquated and not in the public's best interest



On Jan. 13, 2013, the first documented lionfish in state waters off Collier County was caught by a recreational angler, prompting the Naples Spearfishing League to organize a petition signed by 327 fishermen. The petition, directed at the Collier County Board of County Commissioners, sought to have the County Commission request FWC repeal the Collier County spearfishing prohibitions.

On Feb. 12, 2013, Collier County's Board of County Commissioners sent a Resolution (number 13-15) to the FWC requesting that Chapters 27473 and 30665 be repealed, stating that the rules are antiquated and not in the public's best interest.

Spearfishing and Lionfish

Repeal of prohibitions would facilitate the removal of lionfish from state waters off Collier County

- Spearfishing is an effective method of removing lionfish
- Spearfishing ban impedes lionfish removal
- If repealed, current statewide regulations would apply in state waters off Collier County, including prohibitions on
 - Spearing of certain species (*i.e.*, snook, red drum, spotted seatrout, sharks, and others)
 - Spearing in areas that would be unsafe for either the spearfisher or the public (*i.e.*, near fishing piers and public beaches)



Repealing the spearfishing prohibitions would facilitate the removal of invasive lionfish from state waters off Collier County, as spearing is a highly effective method of removing lionfish compared to other methods such as hook and line. Recreational, commercial, and lionfish derby fishermen would be able to participate in spearing of lionfish in state waters off the county if Chapters 27473 and 30665 are repealed.

The Division of Marine Fisheries Management, in consultation with the FWC Legal Office, FWC Division of Law Enforcement, and the South Regional Leadership Team (RLT), has determined the repeal of these two local rules is unlikely to have any negative effects on Florida's native natural resources and should not cause any enforcement or legal issues. Staff therefore supports Collier County's request to repeal the Special Acts.

With their repeal, the current statewide regulations regarding the use of spears would apply in Collier County. These regulations include general limitations, including prohibitions on spearfishing for many marine species (such as snook, red drum, spotted seatrout, sharks, and tarpon, among others), and prohibitions on spearfishing in areas where the activity is considered a safety concern, such as within 100-yards of a public bathing beach or jetty and within 100-yards of fishing bridges or piers. Spearfishing is also prohibited in all state parks.



Proposed Draft Rules

68B-3.002 (NEW) Repeal of Chapters 27473 and 30665, Collier County Special Acts

- *Repeal Chapters 27473 and 30665*
- *Allow statewide spearfishing rules to apply in state waters off Collier County*
- *Allow the use of lights when gigging and spearfishing*

68B-20.003 Spearfishing, Statewide Regulation; Prohibition against Powerheads, Bangsticks, and Rebreathers; Repeal of Certain Special Acts

- *Clarify that spearfishing is allowed in state waters off Collier County*

If approved, staff would work with the Legislature to repeal the relevant language in Florida Statutes



The proposed draft rule would (1) create 68B-3.002, FAC, titled: Repeal of Chapters 27473 and 30665, Collier County Special Acts, which would repeal these two Special Acts of Local Application for Collier County, and (2) amend the Commission's spearfishing rules to clarify that spearfishing is allowed in waters off Collier County. This rule change would be sufficient to allow spearfishing to resume in state waters off Collier County immediately upon implementation and to allow the use of lights when gigging or spearfishing in those same waters, as is currently allowed throughout most of the state.

The Special Acts of Local Application, formerly Laws of Florida, were made rules of the Marine Fisheries Commission, and subsequently rules of the FWC, through Chapter 83-134, Laws of Florida. Therefore they can be repealed or amended as with other rules of the Commission.

If the draft rule is approved, staff would work with the Florida Legislature to remove the statutory language prohibiting spearfishing in Collier County during the 2014 legislative session.

Statewide Spearfishing Regulations

- Spearfishing is prohibited within
 - 100 yards of public bathing beaches
 - 100 yards of commercial or public fishing piers
 - 100 yards public fishing bridges
 - 100 feet of the unsubmerged portion of any jetty
 - State parks
- Prohibited Gear
 - Powerheads, bangsticks, and rebreathers
- Spearfishing of the following species is prohibited
 - Billfish
 - Sturgeon
 - Tarpon
 - Bonefish
 - Goliath grouper
 - Nassau grouper
 - Permit
 - Pompano
 - African pompano
 - Sharks
 - Spotted eagle ray
 - Manta ray
 - Snook
 - Red drum
 - Spotted seatrout
 - Weakfish
 - Tripletail
 - Surgeonfish
 - Marine Life species



This slide summarizes the current statewide spearfishing regulations. If the proposed Special Acts of Local Application are repealed, these regulations would automatically apply to all state waters off Collier County.

Staff Recommendation



Approve the proposed draft rules

- Create 68B-3.002 to allow the use of lights and spears in Collier County
- Amend 68B-20.003 to allow spearfishing in Collier County

Make rule effective as soon as possible

** Staff will publish a notice that the rule will become final with no further public hearing unless requested.*



Staff recommends approving the advertised rule, which would repeal Chapters 27473 and 30665, Special Acts of Collier County, and clearly state in 68B-20, FAC, that spearfishing is allowed in Collier County. The repeal would allow the use of lights when fishing in waters off Collier County, as is currently allowed throughout most of the state and allow the statewide rules regarding spearfishing to apply in waters off Collier County. These changes to FWCs rules would be sufficient to allow spearfishing to resume in saltwater areas off Collier County while staff works with the Legislature to address the necessary changes to F.S.

Staff also recommends approving the draft rule without further hearing planned prior to adoption, unless requested, as allowed by Section 120.53, F.S., and making the rule effective as soon as possible.

Staff has evaluated the rules under the standards of 68-1.004, FAC, and found them to be in compliance.