

**NOTICE OF PROPOSED RULE
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION: Freshwater Fisheries Management**

RULE NO: 68A-23.012 **RULE TITLE: Special Regulations on Lake Okeechobee.**

PURPOSE AND EFFECT:

The proposed rule amendment is to reduce conflict among recreational anglers and commercial haul seine operations and clarify the current rule language. The proposed amendment will reduce conflict among user groups, enhance law enforcement of haul seine program and continue to provide effective protection of both commercial and sport fisheries and the lake ecosystem.

SUMMARY: Lake Okeechobee is a 730 square miles lake located in South Florida that supports a world renowned sport fishery and a unique commercial fishery for bluegill and redear sunfish. The proposed rule amendment will reduce user conflicts and clarify current rule language. The proposed rule was developed through cooperative efforts with local stakeholders, partners, Division of Habitat and Species Conservation and Division of Law Enforcement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *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.

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 HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission's regular meeting November 20-21, 2013, 8:30 a.m. to 5:00 p.m. each day.

PLACE: Ft Lauderdale-Miami, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting the ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Champeau, Director, Division of Freshwater Fisheries Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68A-23.012 Special Regulations on Lake Okeechobee.

(1) through (3) No change.

(4) Commercial gear specifications and restrictions:

(a) Haul seines:

1. through 4. No change.

5. Closed areas:

a. Haul seines shall not be used or operated in Pelican Bay; in Fisheating Creek Bay north and west of a line from the weather beacon approximately one mile east of the north end of Observation Shoal (designated R "2" on National Oceanic and Atmospheric Administration, National Ocean Survey chart #11428, edition 16) to the westernmost point of Horse Island; that area north and west of a line from the ~~white navigation light at latitude 27 degrees 5 minutes north, longitude 80 degrees 47 minutes west (designated FL 4 sec. 27 ft. 5M on~~

~~National Oceanic and Atmospheric Administration, National Ocean Survey chart #11428, edition 16) to Henry Creek Lock eastern most point of Kings Bar to Nubbin Slough water control structure S-191; that area south of a line connecting the northernmost point of Kreamer Island to the northernmost point of Ritta Island; or in any rim canal, river mouth, channel, within that area shoreward of the boundary delineated by the commercial fishing boundary buoys Global Positioning System coordinates, ~~or within one statute mile of any rooted, emergent aquatic vegetation. Latitude and longitude coordinates shall be established to further describe boundary lines as defined in this section. Latitude and longitude coordinates so established shall be incorporated in the permit issued pursuant to 68A-23.012(3), F.A.C. subsection (3) of this section.~~~~

b. No change.

6. No change.

7. Haul seines may be laid out ~~and closed~~ no earlier than ~~three~~ four hours before sunrise but no fish shall be taken from the waters prior to one-half hour before sunrise. No haul seines shall be operated after sunset.

8. through 9. No change.

(b) No change.

(c) Wire catfish traps:

1. through 2. No change.

3. No wire traps shall be placed in that area shoreward of within the triangular area encompassed by the following: commencing at the southwesternmost point of land at the mouth of the Kissimmee River then connecting by a straight line running eastward to a point at latitude 27 degrees 7 minutes 30 seconds north and longitude 80 degrees 46 minutes 50 seconds west then connecting by a straight line running northward to a point at the southeasternmost point of the Taylor Creek Lock connecting in a meandering line following along the shoreline of the lake to the point of beginning. ~~the commercial fishing boundary buoys and bounded on the east by Taylor Creek Lock and on the west by the mouth of the Kissimmee River, excluding any part of the area designated as North Lake Shoal on National Oceanic and Atmospheric Administration, National Ocean Survey chart #11428, edition 16.~~

4. through 5. No change.

(d) Trotlines: Trotlines shall be marked with a flag every 1,000 yards and with a gallon-sized buoy every 500 yards between flags when fished at a lake elevation below 11.0 feet NGVD as determined by the United States Army Corps of Engineers. ~~lakeward of the boundary delineated by the commercial fishing boundary buoys.~~

(5) through (7) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3635, 379.377 FS. History—New 8-1-79, Amended 11-8-79, 5-19-80, 6-22-80, 6-15-81, 6-21-82, 12-14-82, 7-1-84, 7-1-85, 9-19-85, Formerly 39-23.12, Amended 6-1-86, 2-21-88, 4-4-91, 4-15-92, 7-1-97, 7-1-98, Formerly 39-23.012, Amended 8-27-09, 3-24-13.

PROPOSED EFFECTIVE DATE: AS SOON AS POSSIBLE AFTER COMMISSION ACTION
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.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Champeau, Director, Division of Freshwater Fisheries Management

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.W.: January 8, 2013

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

FISH AND WILDLIFE CONSERVATION COMMISSION

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-23.012 RULE TITLE: Specific Regulations on Lake Okeechobee

The proposed rule amendments will reduce conflicts among recreational anglers and commercial haul seine operations, enhance law enforcement of haul seine program rules and clarify current rule language. The proposed rule amendments will provide effective protection for the freshwater fisheries and Lake Okeechobee ecology. The amendments were developed in cooperation with recreational and commercial fishers, the Division of Law Enforcement and the Division of Habitat and Species Conservation.

There are no federal regulations or standards regarding the same subject as this rule.