

Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: RULE TITLE:

68B-5.006 Lionfish

PURPOSE AND EFFECT: The purpose of this rule amendment is to waive the requirement for a recreational fishing license for divers harvesting lionfish, provided harvest is only with the following gears: hand held net, pole spear, Hawaiian sling, or other spearing device specifically designed and marketed exclusively for lionfish. The rule amendment will also allow unlimited harvest of lionfish for both recreational and commercial fishermen by establishing a no bag limit policy and stating that 100 pounds of lionfish is not considered a commercial quantity. The effect of this rule amendment will be to facilitate the removal of non-native, invasive lionfish from state waters off Florida.

SUMMARY: Rule 68B-5.006, F.A.C., would be created to waive the requirement for a recreational fishing license for divers harvesting only lionfish while using certain gear, and allow unlimited harvest of lionfish for both recreational and commercial fishermen.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not 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 a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative 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.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: During the Commission's regular meeting June 11, 2013, 1:00 p.m. – 5:00 p.m. and June 12-13, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Garden Inn Lakeland, 3839 Don Emerson Drive, Lakeland, Florida 33811

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 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 using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-5.006 Lionfish.

(1) For purposes of this rule:

(a) “Diver” means any person who is wholly or partially submerged in the water, and is equipped with a face mask, face mask and snorkel, or underwater breathing apparatus.

(b) “Lionfish” means any fish of the species *Pterois volitans* or *Pterois miles*, or any part thereof.

(2) A recreational fishing license is not required for harvesting lionfish by divers only if using the following gear:

(a) Hand held net,

(b) Pole spear,

(c) Hawaiian sling, or

(d) any other spearing device specifically designed and exclusively marketed towards lionfish.

(3) Lionfish shall have no commercial or recreational bag limit. Commercial licensing requirements apply for anyone harvesting for commercial purposes.

(4) Nothing herein shall be interpreted as allowing harvest while using a rebreather as prohibited by subsection 68B-4.012(2), F.A.C.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 21, 2013