

Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: RULE TITLES:

68B-43.001 Purpose and Intent; Repeal of Statutory Provisions; Designation as Restricted Species

68B-43.002 Definitions

68B-43.003 Size Limit; Bluefish to be Landed in Whole Condition

68B-43.004 Bag Limits

68B-43.005 East Coast Commercial Harvest: Daily Vessel Harvest and Possession Limit; Season Harvest Limit; Gear Specifications

PURPOSE AND EFFECT: When the FWC's bluefish rule was updated in 1995 following the adoption of the Net Limitation Amendment, an allowance for the use of gear which is illegal in state waters was inadvertently left in. The rule also includes an outdated commercial quota implemented under the Mid-Atlantic Fishery Management Council's (MAFMC) Fishery Management Plan for the Bluefish Fishery (FMP), which was written in cooperation with Atlantic States Marine Fisheries Commission and South Atlantic Fishery Management Council. The current quota is updated annually, while the rule references a static quota set in 1995. The purpose of this rule amendment is to remove outdated provisions; clarify that the size limit, landed in whole condition requirement, and recreational bag limit extend into federal waters; and reformat the rule to conform to the new style developed under the FWC's 68B rule cleanup process.

SUMMARY: The rule amendments would remove gear specifications for the bluefish fishery which are inconsistent with statewide gear regulations, the Florida Constitution, and the federal net fisheries in which bluefish are taken as bycatch. The rule amendments would also allow the commercial fishery on the Atlantic coast to remain open until the annual quota set by the MAFMC and NOAA Fisheries is met.

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.

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 and (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-43.001 Purpose and Intent; ~~Repeal of Statutory Provisions~~; Designation as a Restricted Species.

(1) The purpose and intent of this chapter are to protect and conserve Florida's bluefish resources and assure the continuing health and abundance of the species. It is also the intent of the Commission to manage bluefish in such a manner as to permit an equitable statewide commercial harvest of the species.

~~(2) It is the intent of this chapter to expressly effect the repeal of and replace Section 370.11(2)(a)1., F.S. (1993); and the remainder of Section 370.11(2)(a), F.S. (1993); as it pertains to bluefish.~~

~~(2)(3) Bluefish are hereby designated as a restricted species pursuant to Section 379.101(32), F.S.~~

~~(4) This rule chapter shall take effect on July 1, 1993.~~

PROPOSED EFFECTIVE DATE: September 1, 2013

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History—New 7-1-93, Formerly 46-43.001, Amended 9-1-13.

(Substantial rewording of Rule 68B-43.002 follows. See Florida Administrative Code for present text.)

68B-43.002 Definitions.

As used in this rule chapter:

(1) "Bluefish" means any fish of the species *Pomatomus saltatrix*, or any part thereof.

(2) "Atlantic Region" means all state and federal waters of the Atlantic Ocean north and east of the Dade-Monroe County Line.

PROPOSED EFFECTIVE DATE: September 1, 2013

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-17-93, Formerly 46-43.002, Amended 9-1-13.

(Substantial rewording of Rule 68B-43.003 follows. See Florida Administrative Code for present text.)

68B-43.003 Size Limit; ~~Bluefish to be Landed in Whole Condition~~ Requirement.

(1) Size Limit – A person may not harvest or possess within or without Florida Waters or land a bluefish that is less than 12 inches in fork length.

(2) Landed in Whole Condition Requirement – A person harvesting bluefish within or without Florida Waters shall land each bluefish in whole condition. A person may not possess within or without Florida Waters a bluefish that has been beheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned. This provision will not be construed to prohibit evisceration (gutting) of a bluefish, or removal of gills from a bluefish.

PROPOSED EFFECTIVE DATE: September 1, 2013

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-17-93, Amended 8-31-98, Formerly 46-43.003, Amended 9-1-13.

(Substantial rewording of Rule 68B-43.004 follows. See Florida Administrative Code for present text.)

68B-43.004 Bag and Vessel Limits.

(1) Recreational Bag Limit – A recreational harvester may not harvest or land within or without Florida Waters per day more than 10 bluefish or possess within or without Florida Waters more than 10 bluefish.

(2) Commercial Limits –

(a) Commercial Bag Limit – A commercial harvester may not harvest from the Atlantic Region or land per vessel per day more than 7,500 pounds of bluefish from the Atlantic Region or possess in the Atlantic Region more than 7,500 pounds of bluefish. This provision will not be construed to authorize harvest or possession of bluefish in excess of the applicable vessel limits. Bluefish harvested For Commercial Purposes in the Atlantic Region must be landed in that region.

(b) During any season closure pursuant to paragraph 68B-43.005(1), no person shall harvest or possess bluefish in a quantity in excess of the bag limit established by paragraph 68B-43.004(1) while in or on the waters of the Atlantic Region or land bluefish in a quantity in excess of the bag limit established by paragraph 68B-43.004(1) from the Atlantic Region.

PROPOSED EFFECTIVE DATE: September 1, 2013

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-17-93, Formerly 46-43.004, Amended 9-1-13.

(Substantial rewording of Rule 68B-43.005 follows. See Florida Administrative Code for present text.)

~~68B-43.005 Commercial Season East Coast Commercial Harvest: Daily Vessel Harvest and Possession Limit; Season Harvest Limit; Gear Specifications.~~

Commercial harvest for bluefish is permitted between January 1 and December 31 each year unless closed earlier as follows:

(1) If the total commercial harvest of bluefish from the Atlantic Region is projected to reach the annual quota provided to Florida by the Mid-Atlantic Fisheries Management Council and NOAA Fisheries pursuant to 50 C.F.R. § 648.162 (2/13), the season for commercial harvest of bluefish in such waters shall be closed by the Executive Director of the Fish and Wildlife Conservation Commission upon notice and in the manner provided in Section 120.81(5), Florida Statutes. If the season is closed pursuant to this paragraph, it shall not reopen until the following January 1.

(2) During any season closure pursuant to paragraph (1), no person shall purchase or sell any bluefish harvested during the closure from the Atlantic Region.

PROPOSED EFFECTIVE DATE: September 1, 2013

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-17-93, Amended 10-4-95, Formerly 46-43.005, Amended 9-1-13.

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: February 13, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 28, 2012