



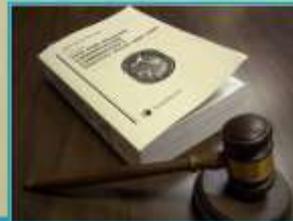
This document summarizes a draft rule for the Florida Fish and Wildlife Conservation Commission's (FWC) Local Laws, Chapter 68B-3, Florida Administrative Code (FAC). As part of the rule cleanup process initiated in 2009 to streamline and clarify saltwater fishing rules, staff has begun to evaluate Special Acts of Local Application (Special Acts) to determine which ones are still necessary and those that can be repealed. The proposed draft rule would repeal the Special Acts for Gilchrist, Indian River, and Manatee Counties. These Special Acts are either outdated or redundant in relation to more current, statewide fishing regulations. The proposed changes would remove unnecessary rules and create greater consistency in Florida's fishing regulations.

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Special Acts of Local Application

- Local fishing laws originally enacted by the Legislature
- Special Acts were repealed from Laws of Florida by the Legislature in 1983 and made rules of the Marine Fisheries Commission (MFC)
- Transferred to the FWC in 1999
- FWC administers these regulations on behalf of the counties
- FWC has the authority to modify or repeal these regulations
 - Staff is working with counties to identify Special Acts that are no longer needed or that can be revised and moved into the FAC



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 These local laws addressed fisheries issues in specific, local areas of the state and were originally enacted by the Florida Legislature prior to the creation of the Marine Fisheries Commission (MFC) and the FWC.

When the MFC was created in 1983, the Legislature repealed many of these Special Acts relating to marine fisheries and made them rules of the MFC.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 fishing, and the Commission has the authority to modify or repeal them. FWC staff is currently working with counties, through the rule cleanup process, to identify which Special Acts can be consolidated or eliminated in an effort to streamline regulation, increase transparency and consistency, and standardize FWC saltwater fishing rules.

When staff brought the first round of proposed rule changes associated with the marine fisheries rule cleanup to the Commission for its approval in February and June of 2013, the presentations included information about staff's intent to review these local laws. Since that time, two of the Special Acts for Collier County were repealed at the County's request. This document addresses the repeal of the Special Acts that currently apply in Indian River, Gilchrist, and Manatee Counties and is the next step in the process to eliminate all Special Acts either by repeal or by incorporating them into the FAC.

Need for Rulemaking

Commission has directed staff to streamline regulations and eliminate unnecessary rules

- Many Special Acts are no longer relevant
 - They are not well known and are difficult to locate
 - Regulations are specific to a small area, creating confusion
 - Enforcement can vary due to their localized focus

Repealing unnecessary Special Acts and incorporating the remaining Acts into the FAC will reduce regulation and make it easier for anglers to comply



As part of its strategic plan, the Commission has directed staff to remove unnecessary rules and streamline regulations to more effectively manage fish and wildlife populations. The marine fisheries rule cleanup process is an important component of simplifying FWC rules, making them easier to adhere to and enforce. Rule cleanup has multiple components, including the review of Special Acts, the standardization of species rule chapters, and the repeal of any unnecessary statutes.

Many Special Acts are no longer relevant, either because they no longer apply to the situation for which they were originally intended or because more recent, statewide rules accomplish the same goal. For example, many counties have Special Acts relating to fishing gear, nets, and their use that are now contrary to or superseded by more recent statewide regulations.

Special Acts can also be problematic because they are not well known and are difficult to locate. While Special Acts are rules of the FWC, they are not contained in the FAC, but rather in their own index. Because of their limited applicability and the fact that they are not commonly or easily referenced, many of the public are unaware of their existence. Special Acts typically apply in localized areas ranging from one to five counties. However, the actual scale of the area they govern varies from as great as many square miles to as little as the area immediately surrounding a single bridge. This makes it difficult for the public to know where and when Special Acts apply and, therefore, makes it challenging for them to comply.

There is also variability in enforcement of Special Acts due to the narrow focus of these local laws; while some Special Acts are important tools used by Law Enforcement in the region, others are a source of confusion or no longer enforced at all.

Repealing Special Acts or revising them and moving them into the more accessible FAC will result in fewer, more transparent saltwater fishing regulations.

Repeal and Revision Process to Date

- FWC Legal Office leading process
 - Contacting all Florida counties with Special Acts
 - Gaining county input and support for repeal or revision
 - Working with the Division of Marine Fisheries Management and Law Enforcement to ensure no adverse impacts on the resource or enforcement
- Gilchrist, Indian River, and Manatee counties either support or do not oppose repeal
- Repeal of these Special Acts is not expected to have any negative effects on Florida's fisheries



The Special Acts repeal process is being conducted by a team of FWC staff from the Legal Office and the Division of Marine Fisheries Management (DMFM), in coordination with Law Enforcement (LE). The FWC Legal Office is leading the process by contacting counties with Special Acts to request support for their repeal or revision. Counties wishing to express their support for repealing or revising the Special Acts that apply in their area do so by holding hearings on the issue at their county commission meetings and adopting resolutions in support of FWC action.

Gilchrist and Manatee counties have expressed their support for the repeal of their Special Acts, and Indian River County passed a resolution expressing that they do not oppose the repeal. The repeal of the Special Acts for these three counties is not expected to have any negative effects on Florida's fisheries.

DMFM and FWC LE are also engaged in the process to ensure that the repeal or revision of the Special Acts will not adversely impact the resource or impede enforcement efforts.

Gilchrist County

Chapter 21254 (Enacted 1941)

- Provides for the year-round sale of saltwater fish in Gilchrist County as long as the seller has the proper licenses

Florida Statutes and FWC rules provide for the sale of saltwater fish; therefore, the repeal of this Special Act would remove obsolete regulations and simplify statewide rules



In 1941, the Legislature enacted Chapter 21254, Gilchrist County Special Acts, to allow saltwater fish to be sold in the county year-round as long as the proper licenses were obtained. This provision was enacted long prior to the development of statewide regulations found in 379.361 and 379.362, Florida Statutes (F.S.), that govern the commercial sale of saltwater fish and the required licenses. A saltwater products license (SPL) is required for the commercial sale of any saltwater products, including saltwater fish to a wholesale dealer, and a wholesale dealer's license is required to purchase saltwater products from a producer and sell them to other wholesale or retail dealers. If saltwater products are being sold to the consumer, a retail dealer's license is required. With these current, statewide license requirements, the Gilchrist County Special Act is obsolete and no longer necessary, and its repeal would have no effect on the sale of saltwater fish in Gilchrist County. Gilchrist County supports the repeal of this Special Act.

Indian River County

Chapter 21305 (Enacted in 1941)

- Limits the allowable fishing gear in the Indian River channel to hook-and-line only

Chapter 77-572 (Enacted in 1977)

- Limits the types of fishing gear that can be used near Indian River bridges and canals to hook-and-line or cast net
- Prohibits the use of cast nets from most Indian River bridges

FWC rules govern fishing gear specifications and prohibited gear; therefore, repeal of these Special Acts would remove regulations that are more restrictive than current, statewide rules



Chapter 21305, Indian River County Special Acts, was enacted by the Legislature in 1941 and allows only hook-and-line gear when fishing in the channel of the Indian River. As enacted by the Legislature in 1977, Chapter 77-572, Indian River County Special Acts, limits the gear types that can be used near Indian River bridges and canals to hook-and-line and cast nets. This Special Act also prohibits the use of cast nets from most Indian River bridges. Chapter 68B-4, FAC, governs statewide fishing gear specifications and prohibited gear. These more recent rules address the use of various types of fishing gear, including limitations on the use of nets. The provisions of Chapters 21305 and 77-572 are inconsistent with, and more restrictive than, statewide fishing gear regulations.

Indian River County (continued)

Chapter 79-480 (Enacted in 1979)

- Prohibits shellfish harvest near shore, canals, or docks in Indian River County without permission of property owner

Repeal of this Special Act would remove regulations that are inconsistent with FWC's statewide oyster harvest regulations



Chapter 79-480, Indian River County Special Acts, was enacted by the Legislature in 1979. This Special Act prohibits the harvest of shellfish on submerged lands near the shore of the Indian River, canals, or docks without first obtaining permission from the adjacent landowner. The statewide harvest of oysters is currently governed by Chapter 68B-27, FAC, and this Indian River County Special Act is more restrictive than current statewide regulations, creating confusion.

Repealing all three of these Indian River County Special Acts would result in greater regulatory consistency by allowing statewide regulations to apply in Indian River County. Indian River County does not oppose the repeal of these Special Acts.

Manatee County

Chapter 19961 (Enacted in 1939)

- Limits the types of nets that can be used near Manatee County municipalities

Chapter 26000 (Enacted in 1949)

- Limits the types of nets that can be used in Manatee County inland salt waters

Chapter 27697 (Enacted in 1951)

- Specifies inland waters where haul nets can be used in Manatee County

Chapter 61-2452 (Enacted in 1961)

- Closes certain interior waters of Anna Maria Island to net fishing



Manatee County currently has seven Special Acts. Most deal with commercial fishing in inland or interior waters of the county. Chapter 19961 is the oldest, enacted in 1939, and prohibits most net fishing near incorporated municipalities of the county. In 1949, the Legislature enacted Chapter 26000 which further restricts the use of nets in all “inside salt waters” of the county, including bays, rivers, and creeks. Shortly thereafter, in 1951, Chapter 27697 was enacted and clarifies where haul nets can be used in the inland waters of the county. Net use in certain interior waters of Anna Maria Island was restricted by Chapter 61-2452 in 1961.

Manatee County (continued)

Chapter 63-1585 (Enacted in 1963)

- Closes certain inland waters of the Manatee River to commercial fishing
- Prohibits use and limits possession of traps and certain net gears
- Sets aggregate bag limits for saltwater fish on the Manatee River

Chapter 67-1685 (Enacted in 1967)

- Closes certain saltwater canals of Manatee County to most net fishing and prohibits blocking waterways with nets
- Limits the possession of certain types of gear and sets possession limits for saltwater fish in these saltwater canals
- Authorizes the Manatee County Commission to regulate the harvest of finfish in the county



Most of the Manatee River was closed to commercial fishing by Chapter 63-1585 in 1963. This Special Act also prohibits the use or possession of traps and certain net gears and establishes aggregate bag and possession limits of no more than 15 saltwater food fish for all fishers on the Manatee River. In 1967, Chapter 67-1685 closed certain saltwater canals in Manatee County to most net fishing. This Special Act also prohibits the blocking of inland waterways with nets, restricts the possession of certain types of gear, and limits fishers to possessing no more than the daily bag limit of saltwater fish species. In addition, this Special Act authorizes the Manatee County Commission to regulate the taking of finfish from all waters within the county.

Manatee County (continued)

Chapter 67-1883 (Enacted in 1967)

- Prohibits the use of any net or seine in the salt waters of the City of Palmetto

Current statewide regulations now address the use of gear, including nets; thus, the repeal of the Manatee County Special Acts would remove conflicting or redundant rules, simplify regulations, and clarify that FWC regulates the harvest of fish in Manatee County



The final Manatee County Special Act was enacted in 1967 and prohibits the use of any net or seine in the salt waters of the City of Palmetto.

Current regulations contained in the Florida Administrative Code, Florida Statutes, and the Florida Constitution now address the use of gear, including nets, statewide. Thus, the repeal of the Manatee County Special Acts would eliminate conflicting or redundant rules, simplify Florida saltwater fishing regulations, and clarify that FWC regulates the harvest of fish in Manatee County. Manatee County supports the repeal of these Special Acts.

Proposed Draft Rules

68B-3.003 (NEW) Repeal of Gilchrist County Special Acts

- Repeal Chapter 21254

68B-3.004 (NEW) Repeal of Indian River County Special Acts

- Repeal Chapters 21305, 77-572, 79-480

68B-3.005 (NEW) Repeal of Manatee County Special Acts

- Repeal Chapters 19961, 26000, 27697, 61-2452, 63-1585, 67-1685, 67-1883



The proposed draft rules would repeal the Special Acts of Gilchrist, Indian River, and Manatee counties by creating 68B-3.003, FAC (Repeal of Gilchrist County Special Acts); 68B-3.004, FAC (Repeal of Indian River County Special Acts); and 68B-3.005, FAC (Repeal of Manatee County Special Acts).

The repeal of these Special Acts is a continuation of the rule cleanup process that includes the evaluation of all of these localized rules that pre-date the statewide regulation of saltwater fisheries and either repeal or revise them as required. Staff has determined that the Special Acts of Gilchrist, Indian River, and Manatee counties are no longer needed to achieve the agency mission and that their repeal would eliminate unnecessary rules and streamline FWC marine fisheries regulations.

Staff Recommendations

- Approve the proposed draft rules to repeal Special Acts for Gilchrist, Indian River, and Manatee counties
- Direct staff to continue to work with other counties to identify their Special Acts that can be repealed or moved into the FAC

If approved, the rules will be noticed and filed without further hearing unless requested and will be made effective as soon as possible



Staff recommends approving the proposed draft rules, which would repeal Chapters 21254, Gilchrist County Special Acts; Chapters 21305, 77-572, and 79-480, Indian River County Special Acts; and Chapters 19961, 26000, 27697, 61-2452, 63-1585, 67-1685, 67-1883, Manatee County Special Acts. The repeal of these Special Acts would simplify and clarify FWC rules and remove unnecessary regulations.

Staff also requests direction to continue to work with the rest of Florida's counties to identify Special Acts that can be repealed and to consider moving those that should be retained into the FAC to make them easier for the public to locate. As the review process is completed for additional counties, staff will return to you periodically with more Special Acts for repeal or revision.

Since Gilchrist, Indian River, and Manatee counties have already held public meetings regarding the repeal of their Special Acts, if approved by the Commission today, staff recommends noticing and filing the rules without further hearing unless requested and making the rules 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.

The following slides are considered backup material
and are not anticipated to be part of the actual
presentation



Rule Cleanup Background

Purpose

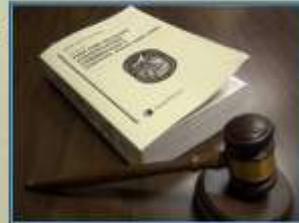
To improve enforceability of regulations and simplify rule language, making it easier to understand

History

- 2009: Commission directed staff to review and recommend changes to marine fisheries rules
- 2013: First stage of rule cleanup completed
- 2014: FWC Strategic Plan

Process

- Team of staff from Legal, DMFM, and LE
- Phases
 - Reformat and standardize species chapters
 - Review Special Acts/local laws
 - Repeal unnecessary statutes



The rule cleanup process began in 2009 when the Commission directed staff to review and recommend changes to marine fisheries rules in an effort to improve and simplify regulations. The Commission then reconfirmed its desire to evaluate existing regulations in the 2014 FWC Strategic Plan. The rule cleanup project is being conducted by a team of FWC staff from the Legal Office, DMFM, and LE. The process has multiple phases. Work on reformatting and standardizing species chapters is well underway with the revision of 19 species chapters completed in 2013. The review of Special Acts has also begun. Counties have been contacted regarding Special Acts that apply in their area and they are working with the FWC Legal Office to determine the best course of action. A comprehensive review of Florida Statutes to determine those statutes that need to be transferred to FWC rule or recommended for repeal has also begun with the initiation of the process to move the restricted species endorsement requirements from law to rule.