



**Restricted Species Endorsement**  
Draft Rule  
June 18, 2014  
**Florida Fish and Wildlife Conservation Commission**  
Division of Marine Fisheries Management



Version 1

This document summarizes a draft rule for the Florida Fish and Wildlife Conservation Commission's (FWC) Restricted Species Endorsement rule, 68B-2.006, Florida Administrative Code (FAC). The proposed draft rule would move Restricted Species Endorsement qualifying requirements from Florida Statutes (F.S.) to FWC rules so that, in the future, FWC can be responsive to industry requests to modify the requirements and address staff-identified needs for updates and clarifications in a timely fashion.

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Report date: May 28, 2014

## Commercial Fishing Licenses

- FWC's commercial license program is a critical part of its marine fisheries management strategy
  - Data collection
  - Accountability with respect to seafood safety
  - Ensure sustainable harvest rates
- Fees established by the Legislature
- Revenue funds marine research, management, law enforcement, and other FWC operations



Florida's commercial licensing program is a critical part of FWC's marine fisheries management strategy for state-managed fisheries. Commercial license requirements help FWC gather information that is crucial to the data collection process, create accountability with respect to seafood safety, and help ensure harvest rates are sustainable.

Fees associated with all state-issued licenses and endorsements are established by the Legislature, with the revenue generated from their sale typically being deposited in the Marine Resources Conservation Trust Fund (MRCTF), which is used to support marine research, management, and law enforcement, as well as other FWC operations. The use of funds from many of these licenses are further specified by the Legislature, with revenue from many of them being reinvested in the specific fisheries the endorsements are used to manage.

## Commercial License Requirements

Commercial license requirements vary depending on the species targeted and the gear used

- Saltwater Products License (SPL)
- Restricted Species Endorsement (RS)
- Additional state issued endorsements for some species
- Additional federal permits required for some fisheries



There are a variety of fishing licenses, endorsements, and permits available to commercial fishermen. Florida's primary, basic commercial fishing license is the Saltwater Products License (SPL). The SPL is open access and entitles the holder to harvest commercial quantities of saltwater products, use commercial gears, and sell saltwater products to wholesale dealers.

Requirements for other commercial licenses, beyond the SPL, vary depending on what species the fisherman wants to harvest. Fishermen are required to hold a restricted species endorsement (RS) in order to commercially harvest and sell species designated as "restricted" by the FWC. Additional fishery specific endorsements are also needed for the commercial harvest of some state-managed species (such as spiny lobster, blue crab, and stone crab) and several federally managed species also require federal permits to participate in the commercial fishery, even in state waters.

## Background – Restricted Species Endorsement

- Established by Legislature in 1987 with industry support
- Allows endorsement holders to commercially harvest and sell species designated by FWC as restricted

### Purpose

- Help ensure sustainability of certain commercially important species
- Professionalize the fishery
- Ensure fish harvested under commercial licenses are being taken for commercial purposes



The remainder of this presentation will focus on the Restricted Species Endorsement (RS). The RS was created by the Florida Legislature in 1987 with the support of Florida's commercial fishing industry and authorizes the holder to commercially harvest and sell restricted species, designated as such by the FWC.

The primary purpose of the RS is to help ensure the sustainability of the state's most important commercially harvested species. It was created in coordination with the commercial industry as a means to professionalize their fishery and ensure that fish harvested under Florida's commercial licenses (and the higher bag limits typically associated with the commercial fishery) are indeed being harvested for commercial purposes and ultimately ending up in the seafood market. Prior to the creation of the RS, some of Florida's recreational fishermen were purchasing commercial licenses to enable them to harvest commercial quantities of their favorite species and then keep them for their own personal use, thus circumventing the recreational bag limits.

While many species are still available to legitimate commercial fishermen who do not hold an RS, the most heavily targeted species are designated as restricted. This designation allows full-time commercial fishermen who depend on the fishery as their primary source of income to earn a living harvesting these species without having to compete with fishermen who only occasionally fish commercially. It also prevents harvest of commercial quantities for recreational purposes.

## RS Requirements

- No cost endorsement on the SPL
- Must be at least 16 years old
- Must meet qualifying requirements
  - Total annual income of \$5,000 or 25% of income during one of the last three years is attributed to the sale of saltwater products
  - Exceptions provided due to age, disability, military, or veteran status, or for purchase of a used commercial fishing vessel



The RS is a no-cost endorsement issued in association with an SPL. In order to receive an RS, an individual must be at least 16 years old and meet the qualifying requirements designed to demonstrate that the individual is a professional commercial fishermen. The primary means of qualifying is to demonstrate that the applicant has harvested and sold at least \$5,000 worth of saltwater products during one of the previous three years or that at least 25% of that person's income during that timeframe was attributed to the sale of saltwater products. Income can be verified in a variety of ways, including via trip tickets associated with that person's SPL, a federal tax return, or a crew share statement that affirms the individual received payment generated from the sale of saltwater products as compensation for their service as a crew member on a commercial vessel.

There are also several exceptions to the verified income requirements that provide either temporary exemptions from the qualifying requirement or that reduce the income requirement based on a person's age, disability, military, or military veteran status, or because the person has recently purchased a used commercial fishing vessel that they intend to use to commercially fish. All of these means of qualifying, as well as the other requirements associated with the RS, are currently found in Florida Statutes.

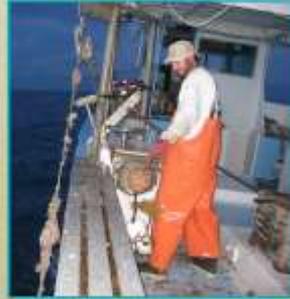


This slide lists the species that are currently designated as restricted by the FWC. A commercial fisher must possess an SPL with an RS in order to harvest commercial quantities of these species or to sell these species.

Asterisks indicate those species that require additional state-issued endorsements or federal permits beyond the SPL and RS as well as species that may require these additional licenses, depending on where the fishing occurs and what gear is used.

## Need for Rulemaking

- Bring the qualifying requirements into FWC rules
  - All aspects of the RS fall under FWC's authority
  - Currently found in Florida Statutes
- Modifications needed for some of the qualification criteria can be more readily addressed if they are in FWC rules



While the RS program has been an effective licensing and management tool since its inception, there are some changes that could be made to ensure that the program continues to operate in the way it was originally intended. However, the endorsement was originally established by the Legislature and all the qualifying requirements are therefore housed in Florida Statutes. This makes it difficult for FWC to respond in a timely manner to stakeholder needs or requests for change. Since there are no fees associated with this endorsement and all aspects of the RS program fall under FWC's Constitutional authority, the qualifying requirements and other regulations associated with the RS program could be moved from Florida Statutes to FWC rules in the FAC.

If the Commission approves moving the qualification criteria into FWC rules, staff would continue to work with the industry and return at a future Commission meeting with recommendations to improve the qualification criteria. Therefore, staff is recommending that these qualification requirements be brought into the FAC so that the desired changes can be implemented in the future by the FWC.

## Industry Involvement

- Industry request to leave basic requirement for fishers to hold the RS endorsement in F.S.
- Broad industry support for moving qualifying requirements into FWC rules
- Industry has provided suggestions for future changes to be made once the qualification requirements are in FWC rules
- Staff will continue to work with the industry on any future proposals for change



Staff has been working closely with the commercial fishing industry on this proposal. Members of the industry have asked that the basic requirement to hold an RS when commercially harvesting restricted species remain in Florida Statutes when the remaining qualification requirements are moved to FWC rules, but have otherwise expressed their support for this proposal.

Members of the industry have also provided suggestions for future changes to the qualification requirements that can be addressed once the requirements are in rule. Some of these suggested changes are discussed toward the end of this presentation. If the Commission approves the proposed transfer to rule, staff will continue to work with the industry on their requests and suggestions.

## Proposed Draft Rule

### 68B-2.006 Restricted Species Endorsement

- *Move the RS requirements into FWC rules*

*Staff would bring proposals to modify the RS requirements back for Commission consideration in the near future*



The proposed draft rule would move the qualification requirements for the RS into FWC, so that the FWC can more easily address potential changes and clarifications that would ensure the RS program operates the way it was originally intended.

If approved, staff would bring proposals to modify these requirements back for Commission consideration in the near future.

## Next Steps

- Request Legislature repeal all aspects of RS regulation from Florida Statutes except the requirement to hold the endorsement
- Return with recommendations to modify qualification requirements
  - Address industry concerns about misuse of qualification exemptions
  - Provide greater flexibility for individuals applying upon death or disablement of a family member holding an RS
  - Update and clarify various requirements
  - Address other potential industry concerns and requests



If the Commission approves bringing the RS qualifications into rule, the next steps would include requesting the Legislature repeal these qualifications from Florida Statutes and returning to the Commission with recommendations to improve the existing qualifications.

If approved, staff would add the repeal of the RS qualifications to the Agency's 2015 proposed Legislative package.

Staff would also work with the industry on any potential future changes to the qualification requirements once they are in FWC rules. Industry has expressed concern about apparent misuse of some of the exemptions to the standard qualification requirements that may be allowing people to bypass qualifying and use the RS for purposes inconsistent with its original intent. In addition to industry concerns, staff would like to make some changes to the current exemption that allows a family member of an RS holder to receive a temporary RS if the original endorsement holder dies or becomes disabled. The changes that staff is considering would provide more flexibility for the family member who is applying for and receiving an RS.

Staff would also like to consider additional changes that would update and clarify various aspects of the qualification requirements and incorporate other industry requests for update or change.

## Staff Recommendations

### Approve the proposed draft rule

- Moving RS qualifying requirements into FWC rule

Direct staff to add the repeal of RS qualification requirements from F.S. to our 2015 Legislative package and return with recommendations for changes to the requirements in FWC rule

*If approved, the rule 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 move most of the RS requirements from Florida Statutes to FWC rule.

Staff also requests direction to add the repeal of most RS endorsement requirements from Florida Statute to our Legislative package for 2015, and to continue to work with the industry and return at a future Commission meeting with recommendations to address staff and industry-identified needs for changes to the RS qualification requirements.

If approved, staff also 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

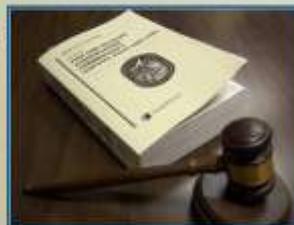
To improve enforceability of regulations and simplify rule language, making it easier to understand

### 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 and reconfirmed their 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 which 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.