

**Restricted Species Endorsement**  
Advertised Proposed Rule and draft Notice of Change

April 15, 2015

Notice of Proposed Rule

FISH AND WILDLIFE CONSERVATION COMMISSION  
Marine Fisheries

**RULE NO.:**      **RULE TITLE:**  
68B-2.006      Restricted Species Endorsement

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to modify the regulations relating to the qualification criteria for the Restricted Species Endorsement program (RS) to remove language referencing outdated provisions, clarify and update portions of the endorsement program, and incorporate changes to qualification criteria that were requested by the industry or will improve operation of the endorsement program. The RS program helps ensure the sustainability of the state's most important commercially harvested species. It was created by the Florida Legislature in coordination with the commercial fishing industry as a means to professionalize their fishery and ensure that fish harvested under Florida's commercial licenses are indeed being harvested for commercial purposes and are ultimately ending up in the seafood market. The proposed changes include clarifying income verification requirements, providing an additional avenue for individuals to certify disablement, increasing the amount of time family members have to apply for a new RS after an RS holder dies or becomes disabled, and changes intended to limit loopholes in the vessel purchase exception.

The effects of the proposed rule amendment will be to clarify the language creating the endorsement program, provide increased flexibility for individuals qualifying based on certain exemptions, and close loopholes within the vessel purchase exception.

**SUMMARY:** This rule amendment would modify Rule 68B-2.006, FAC, with the purpose of clarifying and updating the regulation as well as minimizing the potential for misuse of exceptions, all while maintain the original intent of the RS program.

**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 the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternative must do so in writing within 21 days of this notice.

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RULEMAKING AUTHORITY: [Article IV, Section 9, Florida](#)

LAW IMPLEMENTED: [Article IV, Section 9, Florida Constitution](#)

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: During the Commission's regular meeting April 14-16, 2015, 8:30 a.m. – 5:00 p.m.

PLACE: Florida A&M University Multipurpose Center, 1800 Wahnish Way, Tallahassee, Florida 32307

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-2.006 Restricted Species Endorsement.

(1) A restricted species endorsement on the saltwater products license is required to sell to a licensed wholesale dealer those species which the state, by law or rule, has designated as "restricted species." This endorsement shall be issued only to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or \$5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to a saltwater products license issued under 379.361(2), F.S., ~~this paragraph~~ or a similar license from another state. This endorsement may also be issued to a for-profit corporation if it certifies that at least \$5,000 of its income is attributable to the sale of saltwater products pursuant to a saltwater products license ~~issued under this paragraph~~ or a similar license from another state. However, if at least 50 percent of the annual income of a person, firm, or for-profit corporation is derived from charter fishing, the person, firm, or for-profit corporation must certify that at least \$2,500 of the income of the person, firm, or corporation is attributable to the sale of saltwater products pursuant to a saltwater products license ~~issued under this subsection~~ or a similar license from another state, in order to be issued the endorsement. Such income attribution must apply to at least 1 of the last 3 years. For the purpose of this rule section, "income" means that income that is attributable to work, employment, entrepreneurship, pensions, retirement benefits, and social security benefits.

(2) To renew an existing restricted species endorsement, a marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement may apply income from the sale of marine aquaculture products to licensed wholesale dealers.

(3) The commission may require verification of such income for all restricted species endorsements issued pursuant to this rule paragraph. ~~Acceptable proof of income earned from the sale of saltwater products shall be:~~

(a) Acceptable proof of income earned from the sale of saltwater products shall be one or more of the following:

1. Copies of trip ticket records generated pursuant to 68E-5, F.A.C. ~~this subsection~~ (marine fisheries information system), documenting qualifying sale of saltwater products to a licensed wholesale dealer;

2. ~~(b)~~ Copies of sales records and commercial fishing license from locales other than Florida documenting qualifying sale of saltwater products to a licensed dealer; or

3. Crew share statements verifying income earned from the sale of saltwater products to a licensed wholesale dealer.

(b) Acceptable proof of income shall be one of the following:

1. ~~(e)~~ A complete copy of the applicable federal income tax return, including any Form 1099 or W2 attachments, ~~verifying income earned from the sale of saltwater products; or~~

(d) Crew share statements verifying income earned from the sale of saltwater products; or

2. ~~(e)~~ A certified public accountant's notarized statement on Commission Form DMF-SL1010 (02-15) (CPA Statement, found online at: <http://www.flrules.org>, incorporated herein by reference) attesting to qualifying source and amount of income during the qualifying period.

~~(4) Notwithstanding any other provision of law, any person who owns a retail seafood market or restaurant at a fixed location for at least 3 years, who has had an occupational license for 3 years before January 1, 1990, who harvests saltwater products to supply his or her retail store, and who has had a saltwater products license for 1 of the past 3 license years before January 1, 1990, may provide proof of his or her verification of income and sales value at the person's retail seafood market or restaurant and in his or her saltwater products enterprise by affidavit and shall thereupon be issued a restricted species endorsement.~~

~~(4)(5) Exceptions from income requirements shall be as follows:~~

(a) A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 of the last 5 years.

(b) Active military duty time shall be excluded from consideration of time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.

~~(c) A licensed commercial fisher shall be exempted from the qualifying income requirements for the purpose of obtaining a restricted species endorsement for a complete license year after purchase of a used commercial fishing vessel provided that: Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation possessing or eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a complete license year after purchase of the vessel.~~

1. The qualifying vessel shall be no less than 16 feet in length. For the purposes of this subparagraph, "length" means the measurement from end to end over the deck parallel to the centerline, excluding sheer.

2. The buyer must be the registered owner of the vessel at the time of application.

3. The vessel must be commercially registered by the seller at the time of sale and by the buyer at the time of application for restricted species endorsement.

4. The seller must possess or be eligible for a valid restricted species endorsement.

5. The seller must have qualified or be eligible for a restricted species endorsement based upon verified income earned from the sale of saltwater products to a licensed wholesale dealer or qualified for a restricted species endorsement based upon a qualifying method other than the vessel purchase exemption.

6. The restricted species endorsement shall be attached only to the vessel SPL on the vessel purchased until such time that the vessel holder qualifies for a restricted species endorsement based upon a qualifying method other than the vessel purchase exemption, except that the restricted species endorsement may be transferred to another vessel SPL if the purchased vessel becomes inoperable.

(d) Upon the death or permanent disablement of a person possessing a valid restricted species endorsement, an immediate family member wishing to carry on the fishing operation who makes the application within 3 years after the death or disablement shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a complete license year ~~after the death or disablement~~.

(e) A restricted species endorsement shall, upon application, be issued on an individual saltwater products license to a person age 62 or older who documents that at least \$2,500 of such person's income is attributable to the sale of saltwater products in at least 1 of the last 3 years.

(f) A permanent restricted species endorsement shall, upon application, also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.

(g) Any resident who is certified to be totally and permanently disabled by the Railroad Retirement Board, by the United States Department of Veterans Affairs or its predecessor, ~~or~~ by any branch of the United States Armed Forces, by the United States Social Security Administration, by a licensed physician on Commission Form DMF-SL1020 (02-15) (Physician Certification of Disability, found online at: <http://www.flrules.org> and incorporated herein by reference), or for the purposes of workers' compensation under Chapter 440, F.S., as verified by an order of a judge of compensation claims or written confirmation by the carrier providing workers' compensation benefits, or who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to ~~Section 295.17, F.S., upon proof of the same, or any resident certified to be disabled by the United States Social Security Administration or a licensed physician, upon proof of same,~~ shall be exempted from the income requirements if he or she also has held a saltwater products license for at least 3 of the last 5 license years before the date of the disability.

A restricted species endorsement issued under this paragraph may be issued only on an individual saltwater products license.

(h) An honorably discharged resident military veteran certified by the United States Department of Veterans Affairs or its predecessor or by any branch of the United States Armed Forces to be at least 10% permanently service-connected disabled, upon proof of the same, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption. A restricted species endorsement shall be issued on an individual saltwater products license thereafter where such disabled resident veteran documents that at least \$2,500 of such person's income is attributable to the sale of saltwater products.

(i) ~~Beginning July 1, 2014, a~~ resident military veteran who applies to the Commission within 48 months after an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption per military enlistment.

~~(j) Until June 30, 2014, a resident military veteran who applies to the Commission and who received an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard between September 11, 2001, and June 30, 2014, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license.~~

PROPOSED EFFECTIVE DATE: July 1, 2015

*Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New 11-11-12, Amended 9-1-13, 10-16-14, 7-1-15.*

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 5, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 8, 2015

FISH AND WILDLIFE CONSERVATION COMMISSION  
Marine Fisheries Management

**RULE NO.:** 68B-2.006 **RULE TITLE:** Restricted Species Endorsement.

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 41, No. 54, (March 19, 2015), issue of the Florida Administrative Register.

Proposed amendment to Rule 68B-2.006 has been changed to include the following:

(1) through (3) No change

(4)(a) through (c) No change

(d) Upon the death or permanent disablement of a person possessing a valid restricted species endorsement, an immediate family member wishing to carry on the fishing operation who makes the application within 3 years after the death or disablement shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a complete license year. For the purposes of this paragraph, "immediate family" means the endorsement holder's mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, half-brother, son-in-law, or daughter-in-law.

(e) through (i) No change

*Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New 11-11-12, Amended 9-1-13, 10-16-14, 7-1-15.*

No other changes were made to the rule amendments as proposed.