



**Spiny Lobster – Commercial Dive
Endorsement**
Consent Agenda Item #1 – Final Public Hearing
April 15, 2015
Florida Fish and Wildlife Conservation Commission
Division of Marine Fisheries Management



VERSION 1

This document summarizes a proposed final rule modifying the Florida Fish and Wildlife Conservation Commission's (FWC) spiny lobster rule, 68B-24, Florida Administrative Code (FAC). The proposed final rule would extend the moratorium on issuing new Commercial Dive Endorsements (CD) indefinitely, allow the CD to be transferable, remove the requirement that the CD holder be on board the vessel, remove unnecessary and outdated rule language related to the CD, clarify the remaining CD rule language, and update a reference for a definition.

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Photo: A diver uses a lobster snare to capture a spiny lobster. A tickle stick and net (additional legal tools that are often used to aid in harvest of lobster) are offset nearby.

Commercial Dive Endorsement (CD)

- Required since 2004 to commercially harvest lobsters while diving
- Created to limit effort in the dive fishery
- Issued to persons with previous commercial lobster landings that were harvested while diving
- Moratorium on issuance of new CDs since creation
- Not transferable
 - Exception for transfer to an immediate family member upon death or disablement of the CD holder
- Must be renewed each year or forfeited
 - Currently 252 CDs



Commercial harvest of spiny lobster requires a Saltwater Products License (SPL) with a Restricted Species Endorsement (RS) and a Crawfish Endorsement, regardless of method of harvest. In order to commercially harvest lobster while diving, the harvester's Crawfish Endorsement must also be a CD (the CD designation is associated with fisherman's existing Crawfish Endorsement). The CD program was created to prevent further expansion of the dive fishery and maintain the historic proportions of harvest among the commercial subsectors related to the various catch methods of trapping, diving, and bully netting. The CD has been required since the 2004/2005 fishing year for the commercial harvest of lobsters while diving. In order to receive the CD in 2004/2005, an applicant had to demonstrate previous commercial lobster landings that were harvested by diving. While there are no requalification requirements for the CD, the endorsement holder must renew it each year.

In order to prevent expansion of the dive fishery, a moratorium on the issuance of any new or additional CDs was implemented when the CD program was created, so that no more CDs could be issued beyond those issued in the first year of the program.

The CD is non-transferable, except that it may be transferred to an immediate family member in the event of death or disablement of the CD holder.

There were 404 CDs issued during the first year of the endorsement program. Because annual renewal is required and the CD is not transferable, CDs not renewed every year by the original endorsement holder are eliminated from the program. Since 2004/2005, approximately 35% of the CDs originally issued have been eliminated due to non-renewal, leaving 252 endorsements remaining during the current fishing year.

Moratorium and Transferability

- Moratorium set to expire July 1, 2015
 - Staff believe the current number of CD endorsements is appropriate
 - Number of CDs has decreased over time
 - Some latent effort has been eliminated
 - Current participation similar to historical average
 - CD is one of few endorsements that is not transferable

Proposed changes

- Continue the moratorium on issuing new CDs indefinitely
- Allow transfer of CDs

These changes would allow the fishery to continue to operate at current levels.



The moratorium on issuing new or additional CDs is scheduled to expire on July 1, 2015, unless the Commission takes further action. As previously stated, the number of CDs has decreased over time, partly due to the fact that the endorsement is not currently transferrable. This reduction in the number of endorsements has eliminated some latent effort in the fishery. In addition, the current level of participation and harvest is similar to its historical average, as compared to 2004 when the program was implemented and harvest rates were much higher. Based on this information and the current productivity of the lobster fishery, staff believe the current number of CDs is appropriate and sustainable.

Staff propose changing the current rule to allow existing CDs to be transferred, and to extend the moratorium on issuing new CDs indefinitely. The majority of the Commission's commercial fishing endorsements are transferable; the CD is one of the few that is not. To align with the transfer window for other endorsements, the transfer of CDs would be permitted annually from May 1 through the end of February. If the moratorium on issuing new CDs is maintained and the endorsement is not allowed to be transferred, this traditional fishery will likely be phased out. However, allowing the CD to be fully transferable and extending the moratorium indefinitely would enable the fishery to continue at its current level while simultaneously preventing excessive expansion.

Allowing the transfer of valid CDs would provide new opportunities for participation in the dive fishery. Transferability could potentially lead to some level of effort expansion in the dive portion of the commercial lobster fishery if endorsements are transferred from individuals who do not actively fish to individuals who will. However, this limited potential increase in effort is not expected to be problematic.

Additional CD Provisions

Current regulations

- CD linked to a single vessel SPL
- CD holder required to be on board the vessel during harvest
- Multiple divers allowed to participate in harvest
 - All divers contribute to a single daily vessel limit

These regulations were implemented to reduce effort by preventing the use of the CD by anyone other than the license holder

Proposed changes

- Remove requirement that CD holder be aboard the vessel
- Remove outdated rule language
- Clarify remaining language



Under the current regulations, each CD is issued only to a single vessel SPL, and the endorsement holder must be on board in order for anyone to harvest lobsters from the vessel under the CD. When the CD holder is on board, multiple divers may participate in the harvest, with a daily vessel limit of 250 lobsters in Broward, Dade, Monroe, Collier, and Lee counties and their adjoining federal waters. The CD is the only endorsement that requires the endorsement holder to be on board.

These regulations were originally implemented in conjunction with the prohibition on transferring the CD to reduce effort in the commercial dive fishery by preventing anyone other than the CD holder from using the endorsement. With the decrease in the number of CDs over time and the proposal to allow transfer of the endorsement to another fisher, the requirement that the CD holder be on board the vessel is no longer needed. Staff propose to remove the requirement and allow harvest by anyone fishing from the properly licensed vessel, while maintaining the current 250 lobster vessel daily limit.

Along with the proposed changes to the moratorium, transferability, and other provisions, staff also propose to remove outdated rule language related to the original CD qualification requirements, which is no longer applicable, and to clarify remaining language related to the CD program.

Proposed Rule Amendments

68B-24.002 Definitions

- *Update outdated definition reference*

68B-24.0055 Commercial Requirements; Appeals

- *Extend moratorium on new CDs indefinitely*
- *Allow CDs to be transferable*
- *Remove requirement that CD holder be on board the vessel*
- *Remove unnecessary rule language*
- *Clarify remaining CD-related rule language*



The proposed draft rule amendments would update a definition found in 68B-24.002, FAC, to reference the legal description of the Biscayne National Park boundaries as defined in 68B-2.001(1), FAC. The amendments would also modify 68B-24.0055, FAC, to extend the moratorium on issuing new CDs indefinitely and allow CDs to be transferred to other commercial fishers holding an SPL and an RS during the same annual transfer period as other FWC endorsements, from May 1 through the end of February. In addition, the requirement that the CD holder be on board the vessel during harvest and unnecessary and outdated rule language related to CDs would be removed. The remaining CD rule language would be cleaned up and clarified to reflect the proposed changes.

Staff Recommendation

Approve the proposed final rules

- Extend moratorium on issuing new CDs indefinitely
- Allow CDs to be transferred
- Remove requirement that CD holder be on board vessel
- Remove outdated rule language
- Update definition of Biscayne National Park

*If approved, make rules effective
July 1, 2015*



Staff recommend approving the proposed final rules extending the moratorium on the issuance of new CDs indefinitely and allowing all remaining CDs to be transferred. In addition, staff recommend removing the requirement that the CD holder must be on board the vessel, removing unnecessary and outdated rule language related to CDs, clarifying the remaining CD rule language, and updating the Biscayne National Park definition in this chapter with the current reference to the legal description of the Park's boundaries.

If approved, staff recommend making the rule effective July 1, 2015.

Staff have 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 to the Commission



Florida's Commercial Lobster Fishery

- One of Florida's top 3 most valuable commercial fisheries
- Culturally important fishery to south Florida
- 3 primary methods of harvest: trapping, diving, and bully netting
 - Historically, trap landings accounted for over 90% of catch
 - Effort limitation and trap reduction programs
 - Late 1990s, landings shifted toward dive-related harvest
 - CD created in 2004 to limit effort in dive fishery and preserve historic harvest method proportions



Spiny lobster is one of Florida's top three most valuable commercial fisheries. Declining prices have plagued the fishery in recent years, but the recent development of an export market for live lobster has helped bring profitability back to the fishery. With live lobsters now selling for roughly twice the price of dead lobsters, there has been a resurgence in interest in this fishery and an expansion in the number of participants. The value to the fisher at the dock (ex-vessel value) has averaged \$20-24 million annually in many recent years. However, increases in landings and the price per pound led to a value of approximately \$50 million in 2013. In addition, Florida's spiny lobster fishery accounts for 98% of all spiny lobsters landed commercially in the U.S.

This particular fishery also has a long, rich cultural history in Florida, particularly in south Florida. The commercial fishery in the Lower Keys dates back to the 1800s, when lobsters were harvested primarily for use as bait. The decline in the prosperity of Key West during the late 1800s and early 1900s prevented this fishery from flourishing during those early years. Nonetheless, these years also saw the development of a food market for spiny lobster and the fishery was primed for expansion by the time Key West was revitalized in the 1940s. Although there was some variability in lobster harvest during the decades that followed, the lobster fishery continued to grow through the early 1970s, where it eventually peaked and then leveled out.

There are three primary methods of harvest in the commercial spiny lobster fishery: trapping, diving, and bully netting. In recent decades, the catch has been variable and the proportions of the catch attributed to each harvest method has been a source of user conflicts within the commercial fishery. During the 1990s, the fishery settled into a harvest pattern where roughly 95% of the landings were harvested by the trap fishery, with the dive fishery responsible for less than 5% of the harvest and the bully net fishery harvesting less than 1% of the overall commercial landings. These proportions essentially became de facto allocations maintained by the participants in the fishery, and management of the fishery focused largely on the trap fishery, including a trap reduction program started in the early 1990s. However, beginning in the late 1990s and continuing in the early 2000s, the catch began to shift to the dive fishery. This shift in harvest corresponded with a severe decline in the available number of lobsters due to the proliferation of a lobster virus. The expansion of the dive fishery, coupled with the decline in the lobster population culminated in the 2001/2002 fishing year, when the dive fishery harvested 15% of the landings. This shift in landings away from the trap fishery was a financial blow to many of the trap fishery participants who had undergone effort and trap reduction and resulted in requests from the trap fishery for the Commission to develop additional management measures aimed at ensuring the sustainability of all aspects of the commercial fishery. The CD endorsement program was created in 2004 to limit expansion of the dive fishery and aid in returning harvest patterns to those that are more consistent with the historical norms.

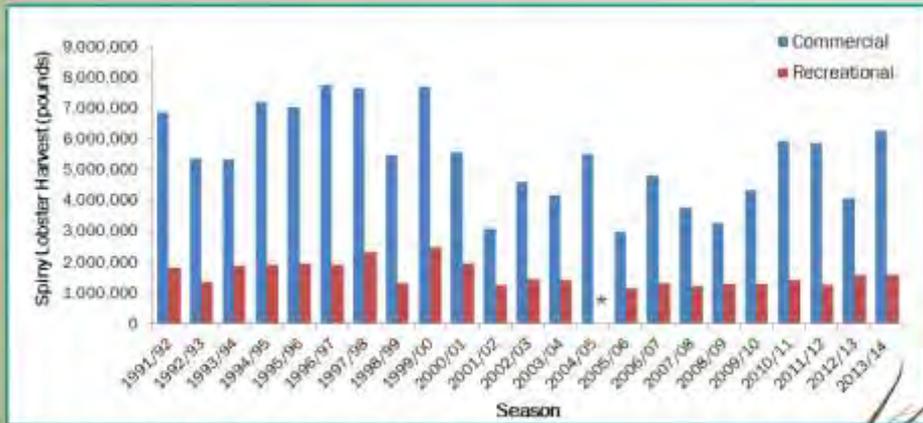
Commercial Lobster Regulations

- Requires SPL, RS, and either C# or CD
- Open season Aug. 6 – March 31
- Minimum size limit of 3" carapace
- All spiny lobster in possession required to be whole
 - Federal permit required to possess "wrung" tails
- May be harvested only by trap, diving, bully net, or hoop net
 - Vessel limit of 250 by diving (south FL only) or bully net
 - Commercial diving and working traps at night is prohibited
 - Small incidental bycatch allowed from net or trawl
- Possession of any egg-bearing lobster is prohibited
- Harvest is prohibited in:
 - Biscayne Bay-Card Sound Spiny Lobster Sanctuary
 - Certain areas of John Pennekamp Coral Reef State Park



	Trap Fishery	Dive Fishery	Bully Net Fishery
License Requirements	Crawfish endorsement (C#), saltwater products license (SPL), and restricted species endorsement (RS) required	Commercial dive endorsement (CD), SPL, and RS required	C#, SPL, and RS required
Size Limits	May not harvest or possess spiny lobster with: <ul style="list-style-type: none"> ▪ Carapace measurement of 3" or less ▪ Tail measurement of 5 ½ " or less ▪ Exception: Up to 50 undersized lobster per vessel and 1 per trap may be used alive to attract other lobsters to traps 	May not harvest or possess spiny lobster with: <ul style="list-style-type: none"> ▪ Carapace measurement of 3" or less ▪ Tail measurement of 5 ½ " or less ▪ Must carry measuring device ▪ Must measure spiny lobster in the water 	May not harvest or possess spiny lobster with: <ul style="list-style-type: none"> ▪ Carapace measurement of 3" or less ▪ Tail measurement of 5 ½ " or less
Bag and Vessel Limits	No harvest or vessel possession limits	250 lobster per day vessel limit (Broward, Dade, Monroe, Collier, and Lee counties and adjoining federal waters)	250 lobsters per day vessel limit statewide
Other	<ul style="list-style-type: none"> ▪ Trap certificates and tags required for each trap ▪ Specific trap construction guidelines ▪ Traps may be worked during daylight hours only 	<ul style="list-style-type: none"> ▪ Harvest from artificial habitat is prohibited ▪ Persons holding a CD cannot hold trap certificates ▪ Moratorium on issuing new CD endorsements ▪ CD endorsements may not be transferred ▪ Harvest prohibited at night 	

Lobster Landings by Sector

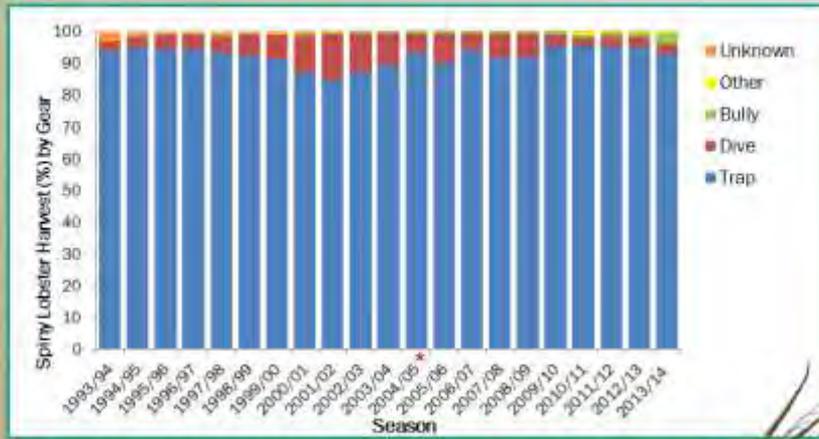


* Recreational landings are not available for 2004/2005



This graph shows the distribution of lobster landings (in pounds) by the recreational and commercial sectors since 1991. Recreational lobster landings are not available for the 2004/2005 fishing season.

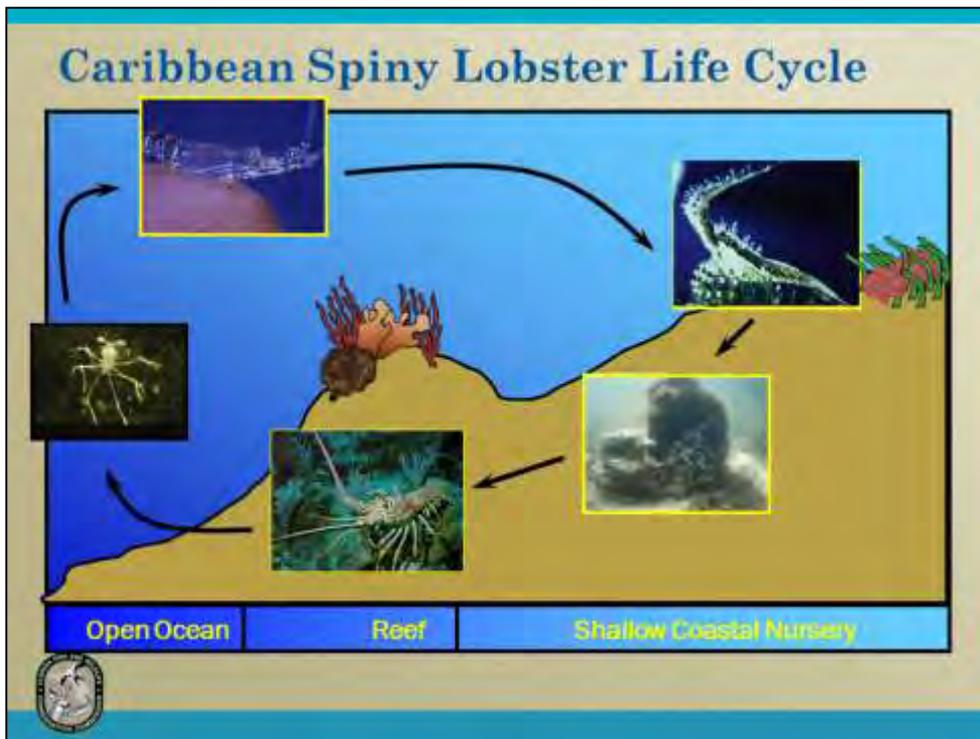
Commercial Landings by Harvest Method



* CD endorsement program began



This graph shows the proportions of the catch harvested by each fishing method over time. The dive fishery is historically responsible for about 3% of the total commercial harvest, but that proportion rose to 15% in the early 2000s. The graph also demonstrates the recent resurgence of the commercial bully net fishery, which surpassed the dive fishery in total pounds of lobster harvest in 2013 for the first time in decades.



Caribbean spiny lobster females spawn during the summer months on the offshore reefs of the Florida Keys and greater Caribbean. The larvae hatch from the eggs under the tail and then spend approximately six months in the water column of the Caribbean Sea and Atlantic Ocean. These larvae (lower left of slide) are an open ocean planktonic predator and molt many times while at sea. At the end of their larval period, they change into a clear, non-feeding post-larval stage (upper left of slide). At this stage, the lobster can detect coastal waters from far offshore and swim towards these waters. They arrive in Florida Keys waters near the new moon of each month and settle primarily on the bayside of the Keys. Their preferred settlement habitat is shallow hardbottom that contains large clumps of a red algae. Once settled, they molt into a first-stage juvenile (upper right of slide) that lives solitarily in these algae clumps until it is approximately a 1-inch carapace (carapace = back) length spiny lobster. These 1-inch carapace length juveniles then move out into the hardbottom and shelter gregariously under sponges and in crevices and solution holes (mini sinkholes) in the bottom. There they live and grow until the onset of sexual maturation, upon which they migrate to the Atlantic Ocean and eventually spawn on the offshore reefs.