



Florida Fish and Wildlife Conservation Commission

Legislative Affairs

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Legislative Proposal Form

2006 Session

Title: Commercial Blue Crab Endorsement Fees, Trap Tag Fees, Trap Retrieval Fees, and Penalties

Submitted by: Division of Marine Fisheries Management

I. Summary of Issue

This legislative proposal establishes fees and penalties for the commercial blue crab effort management program approved by the Florida Fish and Wildlife Conservation Commission in June 2005. The successful implementation of the management program in July 2006 is contingent on legislative action.

The proposal establishes a hard shell blue crab endorsement fee of \$125, a soft shell blue crab endorsement fee of \$250, and a trap tag fee of \$0.50 per tag. Twenty-five dollars (\$25) from each endorsement would be dedicated to the blue crab trap retrieval program. Along with adding blue crab traps to the post-season trap retrieval program already in place for spiny lobster and stone crabs, the proposal includes a fee of \$10 for every trap retrieved during the post season; however, the retrieval fee would be waived for the first five traps belonging to a holder of a blue crab trap endorsement. The trap retrieval fees are consistent with those in the spiny lobster and stone crab trap fisheries.

The proposal establishes an administrative penalty of up to \$5000 and a suspension of commercial saltwater fishing privileges for up to 24 months to be assessed for a violation of untagged traps, using or making counterfeit trap tags, false application for replacement trap tags, or false reporting of endorsement transfer value. The penalty would apply for any judicial disposition other than acquittal or dismissal. These penalties would provide consistency with those in the stone crab fishery. They would also provide consistency with those in the spiny lobster fishery, subject to passage of a separate proposal for administrative penalties for counterfeit lobster trap tags.

II. Substantive Analysis

A. Present Situation

Blue Crab Management Program

The blue crab, *Callinectes sapidus*, supports an important commercial trap fishery in the state of Florida. During the 1998 Session, concerns about the rapidly increasing number of traps in the blue crab fishery resulted in a legislative moratorium on the issuance of new blue crab endorsements (V number). Last year, the Commission extended that moratorium until July 1, 2006, to allow for the completion and adoption of the blue crab limited entry endorsement program. Problems in the fishery include the seasonal crowding of traps in confined waterways, lost traps and bycatch, overcapitalization, latent endorsements that are unused, and conflict between hard shell blue crab producers and soft shell blue crab producers.

During 2003, the Division of Marine Fisheries Management (MFM) assembled an industry advisory board to develop an effort management program. In August 2003, board applications were sent to 653 saltwater products license (SPL) holders who reported more than 500 pounds of blue crabs. MFM received 43 applications from which an *ad hoc* blue crab advisory board of 15 harvesters and wholesale dealers was formed to develop a recommended management plan; one FWC staff member was also on the Board. The *ad hoc* Blue Crab Advisory Board (BCAB) held nine public meetings. The primary recommendation of the BCAB was to develop an effort management program for the fishery before the moratorium on issuing endorsements is lifted in July 2006. The BCAB recommended separating the hard shell blue crab fishery from the soft shell blue crab fishery and creating separate endorsements for each. Hard shell blue crabs are sold on the live market or to picking houses and have a minimum size limit of five inches carapace length. Soft shell crabs are peeler crabs that are allowed to molt in shedding tanks, are sold in the soft shell condition (usually frozen), and do not have a minimum size limit. The plan endorsed by the BCAB creates a limited access fishery that would limit the total number of participants in the fishery, with an equal number of traps available to each endorsement. Each fisher qualifying for a hard shell crab endorsement would have to demonstrate reported hard shell blue crab landings of 500 pounds on their SPL during any one of the qualifying years of 2000-2001, 2001-2002, or 2002-2003. The fisher can qualify for additional endorsements on any of their additional SPLs that have reported landings of at least 7,500 pounds during any one of the qualifying years of 2000-2001, 2001-2002, or 2002-2003. Each qualified hard shell crab endorsement can receive up to 600 trap tags, which can be used anywhere, and an additional 400 for offshore waters (seaward of the COLREGS Line) of the Gulf of Mexico. Each fisher qualifying for a soft shell crab endorsement on their SPL would have to demonstrate reported soft shell or peeler blue crab landings of 750 crabs (numbers) during any one of the qualifying years of 2000-2001, 2001-2002, or 2003-2003. The fisher can qualify for an endorsement on one additional SPL with reported landings of 2,500 crabs. Each qualified soft shell crab

endorsement can receive up to 400 trap tags with an additional 250 tags for a subsequent qualified endorsement.

Once the program has been established, individuals wishing to enter the fishery would be required to purchase an existing blue crab endorsement and its associated traps from someone wishing to exit the fishery. Each trap will be required to have a trap tag, with the endorsement holder's number, firmly attached. Trap tags would be supplied by the FWC. The Commission approved this plan (68B-45.007, F.A.C.) in April 2005, to become effective July 1, 2006. The BCAB also addressed both fee structure and potential mechanisms by which non-qualifying blue crab fishers might be accommodated. Commissioners also recently directed staff to address a fee structure, trap allocation, and qualifying criteria applicable to net fishers of record who have annually renewed their blue crab endorsement since 1998, but do not otherwise meet the eligibility requirements to participate in this limited-entry fishery.

The BCAB has recommended setting a fee for the hard shell crab endorsement (V-H) at \$125; they have also recommended a fee for the soft shell crab endorsement (V-S) of \$250. Twenty-five dollars of each of the endorsement fees would be used for the trap retrieval program administered by the FWC in cooperation with industry. Additionally, the BCAB has recommended a \$0.50/tag trap tag fee.

Trap Retrieval

Spiny lobster season ends on March 31 each year; stone crab season ends on May 15. Fishers are required to remove their traps from the water prior to the beginning of the closed season. Traps may be left in the water at the close of season for several reasons: they were moved by currents or dragged by boats and lost to the owner; the owner is either unable to bring them in, e.g. because of illness, a mechanical problem with his boat, etc., or does not bother; or the owner may intend to continue fishing. Traps left in the water pose two basic problems: they continue to catch product, much of which dies, and they have the potential to be illegally fished. Also, traps that are left in the water can end up as "derelict traps" or "trap debris", swept shoreward by currents into mangrove forests, shallow water flats, grass beds and marsh areas.

While spiny lobster and stone crab have long had specific closed seasons, blue crab has been a year-round fishery until recently. In 2003, the Commission closed the blue crab fishery in an area north and west of the Suwannee River seaward of a line three nautical miles from shore for the 14 days prior to stone crab season. In 2004, the 14-day closure zone was extended to the entire Gulf Coast, seaward of the three-nautical-mile line. The principal reason for excluding blue crab traps from waters beyond the three mile line is to preclude the possibility that such traps could be used to collect stone crab immediately prior to the beginning of the stone crab fishing season.

In 2003 the Commission adopted guidelines [68B-55, F.A.C.] for trap retrieval

and trap debris removal. Definitions apply to spiny lobster, stone crab, and blue crab traps, and a closed season now exists for all three fisheries. However currently fees collected for trap retrieval are applicable only to spiny lobster and stone crab traps pursuant to s. 370.143. A trap retrieval fee of \$25 is specified by statute out of each lobster or stone crab endorsement fee of \$125. Florida statute also provides for a retrieval fee of \$10 per trap, assessed for recovery of lobster or stone crab traps, but not blue crab traps, pursuant to established guidelines. Since \$25 of every stone crab or spiny lobster endorsement is directed to the trap retrieval program, the \$10 trap retrieval fee is waived for the first five traps recovered of the endorsement holder. The proposed legislation would integrate blue crab traps into the current trap retrieval program, including allocation of \$25 of each blue crab endorsement for trap retrieval.

Penalties

For a violation of chapter 370 or rule of the Commission relating to conservation of marine resources, criminal penalties are specified in s. 370.021(1); additional court assessed penalties for a major violation involving more than 100 illegal blue crabs are defined in s. 370.021(2a). S. 370.021(k) authorizes the agency to suspend or revoke the saltwater products license upon arrest and conviction of a specified major blue crab violation; the license holder is required to show just cause why the license should not be suspended or revoked. S. 370.135(1) establishes gear molestation as a third degree felony and authorizes the agency to assess administrative penalties for molestation and theft (up to \$5000 and possible permanent revocation of fishing privileges).

B. Effect of Proposed Changes

The proposal establishes a hard shell blue crab endorsement fee of \$125, a soft shell blue crab endorsement fee of \$250, and a trap tag fee of \$0.50 per tag. Endorsement fees will support blue crab research projects, administrative costs to operate the BCAB, educate the public about the fishery, and \$25 from each endorsement would be dedicated to the blue crab trap retrieval program. The proposal also includes a fee of \$10 for every trap retrieved during the closed season. However the retrieval fee would be waived for the first five traps belonging to a holder of a blue crab trap endorsement. The trap retrieval fees are consistent with those in the spiny lobster and stone crab trap fisheries.

Trap tags will be required on every blue crab trap, and will enable the agency to determine the exact number of traps being deployed in the fishery.

The proposal establishes an administrative penalty of up to \$5000 and a suspension of commercial saltwater fishing privileges for up to 24 months to be assessed for a violation of untagged traps, using or making counterfeit trap tags, false application for replacement trap tags, or false reporting of endorsement transfer value. The establishment of the administrative penalty is intended to serve as a deterrent to those who would violate the law. It provides a more level

playing field for the majority of fishers who conscientiously adhere to existing rules and regulations. The penalty would apply for any judicial disposition other than acquittal or dismissal.

These penalties would provide consistency with those in the stone crab fishery. They would also provide consistency with those in the spiny lobster fishery, subject to passage of a proposal for administrative penalties for counterfeit trap tags.

III. Affected Agencies and Groups

Commercial blue crab fishers have not previously had to pay for their blue crab endorsements, or pay for trap tags, which have not previously been required in the fishery. Further, blue crab endorsement holders who will not qualify for the limited entry endorsements due to lack of reported landings in the fishery will have to buy an endorsement at market value to get into the fishery. It is anticipated that some number of fishers would probably oppose a blue crab effort management program and the associated program fees.

It is anticipated that some fishers would oppose stricter penalties, especially if it involves suspension or revocation of fishing privileges.

If new program fees and penalties were to be included in a Commission bill, a notice of the proposal could be included with the annual license renewal statements issued to fishers in late Winter/early Spring 2006; if the fees and penalties were established, fishers would be notified by direct mail, as well as through the Commission's commercial fisheries newsletter.

Commercial Fishing Organizations Contacted:

Organized Fishermen of Florida: supports the program.

Florida Fishermen's Federation: supports the program provided that displaced netters who currently hold a valid blue crab endorsement but have no reported landings receive a non-transferable endorsement with 200 trap tags.

Southeastern Fisheries Association: supports the program.

Workshops:

Workshops were held to gather public comment on the proposed effort limitation program: March 9, 2004 (West Palm Beach); March 10, 2004 (Titusville); March 11, 2004 (Green Cove Springs); March 30, 2004 (Ft. Myers); March 31, 2004 (Tampa); April 1, 2004 (Crystal River); April 26, 2004 (Pensacola); April 27, 2004 (Panama City); April 28, 2004

(Jacksonville); April 29, 2004 (Crawfordville); February 16, 2005 (Titusville); February 17, 2005 (Green Cove Springs); February 21, 2005 (Ft. Myers); February 22, 2005 (Tampa); February 23, 2005 (Crystal River); and, February 24, 2005 (Apalachicola).

Ad hoc Blue Crab Advisory Board Meetings:

The Board held nine public meetings: September 23-24, 2003 (Kissimmee); October 30, 2003 (Kissimmee); December 3-4, 2003 (Ocala), January 6-7, 2004 (Ocala); June 4, 2004 (Ocala); October 25-26, 2004 (Ocala); November 16, 2004 (Ocala); January 4-5, 2005 (Ocala); and, March 14, 2005 (Ocala).

Commission Meetings:

The FWC discussed the blue crab effort limitation program at the following public Commission meetings: February 4-6, 2004 (Amelia Island); June 9-11, 2004 (Marco Island); September 22-24, 2004 (St. Petersburg); December 1-3, 2004 (Key Largo); February 2-4, 2004 (Panama City); and, April 14-15, 2005 (Tallahassee).

Mailouts:

FWC staff mailed out surveys, draft rule summaries, and workshop meeting notes to all blue crab endorsement holders.

IV. Fiscal Impact

A. On FWC

Fees

It is estimated that the agency cost of the licensing program will be approximately \$120,000 for trap tags and administration. Existing licensing staff will administer the program and no new positions will be created or funded. The remaining revenues will support enforcement, management and research efforts related to the blue crab fishery.

The total annual revenue for the soft shell and hard shell blue crab programs is estimated to be between \$492,850 and \$568,250.

Breakdown: Revenue generation from endorsements is expected to be \$100,000 for hard shell crab endorsements, and \$38,500 for soft shell crab endorsements. Trap tag revenue is more difficult to estimate depending upon the number of trap tags that will be purchased and used annually in the fishery. Eight-hundred hard shell blue crab endorsements with 600 trap tags per endorsement could generate \$240,000; 147 soft shell crab endorsements

with 400 trap tags per endorsement could generate \$29,400; Seven of the 147 will receive an additional VS endorsement that will be eligible for 250 additional tags that could generate an additional \$875, for a total estimated revenue of \$30,275 in soft shell crab fees. Additional funds will be generated from the sale of offshore trap tags in the Gulf of Mexico; however, it is difficult to calculate the number of these tags that will be purchased by fishers. Landings data show that approximately 65% of the entities (approximately 423 individuals) fishing for hard shell blue crab report landings offshore on the Gulf coast. If all 423 entities order the 400 offshore trap tags an additional \$84,600 is anticipated. However, if all 651 fishers with hard shell blue crab endorsements choose to deploy traps in the Gulf of Mexico and order 400 trap tags per entity, an additional \$130,200 in revenues is anticipated. Further, if all of the 800 hard shell blue crab endorsements are used to deploy traps in the Gulf of Mexico and order 400 trap tags per endorsement, an additional \$160,000 in revenues is anticipated. Calculations for the fees generated by the sale of trap tags assume that the maximum number of tags will be ordered. In practice, the real number of trap tags ordered will likely be less. Revenues would be deposited into the Marine Resources Conservation Trust Fund.

Penalties

No fiscal impact to the FWC is anticipated. Criminal penalties already exist for a violation of stone crab and lobster rules, and the enforcement component is already in place. A process for assessing and collecting administrative penalties already exists in the Division of Marine Fisheries Management and a new administrative penalty procedure can be incorporated with minimal agency cost. As there is no way to determine an annual number of citations/judicial dispositions, there is no way to estimate potential revenue receipts.

B. On Private Sector

Fees

The proposed endorsement and trap tag fees will cost each individual fisher the respective annual endorsement cost of \$125 or \$250, plus \$.50 per trap tag. There will be approximately 651 fishers who will receive approximately 800 hard shell blue crab endorsements, and approximately 147 fishers who will receive approximately 154 soft shell blue crab endorsements (140 fishers will receive one V-S, seven fishers will receive two V-S or 14 V-S total). The difference between the number of qualified fishers and the number of endorsements is due to fishers who hold multiple SPLs and who will qualify for endorsements on their multiple licenses. (The actual final number of qualified fishers and endorsements will not be determined until after an established appeals process is completed.) The proposed retrieval fee for every trap retrieved during the post season is \$10; however, the retrieval fee would be waived for the first five traps belonging to a holder of a blue crab trap endorsement.

Penalties

Affected parties are those in the commercial blue crab trap fishery. Those who commit a violation of untagged traps, using or making counterfeit trap tags, false application for replacement trap tags, or false reporting of endorsement transfer value, risk being assessed up to \$5000 and the loss of their blue crab fishing privileges for up to 24 months. Those who abide by the law by fishing the number of traps allowed will benefit if establishment of this administrative penalty discourages use of illegal traps.

C. On Other Governmental Agencies

No additional cost is anticipated.

D. Tax/Fee Issues

The proposal establishes a hard shell blue crab endorsement fee of \$125, a soft shell blue crab endorsement fee of \$250, and a trap tag fee of \$0.50 per tag. The proposal also establishes a fee of \$10 for every trap retrieved during the post season; however, the retrieval fee would be waived for the first five traps belonging to a holder of a blue crab trap endorsement.