

**NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION: Division of Marine Fisheries Management**

RULE NO.:
68B-24.009

RULE TITLE:
Trap Reduction Schedule.

PURPOSE AND EFFECT: The purpose of this rule amendment is to modify the Commission's Spiny Lobster Rule regarding the reduction in the number of lobster trap certificates. The lobster trap certificate reduction was initiated to reduce overcapitalization in the commercial spiny lobster fishery and to address concerns about excessive mortality of undersized lobsters, declining yield per trap, and public concerns over debris pollution from existing traps. The reduction process has been under moratorium since 2003. The effect of this rule amendment will be to end the moratorium and implement a trap certificate reduction schedule whereby upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent. Once the number of lobster trap certificates is reduced to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year through this mechanism. Reducing the number of traps will maintain fishing effort in the spiny lobster fishery at a level to maintain the fishery's yield while maximizing economic efficiency, reducing ecological impacts, and preserving the general aesthetics of the coastal environment.

SUMMARY: 68B-24.009 F.A.C., Trap Reduction Schedule, would be amended to end the current moratorium on the reduction of lobster trap certificates and implement a trap certificate reduction schedule whereby upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: During the regular meeting of the Commission, 8:30 a.m. to 5:00 p.m., February 4-5, 2009, each day.

PLACE: Sandestin Golf and Beach Resort, 9300 Emerald Coast Parkway West, Destin, FL, 32550

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 calendar 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 by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850) 487-1764.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68B-24.009 Trap Reduction Schedule.

(1) Upon the sale or transfer of lobster trap certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent. Except as otherwise provided in this rule, beginning with the 2001-2002 license year, the maximum number of lobster trap certificates issued each season by the Commission pursuant to Section 370.142, Florida Statutes, shall be reduced each season by 4 percent from the total issued for the immediately previous season. These reductions shall be achieved through passive reductions pursuant to subsection (2). If in any year such passive reduction does not amount to 4 percent of

~~available certificates, an active reduction shall be applied pursuant to subsection (3) to all lobster trap certificate holders to achieve the 4 percent target. If in any year, passive reductions pursuant to subsection (2) exceed 4 percent of available certificates, the number of certificates in excess of 4 percent shall be applied to meet the 4 percent reduction target for the following year. Once the number of lobster trap certificates is reduced through this passive/active mechanism to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year except those forfeited pursuant to Section 379.3671(2)(c)3 or Section 379.3671(2)(c)7, Florida Statutes.~~

~~(2) Passive Reduction— Upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 25 percent. Additionally, certificates forfeited due to conviction for theft from a spiny lobster trap pursuant to Section 370.142(2)(c)3., Florida Statutes, or reverting to the Commission for nonpayment of certificate fees pursuant to Section 370.142(2)(c)7., Florida Statutes, shall be included as trap certificates passively reduced in a license year.~~

~~(3) Active Reduction— If the total passive reduction in lobster trap certificates pursuant to subsection (2) in any license year does not total 4 percent of the certificates available during that season, an additional reduction in the number of available certificates shall be made at the end of the season in the appropriate percentage to achieve the 4 percent target reduction for that year. This reduction shall be applied on a pro rata basis to all lobster trap certificate accounts.~~

~~(4) Notwithstanding the provisions of subsections (1) (3) of this rule, no trap reductions shall take place in the license years beginning with the 2004-2005 license year and continuing through the 2006-2007 license year.~~

PROPOSED EFFECTIVE DATE: July 1, 2009

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-92, Amended 6-1-94, 6-3-96, 3-5-97, Formerly 46-24.009, Amended 6-29-00, 7-1-01, 4-1-04, 7-1-09.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850) 487-0554.

NAME OF SUPERVISOR WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: December 26, 2008

SUMMARY OF PROPOSED RULE

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE: SPINY LOBSTER (CRAWFISH) AND SLIPPER LOBSTER

RULE NO:

68B-24.009

RULE TITLE:

Trap Reduction Schedule.

68B-24.009 F.A.C., Trap Reduction Schedule, would be amended to end the current moratorium on the reduction of lobster trap certificates and implement a trap certificate reduction schedule whereby upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent.

FEDERAL COMPARISON STATEMENT FOR PROPOSED RULE
FISH AND WILDLIFE CONSERVATION COMMISSION
RULE CHAPTER TITLE: SPINY LOBSTER (CRAWFISH) AND SLIPPER LOBSTER
RULE NO: 68B-24.009
RULE TITLE: Trap Reduction Schedule.

The National Marine Fishery Service (NMFS) manages the spiny lobster stock in Florida federal waters. However, NMFS considers the state as the lead management agency for spiny lobster, and the state developed the present effort management strategy for the fishery.

SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION
RULE CHAPTER TITLE: SPINY LOBSTER (CRAWFISH) AND SLIPPER LOBSTER
RULE NO: 68B-24.009
RULE TITLE:
Trap Reduction Schedule.

This draft rule is the result of a recommendation of a spiny lobster commercial trap industry work group that formed independently of the Fish and Wildlife Conservation Commission. The Division of Marine Fisheries Management concurred with the independent work group's recommendation and presented it as a Draft Rule at the Florida Fish and Wildlife Conservation Commission's publically advertised meeting on December 4, 2008 in Key West.