



This document summarizes a draft rule amendment for the Florida Fish and Wildlife Conservation Commission's (FWC) Local Laws, 68B-3, Florida Administrative Code (F.A.C.). This draft rule amendment was requested by the Board of County Commissioners of Charlotte County, Florida. The Charlotte County Board of Commissioners requested that the FWC repeal two Special Acts of Local Application for Charlotte County. The first act prohibits the use of any gig or spear by a diver in inland waters of the county and the second act prohibits the use of underwater lights while harvesting fish in waters of the county. These two acts were originally implemented by the Florida Legislature in 1957 and were subsequently adopted into rule of the Marine Fisheries Commission in 1983 and then into FWC rule in 1999. The County states these rules are antiquated, serve no public purpose and provide no public benefit. With their repeal, spearing and the use of lights would be subject to the current statewide rules.

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Charlotte County Local Rules - History

- In 1957, the Florida Legislature enacted two special acts
 - Chapter 57-1218 prohibited any underwater fishing by means of a gig or spear in inland waters of Charlotte County
 - Chapter 57-1219 prohibited the use of any underwater light when harvesting fish from the waters of Charlotte County
- In 1983, the Florida Legislature created the Marine Fisheries Commission (MFC) and made many existing acts local rules of the MFC
- The FWC, the successor to the MFC, has the authority to repeal local rules



In 1957, the Florida Legislature enacted two special acts regarding fishing in Charlotte County. The first act, Chapter 57-1218, prohibited any underwater fishing by means of a gig, spear or other similar device in the inland waters of Charlotte County. The second act, Chapter 57-1219, prohibited the use of any underwater light when fishing from the waters of Charlotte County.

In 1983, the Florida Legislature created the Marine Fisheries Commission (MFC). At the same time the Legislature took many existing acts and made them rules of the MFC, including 57-1218 and 57-1219.

In 1999, the Florida Fish and Wildlife Conservation Commission was created and all of the MFC rules became rules of the FWC. Therefore, the FWC has the authority to repeal the local rules.

Issue

- The Charlotte County Commission has requested the FWC repeal Chapters 57-1218 and 57-1219
- The county states the rules appear to serve no public purpose nor provide any public benefit
- Staff does not believe there would be any negative effects on the resource if the rules were repealed
- If repealed, current statewide regulations would apply to the use of lights and spears in Charlotte County waters



In November of 2010 the Charlotte County Board of Commissioners sent a resolution (number 2010-106) to the FWC requesting that Chapters 57-1218 and 57-1219 be repealed stating that the rules are antiquated, serve no public purpose and provide no public benefit.

The Division of Marine Fisheries Management, in consultation with the FWC Legal Office, FWC Division of Law Enforcement, and the Southwest Regional Leadership Team has determined the repeal of these two local rules is unlikely to have any negative effects on the resource and should not cause any enforcement or legal issues. Staff therefore supports Charlotte County's request to repeal the Special Acts.

With their repeal, the current statewide rules regarding the use of spears and underwater lights would apply in Charlotte County.

Proposed Draft Rule

68B-3.001 - Repeal of Chapters 57-1218 and 57-1219, Charlotte County Special Acts.

- *The proposed draft rule would repeal chapters 57-1218 and 57-1219, thereby allowing the statewide regulations regarding the use of spears and lights while fishing to apply in Charlotte County*

** No additional public hearing planned unless requested.*



The proposed draft rule would create 68B-3.001 F.A.C., titled: Repeal of Chapters 57-1218 and 57-1219, Charlotte County Special Acts. The proposed rule would repeal Chapters 57-1218 and 57-1219 that are included in the FWC's Special Acts of Local Application: Charlotte County.

If the draft rule is approved, staff would advertise it as a draft rule with no further hearing planned prior to adoption, unless requested, as allowed by Section 120.53, Florida Statutes.

Staff Recommendation



- Approve draft rule to repeal local laws restricting the use of spears and lights in Charlotte County
- * *Staff will publish a notice that the rule will become final with no further public hearing unless requested*



Staff recommends approving the advertised rule, which would repeal chapters 57-1218 and 57-1219 and allow the statewide rules to apply regarding lights and spears while fishing in Charlotte County.

Staff also recommends approving the draft rule without further hearing planned prior to adoption, unless requested.

Staff recommends the rule become effective January 1, 2012.

Staff has reviewed the creation of a new rule in order to repeal the local laws and finds it to be consistent with the standards provided in Florida Administrative Code Rule 68-1.004.