

# Current regulations related to the propagation, transport, and release of hatchery raised oysters in the U.S. Gulf of Mexico

by

Patrick Banks<sup>1</sup>  
Steve Geiger<sup>2</sup>  
Jason Herrmann<sup>3</sup>  
Charles Robertson<sup>4</sup>  
Lance Robinson<sup>5</sup>  
Steve VanderKooy<sup>6</sup>

<sup>1</sup>Louisiana Department of Wildlife & Fisheries  
Baton Rouge, LA

<sup>2</sup>Florida Fish & Wildlife Conservation Commission  
100 Eighth Avenue, SE; St. Petersburg, FL 33701

<sup>3</sup>Alabama Department of Conservation & Natural Resources  
P.O. Drawer 189, Dauphin Island, AL 36528

<sup>4</sup>Mississippi Department of Marine Resources  
1141 Bayview Avenue, Biloxi, MS 39530

<sup>5</sup>Texas Parks & Wildlife Department  
Dickinson Marine Lab, 1502 FM517 East, Dickinson, TX 77539

<sup>6</sup>Gulf States Marine Fisheries Commission  
2404 Government Street, Ocean Springs, MS 39564

Published by

Gulf States Marine Fisheries Commission  
2404 Government St.  
Ocean Springs, MS 39564

Publication No. 238

December 2014

A publication of the Gulf States Marine Fisheries Commission pursuant to National Oceanic and Atmospheric Administration Award Number NA10NMF4070006. This paper is funded by a grant from the National Oceanic and Atmospheric Administration. The views expressed herein are those of the author(s) and do not necessarily reflect the views of NOAA or any of its sub-agencies.



# Current regulations related to the propagation, transport, and release of hatchery raised oysters in the U.S. Gulf of Mexico

## Introduction

Aquaculture worldwide continues to gain ground in an attempt to supply the needs of the human population with quality seafood products in an environment of greater and greater restrictions on wild-caught products, and, in some cases, dwindling natural populations of wild seafood species. The culturing of oysters for both enhancement (supplementing existing wild populations) and commercial harvest (on-bottom and off-bottom production), has led to many of the state marine agencies further considering how cultured products and the source of broodstock within the context of intense culture are handled. This document attempts to describe existing laws, rules, regulations, and protocols related to oyster culture and the transfer of hatchery-raised oyster larvae across state lines to allow for expansion of hatchery work in the region.

## History of Capture Fishery

In general, total U.S. oyster landings for the eastern oyster have been declining steadily since at least the 1950s (VanderKooy 2011). The two periods with the most substantial declines were in the New England region starting in the mid-1950s, resulting in a 32% overall decrease from a 1952 peak, and another in the Chesapeake Bay region (Chesapeake), starting in the early 1980s resulting in an additional 37% decrease in total production (Table 1). As a result of the declines

**Table 1** Five-year average percentage of total U.S. landings for eastern oyster by region, 1950-2013 (NMFS unpublished data). **Note:** 2010-2013 is four-year average\*.

Years	New England	South Atlantic	Mid Atlantic	Chesapeake	Pacific	Gulf
1950-54	3.1	5.4	23.2	50.0	0.0	18.2
1955-59	0.7	5.1	10.7	61.4	0.0	22.1
1960-64	0.8	8.3	3.2	46.8	0.0	41.0
1965-69	0.6	6.5	2.4	47.0	0.0	43.5
1970-74	0.6	3.8	5.4	53.4	0.0	36.8
1975-79	1.4	4.3	6.4	46.4	0.0	41.6
1980-84	2.7	5.2	4.8	37.0	0.0	50.3
1985-89	3.6	4.9	1.1	27.8	0.0	62.6
1990-94	22.1	3.0	3.3	9.2	0.0	62.4
1995-99	8.6	1.8	2.9	6.9	0.0	79.8
2000-04	1.5	2.1	2.9	3.5	0.0	89.9
2005-09	1.7	3.3	2.6	2.2	0.1	90.1
2010-13*	1.9	5.1	0.6	9.8	0.5	82.2

in the northeast, the Gulf replaced those regions as the dominant oyster producer in the early 1980s. Since that time, the total Gulf production has continued to increase and, despite the hurricanes of 2004 and 2005 which destroyed a number of reefs in the northern Gulf, the landings through 2009 remained fairly stable (VanderKooy 2011).

Oyster populations in the Gulf are driven by various factors which include physical, chemical, and biological controls such as the occurrence of hypoxia, predators, and disease as well as from commercial fishing pressure (VanderKooy 2011). In addition, prevailing environmental conditions can reduce commercial production due to reef closures resulting from public health concerns. The commercial landings in the Gulf are relatively steady over the long-term but punctuated by wide annual variation. These fluctuations in catch and landings highlight the degree to which the oysters and fishery managers are sensitive to environmental change. In addition, the intentional diversion of freshwater from rivers for flood control or into rivers for navigation purposes, can result in serious adverse impacts to estuarine ecology. Changes in the hydrology of an area can lead to further adverse effects on bay ecosystems by altering salinities, sediment load, as well as predation and disease (VanderKooy 2011).

In 2010, multiple freshwater diversions along the Mississippi River (not the Bonnet Carre' Spillway, however) were opened for several months in Louisiana in an effort to prohibit surface oil resulting from the tragic Deepwater Horizon oil spill event from reaching the sensitive marshes of southeast Louisiana. Although studies are continuing and results may not be known for some time, many scientists believe that low salinities caused, in large part by the freshwater diversions, negatively impacted oyster beds in the region. Heavy oyster mortalities were documented within the outfall basins of these diversions on both public and private oyster beds, although these basins did also experience documented oil intrusion and direct toxicity impacts on oysters and oyster larvae, especially in nearshore habitats such as intertidal areas, likely occurred.

Since 2010 and 2011, many once-productive estuaries within the northern Gulf of Mexico continue to experience reduced spat success.

## **Enhancement Efforts**

In an effort to combat decreasing abundances of wild oyster stocks, enhancement is an option which has been used extensively in the Chesapeake Bay to rebuild their natural reefs. The NOAA Fisheries Eastern Oyster Biological Review Team (2007) identified culturing activities for two purposes: isolated commercial enterprise (farming) and resource enhancement (restoration). Restoration efforts are "based upon collection of wild spat that amplifies natural production for commercial harvest with minimal effect on the local gene pool". The Team noted that the intent of these activities is to provide a reliable, sustainable commercial harvest unaffected by fluctuations inherent in reproduction and recruitment of wild oyster stocks. For over 25 years, the northeast has utilized hatchery technology to increase and stabilize their oyster production and prevent a fishery collapse.

In general, hatcheries can spawn billions of oyster larvae during a production season for producing cultched (e.g., on-shell) and cultchless (i.e., single) oyster seed for both extensive and

intensive culture, using off-bottom containment systems (Supan 2002). Seed nursery methods are dictated by what type of grow-out method will be used. Hatcheries are on-shore operations that spawn adult oysters to culture larvae at high densities (>50/ml) in tanks of ambient filtered seawater, while culturing specific strains of microalgae as food for larvae, seed, and/or broodstock (Supan 2002).

## Prevailing Regulations on Hatchery Product

The distribution and release of the hatchery products are a matter of state regulations and control as well as the practices outlined in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish – Section II, Chapter VI (FDA 2011). The following sections provide the existing state and federal guidelines related to the use and movement of hatchery products (broodstock, larvae, seed, and spat) in the environment for ecological enhancement and commercial culture enterprises.

### National

No nationwide regulatory body or guidelines exist with respect to the movement of hatchery-raised oyster larvae between states for the purpose of oyster restoration. Oysters moving through interstate commerce for human consumption, however, are regulated by the U.S. Food and Drug Administration (FDA) and under the federal/state cooperative program called the National Shellfish Sanitation Program (NSSP).

### State

In most of the five Gulf states, there are multiple organizations responsible for the management of oysters and include the state marine resource agency, the state department of public health, and in some cases, the state department of agriculture. Each of the agencies has a responsibility to one or more aspects of the shellfish management. The various entities and respective authorities are identified in Table 2.

**Table 2** State agencies responsible for various tasks associated with resource management and public health management (NA = not applicable).

Task	Florida	Alabama	Mississippi	Louisiana	Texas
Licensing	FWC/FDACS	AMRD	MDMR	LDWF	TPWD
Seasons	FWC	AMRD	MDMR	LDWF	TPWD
Harvest Limits	FWC	AMRD	MDMR	LDWF	TPWD
Area Closures	FWC/FDACS	AMRD and ADPH	MDMR	LDHH	TPWD/TDSHS

Task	Florida	Alabama	Mississippi	Louisiana	Texas
Size Restriction	FWC	AMRD	MDMR	LDWF	TPWD
Harvest Area Classification	FDACS	ADPH	MDMR	LDHH	TDSHS
Processing Plant Certifications and Inspections	FDACS	ADPH	MDMR	LDHH	TDSHS
Water Quality Monitoring	FDACS	ADPH	MDMR	LDHH	TDSHS
Resource Management	FWC	AMRD	MDMR	LDWF	TPWD
Leasing	FDACS	AMRD	MDMR	LDWF	TPWD
Cultch Planting	FWC/FDACS	AMRD	MDMR	LDWF	TPWD
Relaying	FWC/FDACS	AMRD	MDMR	LDHH/LDWF	TPWD
Transplanting	FDACS	AMRD	MDMR	LDWF	
Aquaculture	FDACS		MDMR	LDWF	NA

ADPH - Alabama Department of Public Health  
AMRD - Alabama Marine Resources Division  
FDACS - Florida Department of Agriculture and Consumer Services/Division of Aquaculture  
FWC - Florida Fish and Wildlife Conservation Commission  
LDHH - Louisiana Department of Health and Hospitals  
LDWF - Louisiana Department of Wildlife and Fisheries  
MDMR - Mississippi Department of Marine Resources  
TDSHS - Texas Department of State Health Services  
TPWD - Texas Parks and Wildlife Department

## *Florida*

### **Florida Department of Agriculture and Consumer Services (FDACS)**

FDACS Aquaculture Best Management Practices Chapter 5L-3, Florida Administrative Code,

#### Genetic Protection

- Aquaculturists located on Atlantic Coast waters, who intend to sell or use oyster seed stocks for further grow-out in the state of Florida must use broodstock which originated from Florida Atlantic Coast waters in their genetic selection program.
- Aquaculturists located on Gulf Coast waters, who intend to sell or use oyster seed stocks for further grow-out in the State of Florida, must use broodstock which originated from Florida waters of the Gulf of Mexico in their genetic selection program.
- Aquaculturists culturing shellfish, other than oysters and hard clams, located on Atlantic Coast waters, who intend to sell or use seed stocks for further grow-out in the state of

Florida must use broodstock which originated from Florida Atlantic Coast waters in their genetic selection program.

- Aquaculturists located on Gulf Coast waters, who intend to sell or use seed stocks for further grow-out in the state of Florida must use broodstock which originated from Florida waters of the Gulf of Mexico in their genetic selection program.
- All shellfish must be transported or shipped in distinct containers identified by the producer's Aquaculture Certificate Number.
- If producers buy clam seed stocks from an out-of-state source, the hatchery must utilize Florida broodstock in their genetic selection program. Documentation of broodstock origin must be obtained from the hatchery.
- If producers buy oyster seed stocks from an out-of-state source, the hatchery must utilize brood stock from the Florida waters of the Gulf of Mexico in their genetic selection program. Documentation of broodstock origin must be obtained from the hatchery.
- Only the cultivation of indigenous, or hybrids of indigenous shellfish should be placed on submerged lands. Each certificate holder shall notify the Division of the species of shellfish being cultured in Florida waters.
- Triploid oysters for Gulf of Mexico grow-out (**Pending revision to BMPs** and rule modification to 5L-3, F.A.C.)
  - Out of State Source -Triploid seed derived from a tetraploid oyster crossed with a diploid oyster require broodstock from the Gulf of Mexico.
  - Out of State Source -Triploid seed derived from a manipulation during the cross of two diploid oysters require that the broodstock come for Florida waters of the Gulf of Mexico.

#### Disease Prevention

- Shellfish imported from out-of-state sources for aquacultural purposes must be accompanied by documentation signed by a licensed veterinarian certifying that the stock does not show clinical signs of any disease pathogen which may pose a threat to natural shellfish populations.
- Stock must currently be free of the following pathogens: Quahog Parasite Unknown (QPX) in clams; *Haplosporidium nelsoni* (MSX), and *Perkinsus marinus* (Dermo) in oysters.
- Because of the known threat of introduction of MSX from oyster stocks grown in the waters of the Atlantic Ocean or drainages into the Atlantic Ocean, the sale of oyster stocks from Atlantic Coast waters is prohibited for use in Florida Gulf Coast waters.
- Florida Gulf Coast hatcheries and nurseries can only provide oyster seed for grow-out in Florida Gulf Coast waters.
- Florida Atlantic Coast hatcheries and nurseries can only provide oyster seed for grow-out in Florida Atlantic Coast waters.
- The producer's Aquaculture Certification Number must accompany bivalves being transported from a hatchery or nursery and to or from grow-out areas.
- All bivalve facility operators will notify the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, State Veterinarian's Office, 2700 N. John Young Parkway, Kissimmee, FL 32741, phone 407/846-5200 Ext. 226, within 24

hours of any suspected disease outbreaks, (specifically, MSX and Dermo in oysters and QPX in clams).

### **Florida Fish & Wildlife Conservation Commission (FWC)**

Pursuant to 68B-8, Florida Administrative Code (FAC) Marine Special Activity License Program or SAL (see <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=68B-8> for complete details) harvest, possession, and release of otherwise prohibited species may be authorized pursuant to a SAL for specific purposes. FWC authorizes the release (introduction) of any animals bred or held in captivity pursuant to this rule (specifically 68B-8.010, F.A.C.). For purposes of restoration, harvest of broodstock and release of oysters into state waters would be authorized as a research activity, a stock enhancement activity (“...increasing the number of breeders...to offset harvest pressure or expand stock size based on a presumed underutilized carrying capacity...” ), or a stock restoration activity (“ the captive breeding and release of marine organisms to maintain or reestablish the demographic stability and biological diversity of a non-self-sustaining (inviable) or locally extirpated natural population (stock) until such time that a naturally self-sustaining stock can be re-established”). Collection of broodstock for oysters intended solely for commerce aquaculture would be licensed pursuant to 68B-8.011 F.A.C.

Several important considerations and restrictions:

- The maximum license duration is one year.
- The license cannot be issued to a third party contractor, and no more than 10 persons shall be included on the license unless reasonable justification is provided.
- The license holder must either qualify pursuant to scientific research eligibility requirements or must be an owner, director, or manager of a certified aquaculture facility.
- The license holder must notify regional FWC Law Enforcement no later than 24 hours prior to conducting activity that requires the license.
- No marine organism that has been maintained in captivity shall be released unless the release is authorized by a SAL or the release is conducted in accordance with the “Florida Fish and Wildlife Conservation Commission Policy on the Release of Marine Organisms, September 2009” ( <http://myfwc.com/license/saltwater/special-activities/> )
- Valid only in state waters excluding federal park waters and zoned areas of the Florida Keys National Marine Sanctuary.

Issuance of a SAL that authorizes release activities will be dependent upon review of the application including (but not limited to) such factors as:

- Outcome of a genetic risk assessment conducted pursuant to the “Decision Process for the Genetic Risk Assessment of Release Activities involving Marine Organisms, September 2009” flowchart, see Appendix.
- Maintenance of the animals in captivity must be in accordance with the captivity requirements set forth in the “Florida Fish and Wildlife Conservation Commission Policy on the Release of Marine Organisms” (see Appendix).

- Results of a health examination conducted by a USDA-certified veterinarian or an American Fisheries Society-certified fish pathologist or fish health inspector.

The principal risks from oysters would include; spread of disease that affect wild stocks and impacts to the genetic diversity of wild stocks.

## *Alabama*

### Transport of *Crassostrea virginica* larvae into Alabama:

Note: Specific codes and regulations for the transport of oyster larvae of the species *Crassostrea virginica* into the state of Alabama do not currently exist. However, the following is a list of best practices and guidelines put forth by AMRD to detail specific information that will be requested from the facility of origin to ensure accountability of transported oyster larvae. These points detail broodstock origin, the use of triploid oysters, testing for diseases and contaminants, record keeping, and proper labeling of transport containers.

- Oyster larvae of the species *Crassostrea virginica* may be transported from the state of origin into Alabama given that the broodstock producing said larvae originated in the waters of the northern Gulf of Mexico including the waters of Texas, Louisiana, Mississippi, Alabama, and Florida.
- Prior to the transport of any oyster larvae, the facility of origin should provide an operation plan to ADPH and AMRD and have written approval of this plan from both agencies. Written approval may cover multiple transport events or include a span of time with an appropriate expiration date. Any modifications to the operational plan should be presented to ADPH and AMRD for approval. This operational plan should detail all hatchery operations as well as provide detailed methods to test hatchery water, broodstock oysters, and larvae for any contaminants (parasites, bacteria, viruses, and toxic chemicals) that may come into contact with and be transported with the oyster larvae.
- The facility of origin should provide a letter of intent to ADPH and AMRD prior to the transport of oyster larvae. An e-mail copied to each of these agencies is sufficient for this purpose. Included in the e-mail should be the species name, approximate amount of larvae, method of transport, amount and volume of containers utilized for transport, the name, address, and contacts of the originating and receiving facilities, the date and time of beginning, and the ETA of transport.
- Containers used in transport of oyster larvae should be clearly labeled as “*Crassostrea virginica* Larvae”. These containers should also clearly identify the name, address, and contacts of the facility of origin as well as the name, address, and contacts of the



receiving facility. The approximate amount of larvae and the start date of transport should be included with this information as well.

- Triploid oyster larvae may be transported from the state of origin into Alabama given that the broodstock producing said larvae originated in the waters of the northern Gulf of Mexico including the waters of Texas, Louisiana, Mississippi, Alabama, and Florida. Containers in which triploid oyster larvae are transported should be labeled “*Crassostrea virginica* Triploid Larvae”
- Transport into and utilization of triploid oyster larvae in the state of Alabama is at the discretion of AMRD and will be approved on a case-by-case basis depending upon need.
- During transport of oyster larvae into Alabama, temperatures of larvae, transport media, and containers may be maintained at a level to maximize viability and survival of the larvae for settlement.

## *Mississippi*

Mississippi Department of Marine Resources (MDMR)

MDMR requires that a transport permit be applied for before boats or vessels enter Mississippi territory and that compliance with all permit conditions is maintained. Also, MDMR may place any additional conditions on the transport of shell stock harvested from waters outside of the state of Mississippi as deemed necessary to protect public health and compliance with the laws of the state. No other statutes or laws are in place for the transport of aquatic organisms from outside the state of Mississippi into Mississippi or its waters.

Mississippi does have hatcheries that have been acting under an established standard operating procedure for the release and transport of hatchery-raised marine aquatic species which are required to be followed. These standard operating procedures are designed to prevent introduction and spread of disease and pathogens and to avoid undesirable influences to genetic populations of local species.

In summary:

### **Title 22, Part 01**

1. Boats or vessels transporting shell stock from waters outside of the state of Mississippi into Mississippi shall apply to the MDMR for a transport permit before entering Mississippi territory.
2. MDMR may place additional conditions on the transport of shell stock harvested from waters outside of the state of Mississippi as deemed necessary to protect public health and compliance with the laws of the state.

## **Standard Operating Procedures**

### **Out-of-State Hatcheries**

1. All imported shellfish must have completed a thorough health inspection by a USDA certified third party veterinarian and found to be free of any potential pathogens that may cause adverse effects to local aquatic species. Supporting documents from the veterinarian must be provided.
  - a. Release of shellfish infected by *Haplosporidium nelsoni* (MSX) and/or *Perkinsus marinus* (Dermo) into Mississippi waters is prohibited.
  - b. Release of shellfish containing harmful levels of *Vibrio vulnificus* and/or *Vibrio parahaemolyticus* into Mississippi waters is prohibited.
2. Shellfish seed stock imported with the intent to sell or use for grow-out in Mississippi waters must be first generation descendants of broodstock which originated in Mississippi waters. The hatchery where the shellfish seed stock was produced must provide documentation of broodstock origin.

### **In-State Hatcheries**

In-state hatcheries are required to follow the same disease prevention and genetic assurance procedures as out-of-state hatcheries as long as their broodstock originated from Mississippi waters.

## *Louisiana*

### **Louisiana Department of Wildlife and Fisheries (LDWF)**

#### ***Out-of-State Hatcheries***

As per Louisiana Revised Statutes (R.S.) 56:20, the release of any fish species into state waters from outside of the state is prohibited, except upon a written permission of the Secretary of the Louisiana Department of Wildlife and Fisheries (LDWF). No additional law or administrative rule specific to the introduction of out-of-state oysters exists for Louisiana. However, LDWF does have established protocols in place to control the importation of oysters, oyster spat, seed, larvae, and/or genetic material (eggs and sperm) from outside of Louisiana. The protocol was developed specifically to prevent the introduction of invasive species and MSX oyster disease. It should be noted that, to date, this protocol has only been utilized by the academic research community.

In general, the following details LDWF protocol for oyster importation into Louisiana waters:

1. All importations (release) are prohibited without express written consent of LDWF Secretary (R.S. 56:20).
2. Any permit granted for the importation (release) shall be valid for no longer than one calendar year from the date of permit issuance by LDWF.
3. Written request (application) must be received by LDWF prior to importation.  
Application must include:
  - a. Applicant name
  - b. Applicant's professional affiliation
  - c. Name of target species and life-stage of species to be imported
  - d. Location of proposed release
  - e. Time period of proposed release
  - f. Detailed information concerning the **source** of target species (e.g. state, company, hatchery, etc.)
  - g. Number of animals proposed to be released
  - h. Detailed justification explaining why such release is needed and how it is advantageous to the state of Louisiana
  - i. Detailed information explaining measures taken to minimize the possibility that exotic species will be unintentionally released into Louisiana along with the target species. For example, oyster larvae must be certified free of MSX disease in writing by a third party deemed acceptable by LDWF. In the past, the Virginia Institute of Marine Science (VIMS) has provided this written certification.
4. LDWF will review application, and request a separate review by an established researcher (academia or other as appropriate) deemed appropriate by LDWF.
5. LDWF Office of Fisheries will prepare recommendation to LDWF Secretary
6. LDWF Secretary provides decision on permit issuance
7. LDWF Office of Fisheries informs applicant, in writing, of the decision
8. If approved, applicant shall provide an annual report to LDWF no later than 30 days following expiration of permit (specific information required in report TBD).

### ***In-State Hatcheries***

Oysters and/or oyster larvae originating from in-state hatcheries have no established restrictions as long as broodstock originated from in-state waters.

### ***Texas***

The Texas Parks and Wildlife Department (TPWD) regulates the introduction and stocking of fish, shellfish, and aquatic plants into the public waters of the state [Parks and Wildlife Code, §12.015]. The introduction of shellfish into Texas public waters will require a TPWD issued permit. This permit must be issued to a named individual only and cannot be issued to a corporation, partnership, or other entity [Texas Administrative Code, §57.252(b)] and cannot be sold or transferred without approval by TPWD [§57.252(c)]. The permit is valid for 60 days

from the date of issuance or until the permitted introduction has been completed, whichever comes first [§57.252(d)].

All species of oysters of the family Ostreidae, except *Crassostrea virginica* and *Ostrea equestris*, are defined as harmful or potentially harmful shellfish [§57.111(16)(E)] and prohibited in Texas unless the oysters have been shucked or otherwise removed from their shells [§57.113(b)].

As initially proposed, the movement of spat-on-shell to “nursery areas” for hardening then to public beds will also require a surface lease from the Texas General Land Office [§33.101, Natural Resources Code]. Surface leases are granted for 20 years and a one-time lease fee of up to \$1,000 per acre may be required.

If seed oysters are to be sold for commercial production (facilities and vehicles transporting live cultured species) an Aquaculture Permit issued by the Texas Department of Agriculture would be required [Government Code, Sections 552.021, 552.023, and 559.004]. If water within the remote setting facility is to be discharged into public waters of the state of Texas, a General Permit to Discharge Wastes will be required [as outlined in 40 CFR Part 122, Appendix C and meets the criteria of Level III and Level IV authorizations established in this general permit; §30 Texas Administrative Code].

# Appendix 1 Florida

## Chapter 68B-8, Florida Administrative Code: Marine Special Activity License Program

Rule No	Rule Title	Effective Date
<a href="#"><u>68B-8.001</u></a>	Introduction and Scope	7/1/2004
<a href="#"><u>68B-8.002</u></a>	Definitions	11/19/2009
<a href="#"><u>68B-8.003</u></a>	General Conditions and Restrictions	11/19/2009
<a href="#"><u>68B-8.004</u></a>	Application Review Process and Evaluation Criteria	7/1/2004
<a href="#"><u>68B-8.005</u></a>	Third Party Contractors	7/1/2004
<a href="#"><u>68B-8.006</u></a>	Scientific Research Special Activity License	11/19/2009
<a href="#"><u>68B-8.007</u></a>	Education/Exhibition Special Activity License	11/19/2009
<a href="#"><u>68B-8.008</u></a>	Florida Marine Science Educators Association Certification	11/19/2009
<a href="#"><u>68B-8.009</u></a>	Prohibited Species Collection Criteria	11/19/2009
<a href="#"><u>68B-8.010</u></a>	Stock Collection and Release Special Activity License	11/19/2009
<a href="#"><u>68B-8.011</u></a>	Aquaculture Broodstock Collection Special Activity License	11/19/2009
<a href="#"><u>68B-8.012</u></a>	Snook Special Activity License	11/19/2009
<a href="#"><u>68B-8.013</u></a>	Non-Conforming Gear Special Activity Licenses and Exemptions	11/19/2009
<a href="#"><u>68B-8.013(5)</u></a>	Gear Innovation Special Activity License	11/19/2009
<a href="#"><u>68B-8.013(6)</u></a>	Governmental Purpose Special Activity License	11/19/2009
<a href="#"><u>68B-8.013(8)</u></a>	Nonprofit Corporation Special Activity License	11/19/2009
<a href="#"><u>68B-8.014</u></a>	Marine Chemical Special Activity License	11/19/2009
<a href="#"><u>68B-8.015</u></a>	Dredge Special Activity License	7/1/2004
<a href="#"><u>68B-8.016</u></a>	Commission Activities and Agreements	7/1/2004

### **68B-8.001 Introduction and Scope.**

(1) The Florida Fish and Wildlife Conservation Commission recognizes that there are justifiable reasons to allow the harvest, possession, or release of marine organisms that would be in violation of one or more of the state's marine fisheries rules. Such activities include but are not limited to scientific research, education/exhibition, aquaculture, the use of non-conforming or innovative gear, the use of marine chemicals, the release of marine organisms, and the use of dredges.

(2) The rules in this chapter establish the Special Activity License (SAL) Program and allow the Commission to enter into agreements. Under this program the Commission will evaluate a proposed activity that requires a waiver of state marine fisheries rules. If the Commission determines that the proposed activity is in the best interest of the public of the State of Florida, it may issue a SAL or FMSEA Certification or enter into an agreement that includes terms, conditions, or restrictions that are necessary to ensure that the activity is consistent, to the maximum extent practicable, with fisheries rules, management plans of the Commission, and the best available scientific information.

**68B-8.002 Definitions.**

(1) “Anadromous” means species of fish that live in sea waters and migrate to fresh or estuarine waters to spawn.

(2) “Atlantic Region” for purposes of a Snook SAL, means all or part of counties encompassed by the St. Johns Water Management District and the South Florida Water Management District, except Charlotte County, Collier County, Glades County, Hendry County, Highlands County, Lee County, and Monroe County.

(3) “Bred in Captivity” or “Captive Bred” refers to eggs or organisms, born or otherwise produced in captivity from broodstock that mated or otherwise transferred gametes in captivity (if reproduction is sexual), or from broodstock that were in captivity when development of the progeny began (if development is asexual).

(4) “Broodstock” means sexually mature organisms of both genders capable of producing gametes or offspring now or in the future for artificial cultivation purposes. Broodstock includes organisms captured to conduct immediate source spawning or for long-term retention.

(5) “Captivity” means when eggs or live organisms are held in a controlled or selected aquatic environment that has boundaries designed to prevent such eggs or live organisms from entering or leaving the controlled environment.

(6) “Catadromous” means species of fish that live in fresh or estuarine waters and migrate to sea waters to spawn.

(7) “Certified aquaculture facility” means a facility that has a valid aquaculture certificate of registration issued by DOACS pursuant to Section 597.004, F.S., and is constructed and maintained in accordance with Aquaculture Best Management Practices, Rule 5L-3.004, F.A.C.

(8) “DOACS” means Department of Agriculture and Consumer Services.

(9) “Educational purpose” means an activity that uses marine organisms to identify or interpret some aspect of an organism’s taxonomy, behavior, physiology, or ecology; to conduct laboratory activities; to provide instruction on field techniques; or to explain marine resource management issues to individuals formally enrolled in an instructional setting.

(10) “Estuarine” means the part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water, and extending upstream to where ocean-derived salts measure less than 0.5 parts per thousand.

(11) “Exhibitional purpose” means an activity that uses marine organisms for the primary purpose of display in a facility open to the general public on a scheduled basis, and whose operational activities have a marine related component.

(12) “FMSEA Certification” means documentation validating the completion of the Florida Marine Science Educators Association workshop.

(13) “Gulf Region” for purposes of a Snook SAL, means Charlotte County, Collier County, Glades County, Hendry County, Highlands County, Lee County, Monroe County, and all or part of counties encompassed by the Southwest Florida Water Management District, the Suwanee River Water Management District, and the Northwest Florida Water Management District.

(14) “Hard bottom” means any living natural or artificial reef (including coral reefs, oyster reefs, and worm reefs) or varying biological assemblages of marine organisms attached to hard substrate.

(15) “Harvest” means the catching, taking, or molesting of a marine organism by any means whatsoever,

followed by a reduction of such organism or part thereof to possession. A marine organism that is caught and immediately returned to the water free, alive, and unharmed is not harvested.

(16) “Marine organism” means an organism, including anadromous and catadromous organisms and plants, that has a natural portion of its life cycle that is dependent upon marine or estuarine waters, but excluding striped bass (*Morone saxatilis*), American eels (*Anguila rostrata*), non-living shells, marine reptiles, marine mammals, and birds.

(17) “Marine turtle permit” means a permit issued pursuant to Section 379.2431, F.S. and Chapter 68E-1, F.A.C.

(18) “Nonprofit corporation” means a corporation that is designated as non-profit pursuant to 26 U.S.C. 501(c)3 and has a current letter of determination of tax exempt status.

(19) “Person” means an individual, firm, entity, or corporation.

(20) “Prohibited species” means a marine organism for which harvest, possession, or sale is prohibited in Title 68, F.A.C. or Chapter 379, F.S.

(21) “Scientific research” means an activity that uses marine organisms to conduct one or more of the following:

(a) Research activity that involves the application of rigorous, systematic, and objective procedures of observation, measurement, and experiment to obtain reliable and pertinent data using an experimental design, controls, and data analysis to test a stated hypothesis.

(b) Monitoring activity that involves making technical and scientific observations as a means of gathering data according to a predetermined study plan.

(c) Restoration activity that facilitates mitigation or recovery of hard bottom marine organisms and includes subsequent monitoring to measure the success of the restoration effort. Restoration activities do not include oyster relay activities authorized pursuant to Section 597.010, F.S.

(22) “Snook” means any fish of the genus *Centropomus*, or any part thereof.

(23) “Special Activity License” or “SAL” means a license issued pursuant to Chapter 68B-8, F.A.C.

(24) “Stock enhancement” means the process of releasing many organisms into a self-sustaining, naturally reproducing population of the same native species, in order to increase the number of breeders in that population. Stock enhancement represents an attempt to offset harvesting pressure or to expand stock size based upon a presumed underutilized carrying capacity of the environment.

(25) “Stock restoration” means the captive breeding and release of marine organisms to maintain or re-establish the demographic stability and biological diversity of a non self-sustaining (inviable) or locally extirpated natural population (stock) until such time that a naturally self-sustaining stock can be re-established.

(26) “Third party contractor” is an entity that is paid for services rendered to collect or transport marine organisms on behalf of a SAL holder, or paid to provide expertise as an agent or consultant for the collection or transport of marine organisms on behalf of a SAL holder. Salaried staff or faculty, non-salaried volunteers, students, interns, or visiting principle investigators who do not receive monetary compensation for their collection assistance are not third party contractors.

### **68B-8.003 General Conditions and Restrictions.**

#### **(1) ELIGIBILITY.**

(a) A SAL or FMSEA Certification will not be issued to a person and no person shall conduct activities under a SAL if, during the 36-month period prior to the application or activity, that person has been charged with a violation of a rule in Title 68, F.A.C.; Chapter 370, 372 or 379, F.S.; or 50 CFR Parts 622, 635, 640, 648, 654, 660, or 679 unless that person has received a final disposition of acquittal or dismissal of such charged violation.

(b) A Stock Collection and Release SAL, an Aquaculture Broodstock Collection SAL, or a Snook SAL will not be issued to a person and no person shall conduct activities under such SAL, if that person has been charged with a violation of a provision of Section 597.004, F.S., or Chapter 5L-3, F.A.C.

(c) A SAL will not be issued for an activity that is allowed under the marine recreational fishing regulations, with the exception of an Aquaculture Broodstock Collection SAL.

(d) A SAL will not be issued to a third party contractor.

#### **(2) APPLICATION, ISSUANCE, AND LICENSE PERIODS.**

(a) A person may apply for and be issued a SAL at any time and a SAL shall be valid for 12 months from the date of issuance with the following exceptions:

1. The period of validity of a Scientific Research SAL will be based on the duration of the proposed activity, provided that the duration is no longer than is necessary to achieve its stated purpose and it does not exceed 36 months from the date of issuance. The period of validity for a Scientific Research SAL issued for prohibited species shall not exceed 12 months from the date of issuance.

2. An Education/Exhibition SAL involving the collection of prohibited species may only be applied for April 1 through April 30 or October 1 through October 31.

3. An Aquaculture Broodstock Collection SAL is only valid so long as the SAL holder also holds a valid aquaculture certificate of registration issued pursuant to Section 597.004, F.S. and Chapter 5L-3, F.A.C.

4. The period of validity of a Governmental Purpose SAL will be based on the duration of the proposed activity, provided that it is no longer than is necessary to achieve its stated purpose.

5. The period of validity of a Nonprofit SAL is 36 months.

(b) A person may apply for and shall be issued a FMSEA Certification upon completion of workshop training and a FMSEA Certification is valid for 36 months.

(3) **TRANSFERABILITY OF LICENSE OR CERTIFICATION.** A SAL or FMSEA Certification is not transferable. If a SAL or Certificate holder changes his or her affiliation, the SAL or Certificate is no longer valid and must be amended or re-issued.

(4) **SCOPE OF AUTHORITY.** A SAL or FMSEA Certification does not authorize any activity outside of state waters, within zoned areas of the Florida Keys National Marine Sanctuary, or within the boundaries of any federal park. For purposes of this subsection, “zoned areas of the Florida Keys National Marine Sanctuary” means Sanctuary Preservation Areas, Special Use Areas, Research Only Areas, and Ecological Reserves.

(5) **LAW ENFORCEMENT NOTIFICATION.** The holder of a SAL or FMSEA Certification must notify the nearest Commission Law Enforcement Dispatch Center not later than 24 hours prior to conducting activities under a SAL or FMSEA Certification. Notification shall consist of a float plan detailing locations, dates, and times of activities. Deviations from the float plan are permitted only after 24-hour advance notification to the nearest Commission Law Enforcement Dispatch Center. Float plans are valid for the



duration of the SAL or FMSEA Certification unless rescinded by the SAL or FMSEA Certification holder.

(6) AUTHORIZED PERSONNEL.

(a) No more than 10 individuals shall be authorized to conduct activities pursuant to a SAL unless justification for additional personnel is provided by the applicant and additional personnel are necessary to achieve the stated purpose of the SAL.

(b) Authorized personnel on a FMSEA Certification will be limited to the certification holder, teaching assistants, and up to 100 students per collecting trip. Both the teaching assistants and students must be operating under the direct supervision of the Certification holder and there must be at least one adult per ten students.

(7) RELEASE OF MARINE ORGANISMS. No marine organism that has been maintained in captivity shall be released unless the release is authorized by a SAL or FMSEA Certification or the release is conducted in accordance with the "Florida Fish and Wildlife Conservation Commission Policy on the Release of Marine Organisms, September 2009" which is hereby adopted as a rule of the Commission and is incorporated herein by reference. However, the release restrictions of this subsection do not apply to:

(a) Catch-and-release activities that occur during the course of recreational fishing.

(b) The use of a marine organism for bait.

(c) The temporary possession of bycatch or of a marine organism that is temporarily retained in order to conduct directed commercial fishing activities, provided that the marine organism is not retained any longer than is necessary to accomplish the directed harvest.

(8) TAGGING OF MARINE ORGANISMS. No marine organism shall be tagged unless such tagging activity has been authorized pursuant to a SAL or FMSEA Certification. The tagging restrictions of this subsection do not apply to directors of a fishing tournament or their designee, who may tag up to five (5) fish per tournament for purposes of awarding prizes to tournament participants. For purposes of this section, a "tag" means any internal or external device or other marking, placed in or on an organism for the purpose of identification.

(9) REPORTING REQUIREMENTS. Required reporting documentation must be submitted within 30 days after expiration of the SAL.

(10) TRANSFERABILITY OF MARINE ORGANISMS.

(a) A SAL or FMSEA Certification is not required if a marine organism harvested pursuant to a SAL or FMSEA Certification is being moved through formal transfer or loan between facilities that meet the eligibility requirements in subsection 68B-8.003(1), F.A.C., and that are certified aquaculture facilities or are conducting scientific research, education, or exhibition activities. A marine organism authorized for sale under subsection 68B-8.003(11), F.A.C., is not considered a transfer or loan. In lieu of a SAL or FMSEA Certification, documentation must be permanently maintained by a facility that possesses a marine organism harvested pursuant to a SAL or FMSEA Certification and transferred or loaned to that facility. The documentation must include the following:

1. A copy of the SAL or FMSEA Certification authorizing the harvest of the marine organism.

2. The chain of possession from initial harvest to current possession.

3. If the transfer or loan involves a certified aquaculture facility, a copy of the aquaculture facility's valid certification.

4. A detailed description of each marine organism being transferred or loaned including common name, scientific name, size, and sex.

5. Number of each type of marine organism being transferred or loaned.
6. Date of transfer, or beginning and ending date of loan.
7. Name, address, and contact person for the transferring facility and for the receiving facility.
8. Signatures from representatives of the transferring and receiving facilities acknowledging that the transfer was completed or the loan was initiated.

(b) The receiving facility is responsible for maintaining a marine organism in its possession in accordance with any terms and conditions set forth by the SAL or FMSEA Certification that authorized the harvest of the marine organism.

(11) POSSESSION AFTER LICENSE OR CERTIFICATION EXPIRATION. The Commission recognizes that a marine organism collected pursuant to a SAL or FMSEA Certification may need to be retained for a period of time that extends beyond the expiration date of the SAL or FMSEA Certification issued for its harvest. For this purpose, the following conditions must be met for marine organisms collected pursuant to a SAL or FMSEA Certification to be legally possessed beyond the expiration of a SAL or FMSEA Certification:

(a) All documentation required for reporting must be submitted to the Commission within 30 days of expiration of the SAL.

(b) Following the expiration date of the SAL or FMSEA Certification, the original SAL or FMSEA Certification or a copy is sufficient documentation to authorize possession of a marine organism harvested pursuant to a SAL or FMSEA Certification. Such documentation must be promptly produced at the request of an authorized law enforcement officer.

(12) SALE OF MARINE ORGANISMS. A marine organism harvested pursuant to a SAL or FMSEA Certification shall not be sold or consumed unless it was harvested pursuant to a Gear Innovation SAL, Governmental Purpose SAL, Dredge SAL, or a Nonprofit Corporation SAL, and the sale was conducted in accordance with any condition of sale required by such SAL.

(13) CONSUMPTION OF MARINE ORGANISMS. A marine organism harvested pursuant to a SAL or FMSEA Certification shall not be consumed unless the marine organism was harvested pursuant to a Gear Innovation SAL, Governmental Purpose SAL, or Dredge SAL.

(14) ISSUANCE AND RENEWAL. A SAL or FMSEA Certification issued pursuant to this chapter will not be issued or renewed unless all conditions of a prior SAL or FMSEA Certification held by the applicant were met, and the reporting requirements for the prior SAL were submitted.

(15) SUSPENSION AND REVOCATION. The Commission will suspend or revoke a SAL or FMSEA Certification if it finds that the SAL or FMSEA Certification holder has violated any provision in Chapter 379, F.S., Commission rules or orders, or terms or conditions of the SAL or FMSEA Certification, or has submitted false or inaccurate information in his or her application. Suspensions and revocations will be imposed in accordance with Chapters 120 and 379, F.S.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

#### **68B-8.004 Application Review Process and Evaluation Criteria.**

##### **(1) REVIEW PROCESS.**

(a) A SAL application will be reviewed and approved by the Directors of the Marine Fisheries and Law Enforcement sections of the Commission, or their designated representatives.

(b) In addition, a SAL application may be reviewed by individuals outside of the SAL program that possess the biological, technical, regulatory, and enforcement expertise necessary to appropriately evaluate a requested activity.

(2) EVALUATION CRITERIA. The Commission will review an application and grant or deny a SAL based on the following criteria:

- (a) Eligibility of the applicant.
- (b) Completeness of information submitted to the Commission through the application process.
- (c) Consistency of the requested activities with the license type requested.
- (d) Degree of compliance with the terms and conditions set forth by a SAL previously issued to the applicant.
- (e) Potential impacts of the type, size, and method of harvesting gear requested for use.
- (f) Biological status of the species requested, based on the best available information. In the absence of stock assessments, the Commission will take a risk-averse approach and maintain minimal harvest levels until such time as the information is available to further evaluate the status of the species.
- (g) Life history strategies, genetic structure, and ecology of the targeted species.
- (h) Degree of variation from management regulations.
- (i) The extent of the requested harvest beyond the known total annual commercial and recreational harvest of the stock.
- (j) Established harvest quotas for the species requested.
- (k) Locations of proposed harvest activities and facilities.
- (l) Intensity of localized harvest and harvest frequency.
- (m) Any additional evaluation criteria specific to the SAL applied for, as established by this chapter.

*Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04.*

### **68B-8.005 Third Party Contractors.**

(1) In order for a third party contractor to conduct activities pursuant to a SAL, the following requirements must be met:

- (a) A third party contractor must be identified as such on the SAL application.
- (b) The SAL applicant must submit with the application a copy of the signed contractual agreement between the third party contractor and the applicant that outlines the services to be rendered. The agreement must denote payment for services rendered during the specific time period requested on the SAL application. Contractual agreements referencing payment schedules for individual marine organisms will not be accepted.

(2) A third party contractor may not serve as an agent for a SAL applicant during the application process.

*Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04.*

### **68B-8.006 Scientific Research Special Activity License.**

(1) PURPOSE. The purpose of a Scientific Research SAL is to accommodate the need for the scientific community to conduct research, monitoring, and hard bottom restoration or mitigation activities that enhance the greater body of knowledge in support of fisheries management, resource conservation and enhancement, and public health. If conducting research, the proposed activity must ensure that study results will be presented in sufficient detail and clarity to allow for replication, or at a minimum, offer the opportunity to build systematically on findings. If conducting monitoring, the proposed activity must ensure that collected data will

be analyzed to detect physical or biological changes over time in marine organisms, their populations, or communities. If conducting restoration or mitigation, the proposed activity must ensure that species such as oysters, corals, sponges, sea fans, sea whips, and other hard bottom marine organisms are repaired in the event that they are damaged, and the effectiveness of the restoration or mitigation activity is evaluated by subsequent monitoring.

(2) ELIGIBILITY. A Scientific Research SAL may be issued only to the following:

(a) A principal investigator of a proposed or ongoing scientific research project who is on the faculty or is a student of a college, community college, university, or secondary school.

(b) A principal investigator of a proposed or ongoing scientific research project who is affiliated with a marine research institute, laboratory, corporation, or organization.

(c) A member of the scientific or technical staff of a marine research institute, laboratory, corporation, or organization with demonstrated experience conducting successful hard bottom restoration or mitigation activities.

(d) A member of the scientific or technical staff of a city, county, state or federal agency.

(e) A member of the scientific or technical staff of a certified aquaculture facility.

(3) FEES AND APPLICATION.

(a) The processing fee for a Scientific Research SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for a Scientific Research SAL must complete and submit a Scientific Research SAL application form provided by the Commission (Form DMF-SRSAL (9/09)).

(4) EVALUATION CRITERIA. In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for a Scientific Research SAL will be evaluated based on the following criteria as applicable to the request:

(a) Project specifications and methodologies.

(b) Monitoring strategies.

(c) Documented experience conducting successful hard bottom restoration or mitigation activities.

(5) REPORTING REQUIREMENTS. A SAL holder must submit the following:

(a) An activity report detailing all SAL-related harvest or sampling activities that resulted in the permanent retention of marine organisms. The activity report is a report other than any publications or technical, monitoring, or final reports. The activity report must include common and scientific names of the marine organisms harvested (both targeted and incidental), numbers and sizes harvested, locations of harvest by county, and disposition of all marine organisms harvested. The activity report for a Scientific Research SAL involving prohibited species must also include the specific harvesting gear used. If mortality of a prohibited species occurred during harvest or subsequent possession, the report must indicate the cause of death if known. If SAL-related activities did not result in the permanent retention or mortality of any marine organism, the SAL holder must submit a statement to that effect.

(b) A copy of any publications, technical, monitoring, or final reports that were generated as a result of work conducted pursuant to the SAL. These reports must include the notation that research was conducted pursuant to the specific Commission Special Activity License.

(c) A SAL holder who is conducting biomedical research activities involving the collection of horseshoe crabs to remove blood and return the animal to the area of collection alive, must file his or her annual report pursuant to sub-subparagraph 68B-46.002(3)(b)3.e., F.A.C.

**68B-8.007 Education/Exhibition Special Activity License.**

(1) **PURPOSE.** The purpose of an Education/Exhibition SAL is to accommodate the need for the harvest of marine organisms and conduct activities with such organisms that will increase the public's knowledge and awareness of Florida's marine resources.

(2) **ELIGIBILITY.** An Education/Exhibition SAL may be issued only to the following:

(a) An instructor employed by, or under the sponsorship of, a university, college, secondary school, or governmental entity or a private institution or organization that has an established marine or environmental education curriculum.

(b) A curator or director employed by or under sponsorship of a public or private aquarium, museum, university, or business establishment that displays marine organisms for viewing by the public and whose activities have a marine-related component.

(3) **INELIGIBLE APPLICANTS.** The Commission shall deny an application for an Education/Exhibition SAL by an applicant who can reasonably be expected to qualify for a FMSEA Certification. Such person must pursue FMSEA Certification.

(4) **FEES AND APPLICATION.**

(a) The processing fee for an Education/Exhibition SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for an Education/Exhibition SAL must complete and submit an Education/Exhibition SAL application form provided by the Commission (Form DMF-ESAL (9/09)).

(5) **EVALUATION CRITERIA.** In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for an Education/Exhibition SAL will be evaluated based on the following criteria as applicable to the request:

(a) Educational program curriculum.

(b) Qualifications of the educators requesting to conduct activities pursuant to a SAL.

(c) Conservation and education benefits of presentations designed to educate the public about the marine organisms requested for harvest and display.

(d) Current facility inventory of the species requested for harvest.

(e) The physical environment in which the species will be maintained and any potential maintenance or husbandry concerns. This includes consideration of the expected life span and maximum anticipated size of the species, and whether or not the facility is adequate to accommodate the marine organism for the remainder of its life.

(6) **REPORTING REQUIREMENTS.** A SAL holder must submit an activity report detailing all SAL-related harvest or sampling activities that resulted in the permanent retention of marine organisms. The activity report is a report other than any publications or technical, monitoring, or final reports. The activity report must include common and scientific names of the marine organisms harvested (both targeted and incidental), numbers and sizes harvested, locations of harvest by county, and disposition of all marine organisms harvested. The activity report for a Education/Exhibition SAL involving prohibited species must also include the specific harvesting gear used. If mortality of a prohibited species occurred during harvest or subsequent possession, the report must indicate the cause of death if known. If SAL-related activities did not result in the permanent retention or mortality of any marine organism, the SAL holder must submit a statement to that effect.

**68B-8.008 Florida Marine Science Educators Association Certification.**

(1) **PURPOSE.** This section describes a Commission partnership with the Florida Marine Science Educators Association (FMSEA) that provides an alternative to the formal SAL application process to conduct educational activities with aquatic organisms. The FMSEA Certification is a more streamlined process designed to cater to the smaller collecting needs of the educational community as opposed to the larger and more complex collecting needs of SAL holders. A FMSEA Certification holder is exempt from a number of saltwater and freshwater resource regulations to allow him or her to collect and possess aquatic organisms for educational purposes.

(2) **ELIGIBILITY.** FMSEA Certification may be issued only to the following:

(a) An instructor employed by, or under sponsorship of, an elementary or secondary school.

(b) An instructor employed by, or under sponsorship of, another educational institution or organization with courses of biological or aquatic studies.

(c) An individual who teaches in a home education program maintained in accordance with Section 1002.41, F.S.

(d) A representative of a home education program association.

(3) **WORKSHOP CURRICULUM.** FMSEA Certification requires successful completion of a training workshop. The primary workshop objective is to promote best practices in the collection and maintenance of aquatic organisms for educational activities. A curriculum has been established to achieve the primary workshop objective and includes but is not limited to:

(a) Rationale for collecting aquatic organisms.

(b) Alternatives to the collection of live aquatic organisms.

(c) Collection methods.

(d) Minimization of environmental impacts.

(e) Minimization of aquatic organism mortality.

(f) Regulatory concerns.

(g) Appropriate gear deployment and use.

(h) Establishment of collecting teams.

(i) Collection and documentation of field data.

(4) **CERTIFICATION DOCUMENTATION.** Upon successful completion of the training workshop, a participant receives a certification that is authorized by both FMSEA and Commission representatives. The certification:

(a) Authorizes the harvest of certain fresh and saltwater organisms and specifies bag and possession limits.

(b) Authorizes the use of specific scientific, educational, and recreational harvesting gears.

(c) Specifies the fresh and saltwater areas in which harvest of aquatic organisms is allowed.

(d) Provides an exemption from local laws when harvesting in a designated saltwater area.

(5) **GENERAL CONDITIONS AND RESTRICTIONS.** The holder of a FMSEA Certification is subject to the General Conditions and Restrictions in paragraphs 68B-8.003(1)(a), (2)(b), subsections (3), (4), (5), paragraph (6)(b), subsections (7), (8), (10), (11), (12), (13), (14), and (15), F.A.C.

**68B-8.009 Prohibited Species Collection Criteria.**

(1) **PURPOSE.** This section establishes criteria for the issuance of a Scientific Research, Education/Exhibition, or Stock Collection and Release SAL involving the harvest of prohibited species from Florida waters and the possession of species legally harvested from the adjacent Exclusive Economic Zone (EEZ) for scientific research, educational, exhibitional, stock enhancement, or stock restoration purposes. The Commission utilizes the criteria established in this section to monitor and regulate harvest levels of prohibited species harvested from Florida waters and the adjacent EEZ while ensuring that such harvest activities do not adversely affect the stocks of such species.

(2) **ELIGIBILITY.** A SAL request involving the harvest of prohibited species will be authorized only for the following SAL applicants:

- (a) An applicant for a Scientific Research SAL pursuant to Rule 68B-8.006, F.A.C.
- (b) An applicant for an Education/Exhibition SAL pursuant to Rule 68B-8.007, F.A.C.
- (c) An applicant for a Stock Collection and Release SAL pursuant to Rule 68B-8.010, F.A.C.

(3) **PRIORITIZATION.** When the requested harvest of a prohibited species exceeds an established quota, in-state and out-of-state scientific research activities will take priority over in-state education/exhibition activities, which in turn will take priority over out-of-state education/exhibition activities.

(a) Among eligible Florida-based education/exhibition applicants, priority will be given to those applicants that meet one or more of the following criteria:

1. The applicant has an established protocol that allows for outside independent evaluation of its husbandry operations, programs, and facilities, or meets equivalent professional review standards of the American Zoo and Aquarium Association or other equivalent professional organizations.

2. The applicant conducts captive breeding programs or husbandry studies related to the targeted prohibited species, or provides for the financial and/or physical support of research projects that seek to enhance the understanding of one or more prohibited species.

3. The applicant supports or sponsors conferences and symposia that promote the sharing of information related to captive breeding, husbandry, and management of prohibited species.

(b) If an established quota for a specific prohibited species has not been met through scientific research activities or through in-state educational/exhibitional activities, priority will be given to eligible out-of-state educational/exhibitional applicants that meet the criteria established in paragraph (3)(a) of this rule.

(4) **EVALUATION CRITERIA.**

(a) In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for a Scientific Research SAL involving prohibited species will be evaluated based on the following criteria:

1. The credentials of the principal investigator, including publications and professional accomplishments.

2. A review of relevant literature and a determination of whether the proposed work is new or is replicating prior published findings.

3. A review of how the research project is designed to minimize the mortality or total harvest levels of the prohibited species to be collected.

4. Disposition plan for any prohibited species permanently removed from the system.

5. Whether or not prohibited species collection from Florida waters or the adjacent EEZ is the only option for successful completion of the research project.

6. Whether or not published project results will contribute to one or more of the following: improved management of prohibited species in captivity or in the wild, increased understanding of prohibited species population dynamics or ecology, benefits to Florida's marine conservation and resource management interests, and contributions to basic and applied science.

7. If any species requested on an SAL application form is listed by the FWC as Endangered, Threatened, or a Species of Special Concern, additional evaluation criteria for such species set forth in Chapter 68A-27, F.A.C. or Chapter 379, F.S. if applicable, will be applied.

(b) In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for an Education/ Exhibition SAL involving prohibited species will be evaluated based on the following criteria:

1. Professional aquarium facility accreditation.
2. Existence of a prohibited species captive breeding program or of a prohibited species-related husbandry or prohibited species research program.
3. Financial or material support of prohibited species research conducted by other entities.
4. Hosted conferences, workshops, or symposia addressing prohibited species husbandry, conservation, or management within the previous year.
5. Educational media and programs accompanying the displays for prohibited species, as well as the conservation message relating to the prohibited species.
6. Whether or not acquisition of the prohibited species is in compliance with the facility's collecting plan or acquisition policy, including any facility disposition or deaccession policies that are relevant to the requested prohibited species in the future.
7. The current inventory of all prohibited species located at the facility.
8. Whether or not non-prohibited species could be utilized in lieu of prohibited species to meet educational or exhibitional objectives.
9. Whether or not prohibited species collection from Florida waters or the adjacent EEZ is the only option for acquiring the prohibited species, or if the prohibited species may be acquired from areas where the stock is not prohibited from harvest, from captive breeding programs, through loan from another aquarium, or from an aquaculture facility.
10. Whether or not the requested collection is consistent with the "Florida Fish and Wildlife Conservation Commission Marine Prohibited Species Policy, September 2009" which is hereby adopted as a rule of the Commission and is incorporated herein by reference.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

### **68B-8.010 Stock Collection and Release Special Activity License.**

(1) **PURPOSE.** The purpose of a Stock Collection and Release SAL is to ensure that activities which involve the collection of broodstock or wild stock and the release of captive-bred offspring or captive-reared wild stock for scientific research, stock enhancement, or stock restoration purposes are conducted in a manner that preserves the health and genetic diversity of the wild stock native to Florida waters and the adjacent EEZ. Scientific research, stock enhancement, or stock restoration activities that are conducted to fulfill mitigation requirements established by other state or federal agencies are not exempt from the provisions and requirements of this rule.

(2) **ELIGIBILITY.** A Stock Collection and Release SAL may be issued only to the following:



(a) An applicant eligible to receive a Scientific Research SAL pursuant to Rule 68B-8.006, F.A.C.

(b) An owner, director, or manager of a certified aquaculture facility that holds a valid aquaculture certificate of registration issued pursuant to Section 597.004, F.S. and Chapter 5L-3, F.A.C.

**(3) FEES AND APPLICATION.**

(a) The processing fee for a Stock Collection and Release SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for a Stock Collection and Release SAL must complete and submit a Stock Collection and Release SAL application provided by the Commission (Form DMF-SCRSAL (9/09)).

(4) **EVALUATION CRITERIA.** In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for a Stock Collection and Release SAL will be evaluated via genetic risk assessment using the flowchart entitled, "Decision Process for the Genetic Risk Assessment of Release Activities Involving Marine Organisms, September 2009" (which is hereby adopted as a rule of the Commission and is incorporated herein by reference) and based on information contained in the applicant's Hatchery and Genetic Management Plan (HGMP) that must be submitted as part of the application process. The information requested in the HGMP is designed to address four primary genetic concerns: potential impacts from translocations of non-indigenous genes, potential impacts from propagation-related genetic changes in cultured fish, potential impacts from excessive genetic input into natural populations, and indirect genetic impacts.

**(5) RELEASE REQUIREMENTS.**

(a) A Stock Collection and Release SAL holder must coordinate all release activities with the Commission and obtain written authorization prior to conducting any release. A release shall not be conducted without written authorization from the Commission.

(b) A marine organism will not be authorized for release unless it has been maintained in accordance with the Captivity Requirements set forth in the "Florida Fish and Wildlife Conservation Commission Policy on the Release of Marine Organisms".

(c) Captive-bred or captive-reared marine organisms authorized for release must be distinguishable from wild marine organisms so that estimates of project success may be obtained through monitoring. The method used to identify captive-bred or captive-reared marine organisms is at the discretion of the SAL holder conducting the release. Potential distinguishing methods include but are not limited to internal or external mechanical tags, chemical marks, or genetic tags. All costs incurred in the fulfillment of this provision or any other provision of Rule 68B-8.010, F.A.C., will be the responsibility of the SAL holder.

(d) Prior to release, a representative sample of the marine organisms targeted for release must be submitted for a health examination. This examination must be conducted under the direction of a United States Department of Agriculture-certified veterinarian with fish health experience, or an American Fisheries Society-certified fish pathologist or fish health inspector. Exam results must be summarized in a USDA Health Certificate or a letter. The certificate or letter must state that the organisms are suitable for release into the wild.

**(6) REPORTING AND MONITORING REQUIREMENTS.** A Stock Collection and Release SAL holder must submit the following:

(a) An activity report detailing all SAL-related harvest and release activities. The activity report is a report other than any publications or technical, monitoring, or final reports. The activity report must include common and scientific names of the marine organisms harvested and released (both targeted and incidental), numbers

and sizes harvested and released, locations of harvest and release by county, and disposition of all marine organisms harvested. The activity report for a Stock Collection and Release SAL involving prohibited species must also include the specific harvesting gear used. If mortality of a prohibited species occurred during harvest or subsequent possession, the report must indicate the cause of death if known.

(b) A copy of any publications, technical, monitoring, or final reports that were generated as a result of work conducted pursuant to the SAL. These reports must include the notation that research was conducted pursuant to the specific Commission Special Activity License.

(c) A post-release genetic monitoring program shall be required if there was insufficient information to determine the genetic impact of activities under the SAL, or if evaluation of the proposed activity determines that the genetic risks have not been minimized.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

### **68B-8.011 Aquaculture Broodstock Collection Special Activity License.**

(1) **PURPOSE.** The purpose of an Aquaculture Broodstock Collection SAL is to allow for the harvest and possession of marine organisms, with the exception of the harvest of snook, as broodstock for aquaculture research or commercial aquaculture.

(2) **ELIGIBILITY.** An Aquaculture Broodstock Collection SAL may be issued only to the following:

(a) An applicant eligible to receive a Scientific Research SAL pursuant to subsection 68B-8.006(2), F.A.C.

(b) An owner, director, or manager of a certified aquaculture facility that holds a valid aquaculture certificate of registration issued pursuant to Section 597.004, F.S. and Chapter 5L-3, F.A.C.

(3) **FEES AND APPLICATION.**

(a) The processing fee for an Aquaculture Broodstock Collection SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for an Aquaculture Broodstock Collection SAL must complete and submit an Aquaculture Broodstock Collection SAL application provided by the Commission (Form DMF-ABCSAL (9/09)).

(4) **EVALUATION CRITERIA.** In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an application for an Aquaculture Broodstock Collection SAL will be evaluated based on the following criteria:

(a) The species, number, and sex of broodstock marine organisms requested for harvest.

(b) The area of broodstock harvest.

(c) Proposed harvesting gears and methods.

(d) Anticipated time period of harvest.

(e) Proposed spawning strategy.

(f) Broodstock disposition plan.

(g) Information indicating the training and experience of the applicant to successfully engage in aquaculture activities.

(h) Valid DOACS aquaculture certificate of registration.

(i) The economic impact and cost effectiveness of the proposed artificial cultivation of the target species.

(j) The biological and ecological impact of the proposed aquaculture operation.

(5) **REPORTING REQUIREMENTS.** A SAL holder must submit an activity report detailing all SAL-

related harvest or sampling activities that resulted in the permanent retention of marine organisms. The activity report is a report other than any publications or technical, monitoring, or final reports. The activity report must include common and scientific names of the marine organisms harvested (both targeted and incidental), numbers and sizes harvested, locations of harvest by county, and disposition of all marine organisms harvested. The activity report for a Aquaculture Broodstock Collection SAL involving prohibited species must also include the specific harvesting gear used. If mortality of a prohibited species occurred during harvest or subsequent possession, the report must indicate the cause of death if known. If SAL-related activities did not result in the permanent retention or mortality of any marine organism, the SAL holder must submit a statement to that effect.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

### **68B-8.012 Snook Special Activity License.**

(1) **PURPOSE.** Unless authorized by the Commission pursuant to a Snook SAL, the harvest of snook as broodstock for commercial aquaculture production purposes, or the possession, transport, transfer, sale, receipt or purchase of snook broodstock progeny is prohibited. The purpose of a Snook SAL is to allow such activities to occur, and to ensure that they are conducted in a manner that preserves the health and genetic diversity of the wild stock native to Florida waters and the adjacent EEZ.

#### **(2) ELIGIBILITY.**

(a) A Snook SAL for the harvest of broodstock and production, possession, transport, transfer or sale of the broodstock progeny may be issued only to an owner, director, or manager of a certified aquaculture facility that does not directly discharge production unit water to surface waters of the state.

(b) A Snook SAL for the receipt, purchase and possession of broodstock progeny may be issued only to the following:

1. An owner, director, or manager of a certified aquaculture facility that does not directly discharge production unit water to surface waters of the state, is located in Florida, and is located in the region of the state where the supplier's broodstock originated.

2. An owner of a private pond located in Florida and in the region of the state where the supplier's broodstock originated. The private pond must have no connection to surface waters of the state and the lowest point of the top edge of its levee, dike, or bank must be at least one foot above the 100-year flood plain by reference to elevation maps issued by the National Flood Insurance Program of the Federal Emergency Management Agency.

3. An owner, director, or manager of a fully contained facility located in Florida and in the region of the state where the supplier's broodstock originated. Such facility must be open to the public and conduct activities for exhibitional purposes.

#### **(3) FEES AND APPLICATION.**

(a) The processing fee for a Snook SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for a Snook SAL must complete and submit a Snook SAL application form provided by the Commission (Form DMF-SSAL (9/09)).

(4) **EVALUATION CRITERIA.** In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an applicant for a Snook SAL for the harvest of broodstock, and production, possession, transport, transfer or sale of the broodstock progeny will be evaluated based on the following criteria:

- (a) The number and sex of snook requested for broodstock harvest.
  - (b) The area of broodstock harvest.
  - (c) Proposed harvesting gears and methods.
  - (d) Anticipated time period of harvest.
  - (e) Proposed spawning strategy.
  - (f) Broodstock disposition plan.
  - (g) The training and experience of the applicant to successfully engage in snook aquaculture.
  - (h) Valid DOACS aquaculture certificate of registration.
- (5) TRANSFER OR SALE OF BROODSTOCK PROGENY.

(a) A holder of a Snook SAL issued for the harvest of broodstock, and production, possession, transport, transfer or sale of the broodstock progeny may transfer or sell broodstock progeny only to a holder of a valid Snook SAL for the receipt, purchase and possession of broodstock progeny.

(b) A holder of a Snook SAL issued for the harvest of broodstock, and production, possession, transport, transfer or sale of the broodstock progeny must provide transfer documentation, a bill of sale or other documentary evidence to each receiver or purchaser of broodstock progeny, and must maintain a record of each transaction. The transfer documentation, bill of sale or other documentary evidence must include the name, address, and aquaculture certificate number of the certified aquaculture facility conducting the transaction, the name and address of the entity receiving or purchasing the broodstock progeny, the transaction date, the quantity of progeny transferred or purchased, the receiver's Snook SAL number, and the exact location where the progeny are being stocked or maintained.

(6) PAY-TO-FISH PONDS. A Snook SAL holder who is an owner of a private pond, operates it as a pay-to-fish facility, and whose pond is stocked with progeny obtained from a certified aquaculture facility that is a Snook SAL holder may charge a fee to harvest snook in such ponds, provided:

(a) Snook are not sold on a per-pound or per-fish basis.

(b) Snook removed from the private property on which the pay-to-fish pond is located conform to regional size limits, bag limits, and closed seasons, as specified in Title 68B, F.A.C.

(7) REPORTING REQUIREMENTS. A Snook SAL holder for the harvest of broodstock and production, possession, transport, transfer or sale of broodstock progeny must submit the following:

(a) An activity report detailing all SAL-related harvest or sampling activities that resulted in the permanent retention of marine organisms. The activity report must include common and scientific names of the marine organisms harvested (both targeted and incidental), numbers and sizes harvested, locations of harvest by county, and disposition of all marine organisms harvested. If SAL-related activities did not result in the permanent retention or mortality of any marine organism, the SAL holder must submit a statement to that effect.

(b) Documentation of each transfer or sale of progeny, as specified in paragraph 68B-8.012(5)(b), F.A.C.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

### **68B-8.013 Non-Conforming Gear Special Activity Licenses and Exemptions.**

(1) BACKGROUND. No person shall use any gear or equipment to harvest a marine organism if the gear is not allowed by rule of the Commission, Chapter 379, F.S., or the Constitution of the State of Florida unless such person has first obtained authorization for such gear via a SAL or an exemption. The use of non-

conforming gear shall be authorized in a Scientific Research SAL or a Stock Collection and Release SAL for scientific research purposes if the use of non-conforming gear is specifically requested in an application for such SAL and the use is justified.

(2) OTHER AUTHORIZATIONS FOR USE OF NON-CONFORMING GEAR. The use of non-conforming gear may also be authorized under a SAL as follows:

- (a) Gear Innovation SAL.
- (b) Governmental Purpose SAL.
- (c) Governmental Purpose Gear Exemption.
- (d) Nonprofit Corporation SAL.

(3) GEAR MARKING/TENDING. If the proposed gear use includes an in-water set time, a SAL or exemption issued for non-conforming gear shall contain special gear marking or tending requirements so that the Commission may responsibly monitor gear use and ensure that activities are restricted to the minimum amount necessary to achieve the stated purpose of the SAL or exemption.

(4) NET GEAR EXEMPTION. Exemption from the net gear restrictions set forth in Article X Section 16 of the Florida Constitution may be included only in a Scientific Research SAL, Stock Collection and Release SAL for scientific research purposes, Governmental Purpose SAL, or Governmental Purpose Gear Exemption.

(5) GEAR INNOVATION SPECIAL ACTIVITY LICENSE.

(a) PURPOSE. The purpose of a Gear Innovation SAL is to allow for harvesting gear not historically or traditionally used within Florida to be evaluated, monitored, and tested. The Commission will use the information collected pursuant to a Gear Innovation SAL to evaluate the impact that a proposed gear type would have on the stock of the species targeted, species not targeted but incidentally harvested, and the marine environment, and to determine if the gear could be responsibly introduced into general use. However, a Gear Innovation SAL will not be issued for the harvest of sponges in state waters, for oysters in Apalachicola Bay, or for prohibited species.

(b) ELIGIBILITY. A Gear Innovation SAL may be issued only to an individual meeting the criteria under subparagraph 1. or 2. below:

1. An individual who holds all of the applicable commercial harvesting licenses, permits, or endorsements required for the fishery requested for harvest pursuant to the SAL and,

(a) Has at least five years experience as a commercial harvester in Florida and has landings of the species targeted for harvest with the innovative gear and,

(b) Has working knowledge of the area where the gear will be tested.

2. An applicant eligible to receive a Scientific Research SAL pursuant to Rule 68B-8.006, F.A.C.

(c) FEES AND APPLICATION.

1. The processing fee for a Gear Innovation SAL is \$25.00. A processing fee is non-refundable.

2. An applicant for a Gear Innovation SAL must complete and submit a Gear Innovation SAL application form provided by the Commission (Form DMF-GISAL (9/09)).

(d) EVALUATION CRITERIA. In addition to the evaluation criteria set forth in subsection 68B-8.004(2), F.A.C., an applicant for a Gear Innovation SAL will be evaluated based on the following criteria:

1. Construction of the proposed gear.

2. Intended use of the proposed gear and any potential impacts on the marine environment.

3. Impact on the species targeted for harvest with the proposed gear and any species that may be harvested incidentally.

4. Benefits to the state through the use of the innovative gear.

(e) GENERAL CONDITIONS AND RESTRICTIONS.

1. The SAL holder shall only operate in areas designated by the SAL. The gear shall not be used in areas that would otherwise be closed to the commercial harvest of the targeted species.

2. The SAL holder must conform to gear marking or tending requirements specified in the SAL.

3. The individual to whom the SAL is issued must provide on-site supervision of all activities conducted pursuant to the SAL.

4. All marine organisms harvested pursuant to the SAL must be in compliance with any commercial regulations established for the species being harvested, including but not limited to seasons, commercial limits on harvest and sale, area closures, commercial size limits, and documentation requirements for the commercial sale of marine organisms.

(f) REPORTING REQUIREMENTS. A log of activities that includes area fished, time fished, catch composition, and any other information required by the Commission to properly evaluate the specific gear being tested, must be maintained for the duration of the SAL and submitted to the Commission on a schedule specified in the SAL. All documentation required by the Commission pursuant to a SAL or pursuant to any regulation for commercial harvesting activities, including logs and trip tickets, must be available for inspection by the Commission and its employees at any reasonable time.

(6) GOVERNMENTAL PURPOSE SPECIAL ACTIVITY LICENSE.

(a) PURPOSE. The purpose of a Governmental Purpose SAL is to allow government agencies to use non-conforming gear to meet the needs of public health, safety, or welfare. However, a Governmental Purpose SAL will not be issued for a prohibited species.

(b) ELIGIBILITY. A Governmental Purpose SAL may be issued only to a state or federal agency or to a municipal or county government.

(c) FEES AND APPLICATION.

1. There is no fee for a Governmental Purpose SAL.

2. An applicant for a Governmental Purpose SAL must submit a written request that contains the following information:

a. The need for the use of non-conforming gear in furtherance of the public health, safety, or welfare.

b. A detailed description of the proposed gear, an explanation of how it will be used, and any anticipated impacts of the gear on the marine environment.

c. A list of species targeted for harvest with the proposed gear and any anticipated species that may be harvested incidentally.

d. The quantity of targeted species to be harvested necessary to achieve the stated purpose.

e. The center point and corner coordinates of each area where the non-conforming gear will be used.

f. The time period when the non-conforming gear will be used.

(d) GENERAL CONDITIONS AND RESTRICTIONS.

1. The use of non-conforming gear must be limited to the minimum area and time necessary to achieve the governmental purpose.

2. A marine organism harvested and sold pursuant to a Governmental Purpose SAL must be in compliance with any documentation requirements for the commercial sale of that species.

(e) REPORTING REQUIREMENTS. A log of activities including area fished, time fished, catch composition, and any other information deemed necessary to properly evaluate the requested activity must be

maintained for the duration of the SAL and submitted to the Commission on a schedule established in the SAL. All documentation required by the Commission pursuant to a SAL or pursuant to any regulation for commercial harvesting activities, including logs and trip tickets, must be available for inspection by the Commission or its employees at any reasonable time.

**(7) GOVERNMENTAL PURPOSE GEAR EXEMPTION.**

(a) **PURPOSE.** The purpose of a Governmental Purpose Gear Exemption is to allow for the use of net gear that does not conform to Article X, Section 16 of the Florida Constitution to conduct activities permitted, provided, or required by a governmental agency. A Governmental Purpose Gear Exemption shall only be issued in conjunction with a Marine Turtle Permit, an Education/Exhibition SAL, or a Stock Collection and Release SAL.

(b) **ELIGIBILITY.** A Governmental Purpose Gear Exemption may be issued only to a person who:

1. Holds an Endangered Species Permit or other such authorization issued by the National Marine Fisheries Service for purposes of marine turtle harvest and relocation, marine turtle research, testing of experimental devices designed to exclude turtles from commercial harvesting gear, or conducting marine turtle population assessments in a specified area.

2. Serves as a support unit for the Florida Department of Education who operates a facility on behalf of the State of Florida to provide marine services support for state agencies and institutions.

3. Is required by a federal agency to conduct stock enhancement activities for mitigation purposes.

**(c) FEES AND APPLICATION.**

1. There is no fee for a Governmental Purpose Gear Exemption.

2. An application for a Governmental Purpose Gear Exemption must be submitted in the form of a written request from an eligible applicant. The written request for an exemption must be accompanied by a copy of a Marine Turtle Permit, an Education/ Exhibition SAL, or a Stock Collection and Release SAL.

**(8) NONPROFIT CORPORATION SPECIAL ACTIVITY LICENSE.**

(a) **PURPOSE.** The purpose of a Nonprofit Corporation SAL is to allow for a nonprofit corporation to use non-conforming gear to harvest marine organisms and to sell them to scientific research, education, or exhibition entities to financially support research, educational, and exhibitional activities conducted by such nonprofit corporation. However, a Nonprofit Corporation SAL will not be issued for a prohibited species.

(b) **ELIGIBILITY.** To obtain a Nonprofit Corporation SAL a nonprofit corporation must meet the following criteria:

1. The bylaws of the nonprofit corporation must provide for, and its activities must include, the harvest of marine organisms for purposes of research, education, and exhibition that further the knowledge of marine biology, marine life, and the marine environment and,

2. The nonprofit corporation must hold the applicable wholesale and retail dealers licenses and hold the applicable commercial harvesting licenses, permits, or endorsements required for the fishery requested for harvest and sale pursuant to the SAL.

**(c) FEES AND APPLICATION.**

1. The processing fee for a Nonprofit Corporation SAL is \$25.00. A processing fee is non-refundable.

2. An applicant for a Nonprofit Corporation SAL must complete and submit a Nonprofit Corporation SAL application form provided by the Commission (Form DMF-NPSAL (9/09)).

(d) **LICENSE CONDITIONS.** A Nonprofit Corporation SAL holder will be subject to the following conditions for operation:

1. A marine organism harvested pursuant to a Nonprofit Corporation SAL shall only be sold to an entity conducting activities for scientific research, educational, or exhibitional purposes, and cannot be sold for human consumption.

2. Marine shellfish harvested pursuant to a Nonprofit Corporation SAL must be harvested from an area that is closed to the public for the harvest of shellfish.

(e) REPORTING REQUIREMENTS. A Nonprofit Corporation SAL holder must submit the following documentation during the 12th month, 24th month, and within 30 days of the expiration of the SAL or during the renewal application process if the SAL is requested for renewal:

1. An activity report documenting the harvest of all specifically named marine organisms authorized for harvest pursuant to a Nonprofit Corporation SAL, and of all marine organisms not reported via the Marine Fisheries Trip Ticket (MFTT) system, by the marine organism's common name and scientific classification, amount harvested, and, if sold, the entity to whom sold.

2. Marine Fisheries Trip Tickets, except that a marine organism must not be reported via a trip ticket if one or more of the following apply:

- a. The marine organism is specifically named in the Nonprofit Corporation SAL.
- b. The marine organism has no species code in the MFTT system.
- c. The marine organism is subject to a seasonal restriction on its commercial harvest and sale.
- d. The commercial licensing requirements for the marine organism have not been met.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

#### **68B-8.014 Marine Chemical Special Activity License.**

(1) PURPOSE. The purpose of a Marine Chemical SAL is to monitor the use of marine chemicals for the live harvest of marine organisms.

(2) ELIGIBILITY. A Marine Chemical SAL may be issued to:

- (a) A person who holds any other type of SAL.
- (b) A commercial harvester of marine life species, as those species are listed in Chapter 68B-42, F.A.C., who holds a Saltwater Products License with Restricted Species endorsement, and a Marine Life Transferable Dive or Non-Transferable Dive endorsement.

(3) FEES AND APPLICATION.

(a) The processing fee for a Marine Chemical SAL is \$25.00. A processing fee is non-refundable.

(b) An applicant for a Marine Chemical SAL for commercial harvesting purposes must indicate the use of Quinaldine on the application for a Commercial Saltwater Products License (SPL). If the applicant is not applying for the use of a marine chemical for commercial harvesting purposes and desires to use a marine chemical in conjunction with another type of SAL, a section is provided on the application forms for all other SALs to request the use of marine chemicals as harvesting gear, and to provide information on the type and maximum amounts and chemical concentration requested for use. The \$25.00 processing fee for a Marine Chemical SAL is waived for an applicant who is applying for a Marine Chemical SAL as part of another type of SAL.

(4) LICENSE CONDITIONS. A Marine Chemical SAL holder is subject to the following conditions and restrictions:

- (a) The use of quinaldine must be consistent with Rule 68B-42.007, F.A.C.



(b) A chemical must be used in a prudent manner so as not to cause injury or damage to non-target species or nearby sensitive species or habitats.

(c) Species harvested pursuant to a Marine Chemical SAL shall not be sold as food for human consumption.

**(5) REPORTING REQUIREMENTS.**

(a) The holder of a Marine Chemical SAL that is issued in conjunction with any other type of SAL must identify on the activity report for the other SAL the marine organisms harvested with the authorized chemical.

(b) The holder of a Marine Chemical SAL issued for commercial marine life harvesting activities must report all landings of live marine life species harvested with a marine chemical via the Marine Fisheries Trip Ticket system pursuant to Chapter 68E-5, F.A.C., and Sections 379.361, 379.362 and 379.414, F.S.

*Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04, Amended 11-19-09.*

**68B-8.015 Dredge Special Activity License.**

**(1) PURPOSE.**

(a) The purpose of a Dredge SAL is to monitor the use of dredges for the commercial harvest of all species of clams and mussels from shellfish harvesting areas open to the public.

(b) A Dredge SAL will not be issued for the harvest of clams or mussels from state-owned, private lease areas.

(c) A Dredge SAL will not be issued for the use of a dredge for the harvest of clams or mussels in Apalachicola Bay.

**(2) ELIGIBILITY.** A Dredge SAL may be issued to a person who holds all of the applicable commercial harvesting licenses, permits, and/or endorsements required for clams and/or mussels.

**(3) FEES AND APPLICATION.**

(a) The processing fee for a Dredge SAL is \$25.00. A processing fee is non-refundable.

(b) The application for a Dredge SAL is in the form of a written request that contains the following information:

1. A list of species targeted for harvest.
2. A detailed description of the dredge requested for use, including dimensions and how the dredge will be used.
3. A drawing or picture of the dredge requested for use.
4. Center point and corner coordinates of each area where the dredge will be used.

**(4) GENERAL CONDITIONS AND RESTRICTIONS.** A Dredge SAL holder is subject to the following general conditions and restrictions:

(a) Harvesting activity must be confined to the area(s) specified in the SAL, and may not occur in any area closed to the harvest of shellfish.

(b) The dredge may not be pulled in a seagrass bed area.

(c) The dredge may not be used in water depths less than 16 feet.

(d) Individual tow times may not exceed 30 minutes.

(e) Commission staff must be allowed as observers on board the vessel conducting activities pursuant to a Dredge SAL, so long as 48 hours notice is given to the SAL holder.

(f) The dredge gear must conform to any marking requirements specified in the SAL.

(g) A marine organism harvested pursuant to the SAL must be in compliance with any commercial regulations established for the species being harvested, including but not limited to seasons, commercial limits on harvest and sale, area closures, commercial size limits, and documentation requirements for the commercial sale of marine organisms.

(5) REPORTING REQUIREMENTS. A Dredge SAL holder must submit an activity report detailing all SAL-related harvesting activities. The activity report must include the number of trips made during the license period, total number of pounds of whole clams and/or mussels harvested, and the primary area(s) of harvest.

*Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04.*

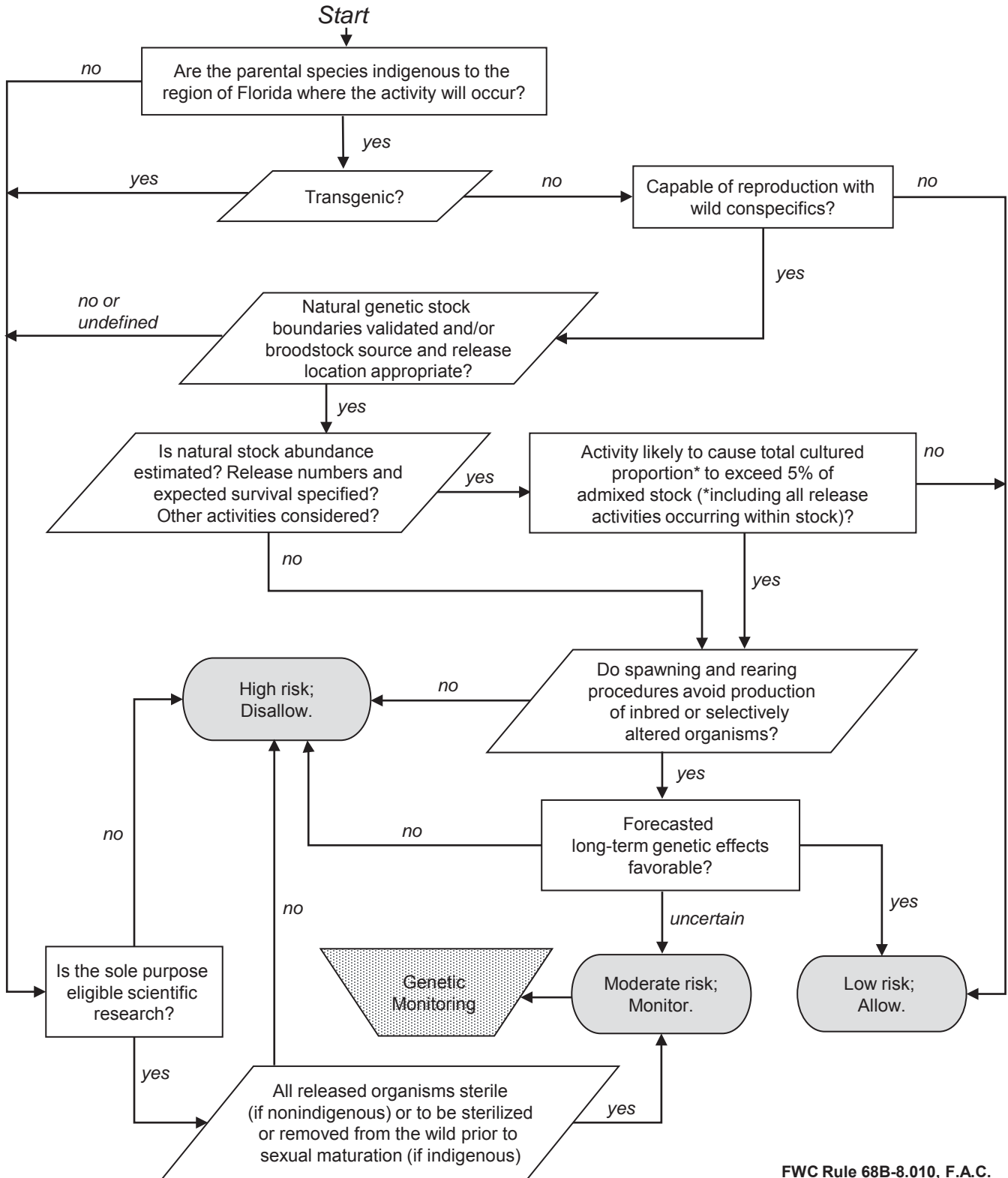
#### **68B-8.016 Commission Activities and Agreements.**

The Commission may conduct an activity that requires a waiver of state marine fisheries rules, or enter into a written agreement with a public or private organization to conduct such activity on its behalf, when such activity is in the best interest of the public of the State of Florida. A copy of such a written agreement will be made available upon request.

*Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-04.*

**Decision Process for the Genetic Risk Assessment of Releases Involving Marine Organisms**  
**Florida Fish and Wildlife Conservation Commission**  
**September 2009**

Parallelograms identify applicant-supplied information; rectangles represent assessment decisions; grey trapezoid identifies a requisite plan; ovals depict assessment recommendations.



***POLICY ON THE RELEASE OF MARINE ORGANISMS***

Florida Fish and Wildlife Conservation Commission  
Division of Marine Fisheries Management

**September 2009**

For purposes of this policy, marine organisms are defined as an organism, including anadromous and catadromous organisms and plants that has a natural portion of its life cycle that is dependent upon marine or estuarine waters, but excluding striped bass (*Morone saxatilis*), American eels (*Anguila rostrata*), non-living shells, marine reptiles, marine mammals, and birds.

The Florida Fish and Wildlife Conservation Commission (FWC) authorizes certain conservation-related activities for research, educational, exhibitional, stock enhancement, and stock restoration purposes, and authorizes the collection of broodstock for commerce aquaculture production purposes. The FWC recognizes the conservation value and economic importance of these activities, but also recognizes there are risks associated with allowing these activities to include the release of marine organisms that have been held in captivity. These risks include (but are not limited to):

- The introduction or spreading of diseases that affect marine organisms.
- The potential for adversely impacting the genetic diversity of wild stocks.
- Human consumption of marine organisms that have been treated with chemicals while in captivity and then released into the wild.
- Behavioral conditioning of predatory marine organisms held in captivity that may result in those organisms learning to associate humans with food when released into the wild.

This FWC policy has been established to prohibit the release or minimize the risks associated with the release of marine organisms into the wild that were collected pursuant to special authorization from the FWC.

This policy does not regulate the release of organisms harvested as broodstock or wild stock, bred or reared in captivity, and subsequently released for scientific research, stock enhancement, or stock restoration purposes. The release of marine organisms associated with these activities requires a Stock Collection and Release SAL, and the release requirements for this SAL may be found in FWC Rule 68B-8.010, F.A.C.

This policy does not prohibit the release of marine organisms that are temporarily possessed in order to conduct field activities such as identification, measuring, weighing, cataloguing, photographing, tagging, etc., where such activities do not result in retaining the organisms in captivity or releasing them outside of the immediate area where field activities are being conducted.

This policy does prohibit the release of all broodstock, broodstock progeny (offspring), or wild-born marine organisms collected, maintained, bred, or reared in captivity for commerce aquaculture production purposes. Broodstock harvested for purposes of commerce aquaculture production do not need to be rotated with wild stock to preserve the genetic integrity of the captive-reared stock, and do not necessitate their release.

This policy does prohibit the release of any non-indigenous marine organism, irregardless if it was originally collected pursuant to special authorization from the FWC.

This policy does prohibit the release of finfish maintained in captivity for longer than 30 days.

This policy does not prohibit the release of finfish maintained in captivity for 30 days or less provided that the Captivity Requirements and Release Requirements established by this policy are strictly adhered to.

This policy does not prohibit the release of invertebrates that have been maintained in captivity regardless of the length of time, provided that the Captivity Requirements and Release Requirements established by this policy are strictly adhered to. Invertebrates do not contract finfish diseases, and the possibility of introducing or spreading invertebrate diseases should be greatly minimized with the institution of requirements for containment, feeding, treatment and release. Typical health problems with invertebrates in captivity consist of shell rot or opportunistic bacterial and protozoan infections due to an inappropriate pH balance or food source, and do not require chemicals for disease control to treat the problem.

### **Captivity Requirements**

Finfish that have been retained in captivity for 30 days or less, and invertebrates that have been retained in captivity regardless of the length of time, may be released provided the organisms have been maintained according to the following requirements:

- Containment System Preparation - Prior to the introduction of marine organisms that are targeted for release into a containment system, the system must be thoroughly cleaned (including filter change) to prevent the spread of disease. When adding new organisms to a closed containment system, cleaning is not required if the system previously held, or currently holds, organisms originating from the same genetic unit (or same county if the genetic unit is not known), and the same coast in Florida. When adding new organisms to a flow-through containment system, cleaning is not required if the system previously held or currently holds organisms originating from the same genetic unit or county, and the same coast in Florida into which the water is being discharged.
- Containment System Inhabitants – All marine organisms targeted for release must be maintained with species originating from the same genetic unit (or same county if the genetic unit is not known), and the same coast in Florida.
- Food Source – Fresh-caught food that is given to all marine organisms held in the same containment system as the organisms targeted for release must originate from Florida and from the same coast where the organisms were harvested. Frozen food or commercially processed dry food such as pellets, flakes, wafers, etc., are acceptable food sources regardless of their origin.
- Treatment Chemicals – Marine organisms targeted for release may not be treated with chemicals such as malachite green, marine ich treatment chemicals, copper sulfate, antibiotics, formalin or anesthetics (MS-222, clove oil, quinaldine, etc), unless use of such chemicals is in compliance with established Food and Drug Administration (FDA) guidelines or are veterinarian-prescribed. This does not include chemicals used to maintain water chemistry (to control pH, ammonia, or nitrite levels) and does not include vitamins or other nutritional supplements. Chemicals that are not approved by the FDA

or prescribed by a veterinarian may not be used on any organisms targeted for release. Any organisms treated with veterinarian-prescribed chemicals may not be released until the withdrawal period specified by the veterinarian has expired.

### **Release Requirements**

Marine organisms that were collected pursuant to special authorization from the FWC and have been maintained in accordance with the Captivity Requirements may be released provided they are released in the same genetic unit (or same county if the genetic unit is not known), and the same coast, from where they were collected. Organisms may not be released if they have external lesions or abnormalities, appear to be sick or exhibit abnormal behavior, or were originally harvested from areas where the presence of a disease in the same species targeted for release has been observed.