

Effective July 1, 2009

Marine Life Rule 68B-42 F.A.C.

Rule No	Rule Title	Effective Date
68B-42.001	Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species"	7/1/2009
68B-42.002	Definitions	7/1/2009
68B-42.003	Prohibition of Harvest: Longspine Urchin, Bahama Starfish	7/1/1992
68B-42.0035	Live Landing and Live Well Requirements	7/1/1992
68B-42.0036	Harvest in Biscayne National Park Prohibited; Exception	7/1/1992
68B-42.004	Size Limits	7/1/2009
68B-42.005	Recreational Bag Limit	7/1/2009
68B-42.006	Commercial Season, Harvest Limits	7/1/2009
68B-42.0065	Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability	7/1/2009
68B-42.007	Gear Specifications and Prohibited Gear	7/1/2009
68B-42.008	Live Rock: Harvest in State Waters Prohibited; Aquacultured Live Rock Harvest and Landing Allowed	6/1/1999
68B-42.009	Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception	7/1/2009

68B-42.001 Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species"

(1)(a) The purpose and intent of this chapter are to protect and conserve Florida's tropical marine life resources and assure the continuing health and abundance of these species. The further intent of this chapter is to assure that harvesters in this fishery use nonlethal methods of harvest and that the fish, invertebrates, and plants so harvested be maintained alive for the maximum possible conservation and economic benefits.

(b) It is the express intent of the Fish and Wildlife Conservation Commission that landing of live rock propagated through aquaculture will be allowed pursuant to the provisions of this chapter.

(c) The Commission may issue Special Activity Licenses pursuant to Chapter 68B-8, F.A.C., to authorize activities that are otherwise prohibited by this chapter.

(2) The following fish species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 379.101(32), F.S.:

- (a) Moray eels – Any species of the Family Muraenidae.
- (b) Snake eels – Any species of the Genera *Myrichthys* and *Myrophis* of the Family Ophichthidae.
- (c) Toadfish – Any species of the Family Batrachoididae.
- (d) Frogfish – Any species of the Family Antennariidae.
- (e) Batfish – Any species of the Family Ogcocephalidae.
- (f) Clingfish – Any species of the Family Gobiesocidae.
- (g) Trumpetfish – Any species of the Family Aulostomidae.
- (h) Cornetfish – Any species of the Family Fistulariidae.
- (i) Pipefish/seahorses – Any species of the Family Syngnathidae.
- (j) Hamlet/seabass – Any species of the Family Serranidae, except groupers of the genera *Epinephalus* and *Mycteroperca*, seabass of the genus *Centropristis*, and longtail bass, *Hemanthias leptus*.
- (k) Basslets – Any species of the Family Grammatidae.
- (l) Cardinalfish – Any species of the Family Apogonidae.
- (m) Porkfish – *Anisotremus virginicus*.

Effective July 1, 2009

(n) High-hat, Jackknife-fish, Spotted drum, Cubbyu – Any species of the genus *Equetus* of the Family Sciaenidae.

(o) Reef Croakers – Any of the species *Odontoscion dentex*.

(p) Sweepers – Any species of the Family Pempheridae.

(q) Butterflyfish – Any species of the Family Chaetodontidae.

(r) Angelfish – Any species of the Family Pomacanthidae.

(s) Damselfish – Any species of the Family Pomacentridae.

(t) Hawkfish – Any species of the Family Cirrhitidae.

(u) Wrasse/hogfish/razorfish – Any species of the Family Labridae, except hogfish, *Lachnolaimus maximus*.

(v) Parrotfish – Any species of the Family Scaridae.

(w) Jawfish – Any species of the Family Opistognathidae.

(x) Blennies – Any species of the Families Clinidae or Blenniidae.

(y) Sleepers – Any species of the Family Eleotridae.

(z) Gobies – Any species of the Family Gobiidae.

(aa) Tangs and surgeonfish – Any species of the Family Acanthuridae.

(bb) Filefish/triggerfish – Any species of the Family Balistidae, except gray triggerfish, *Balistes capricus* and ocean triggerfish, *Canthidermis sufflamen*.

(cc) Trunkfish/cowfish – Any species of the Family Ostraciidae.

(dd) Pufferfish/burrfish/balloonfish/porcupinefish – Any of the following species:

1. Balloonfish – *Diodon holocanthus*.

2. Sharpnose puffer – *Canthigaster rostrata*.

3. Striped burrfish – *Chilomycterus schoepfi*.

4. Porcupinefish – *Diodon hystrix*.

5. Spotted burrfish – *Chilomycterus atringa*.

(ee) Black brotula – *Stygnobrotula latebricola*.

(ff) Key brotula – *Ogilbia cayorum*.

(gg) Blackbar soldierfish – *Myripristis jacobus*.

(hh) Yellow stingray – *Urobatis jamaicensis*.

(3) The following invertebrate species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 379.101(32), F.S.:

(a) Sponges – Any species of the Class Demospongiae, except sheepswool, yellow, grass, glove, finger, wire, reef, and velvet sponges, Order Dictyoceratida.

(b) Upside-down jellyfish – Any species of the Genus *Cassiopea*.

(c) Siphonophores/hydroids – Any species of the Class Hydrozoa, except fire corals, Family Milleporidae.

(d) Soft corals – Any species of the Subclass Octocorallia, except sea fans *Gorgonia flabellum* and *Gorgonia ventalina*.

(e) Sea anemones – Any species of the Orders Actiniaria, Zoanthidea, Corallimorpharia, and Ceriantharia.

(f) Featherduster worms/calcareous tubeworms – Any species of the Families Sabellidae and Serpulidae.

(g) Starsnails – Any of the species *Lithopoma americanum*, *Lithopoma tectum*, or *Astraliium phoebium*.

(h) Nudibranchs/sea slugs – Any species of the Subclass Opisthobranchia.

(i) Fileclams – Any species of the Genus *Lima*.

(j) Octopods – Any species of the Order Octopoda, except the common octopus, *Octopus vulgaris*.

(k) Shrimp – Any of the following species:

1. Cleaner shrimp and peppermint shrimp – Any species of the Genera *Periclimenes* or *Lysmata*.

Effective July 1, 2009

2. Coral shrimp – Any species of the Genus *Stenopus*.
 3. Snapping shrimp – Any species of the Genus *Alpheus*.
 - (l) Crabs – Any of the following species:
 1. Yellowline arrow crab – *Stenorhynchus seticornis*.
 2. Furcate spider or decorator crab – *Stenocionops furcatus*.
 3. Blue-legged or tricolor hermit crab – *Clibanarius tricolor*.
 4. Thinstripe hermit crab – *Clibanarius vittatus*.
 5. Polkadotted hermit crab – *Phimochirus operculatus*.
 6. Spotted porcelain crab – *Porcellana sayana*.
 7. Nimble spray or urchin crab – *Percnon gibbesi*.
 8. False arrow crab – *Metoporphaphis calcarata*.
 - (m) Starfish – Any species of the Class Asteroidea, except the Bahama starfish, *Oreaster reticulatus*.
 - (n) Brittlestars – Any species of the Class Ophiuroidea.
 - (o) Sea urchins – Any species of the Class Echinoidea, except longspine urchin, *Diadema antillarum*, and sand dollars and sea biscuits, Order Clypeasteroidea.
 - (p) Sea cucumbers – Any species of the Class Holothuroidea.
 - (q) Sea lilies – Any species of the Class Crinoidea.
 - (r) Red mithrax crab – *Mithraculus ruber*.
 - (s) Red-ridged clinging crab – *Mithraculus forceps*.
 - (t) Green clinging or emerald crab – *Mithraculus sculptus*.
 - (u) Hermit Crabs – Any species of the families Diogenidae (left-handed hermit crabs) or Paguridae (right-handed hermit crabs) or Parapaguridae (deepwater hermit crabs) or Pylochelidae (symmetrical hermit crabs).
 - (v) Nassarius snails – Any species of the genus *Nassarius*.
- (4) The following species of plants, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 379.101(32), F.S.:
- (a) Caulerpa – Any species of the Family Caulerpaceae.
 - (b) Halimeda/mermaid's fan/mermaid's shaving brush – Any species of the Family Udoteaceae.
 - (c) Coralline red algae – Any species of the Family Corallinaceae.
- (5) For the purposes of Section 379.361(2)(j), F.S., the term "marine life species" is defined to mean those species designated as restricted species in subsections (2), (3), and (4) of this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-91, Amended 7-1-92, 1-1-95, 6-1-99, Formerly 46-42.001, Amended 10-7-01, 7-1-09.

68B-42.002 Definitions.

As used in this rule chapter:

- (1) "Barrier net," also known as a "fence net," means a seine used beneath the surface of the water by a diver to enclose and concentrate tropical fish and which may be made of either nylon or monofilament.
- (2) "Commercial quantities" means any amount of marine life harvested or possessed for the purposes of sale or with intent to sell or in excess of the recreational bag limit.
- (3) "Diving" means swimming at or below the surface of the water.
- (4) "Drop net" means a small, usually circular, net with weights attached along the outer edge and a single float in the center, used by a diver to enclose and concentrate tropical fish.
- (5) "Fork Length" means the length of a fish as measured from the most forward point of the head to the rear center edge of the tail.
- (6) "Hand held net" means a landing or dip net as defined in subsection 68B-4.002(4), F.A.C., except that a portion of the bag may be constructed of clear plastic material, rather than mesh.
- (7) "Harvest" means the catching or taking of a marine organism by any means whatsoever, followed

Effective July 1, 2009

by a reduction of such organism to possession. Marine organisms that are caught but immediately returned to the water free, alive, and unharmed are not harvested. In addition, temporary possession of a marine animal for the purpose of measuring it to determine compliance with the minimum or maximum size requirements of this chapter shall not constitute harvesting such animal, provided that it is measured immediately after taking, and immediately returned to the water free, alive, and unharmed if undersize or oversize.

(8) “Harvest for commercial purposes” means the taking or harvesting of any tropical ornamental marine life species or tropical ornamental marine plant for purposes of sale or with intent to sell. The harvest of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limit shall constitute a violation of this rule.

(9) “Immediate family” refers to a license holder’s mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, half-brother, son-in-law, or daughter-in-law.

(10) “Land,” when used in connection with the harvest of marine organisms, means the physical act of bringing the harvested organism ashore.

(11) “Live rock” means rock with living marine organisms attached to it.

(12) “Octocoral” means any erect, nonencrusting species of the Subclass Octocorallia, except the species *Gorgonia flabellum* and *Gorgonia ventalina*.

(13) “Slurp gun” means a self-contained, handheld device that captures tropical fish by rapidly drawing seawater containing such fish into a closed chamber.

(14) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

(15) “Trawl” means a net in the form of an elongated bag with the mouth kept open by various means and fished by being towed or dragged on the bottom. “Roller frame trawl” means a trawl with all of the following features and specifications:

(a) A rectangular rigid frame to keep the mouth of the trawl open while being towed.

(b) The lower horizontal beam of the frame has rollers to allow the trawl to roll over the bottom and any obstructions while being towed.

(c) The trawl opening is shielded by a grid of vertical bars spaced no more than 3 inches apart.

(d) The trawl is towed by attaching a line or towing cable to a tongue located above or at the center of the upper horizontal beam of the frame.

(e) The trawl has no doors attached to keep the mouth of the trawl open.

(16) “Tropical fish” means any species included in subsection (2) of Rule 68B-42.001, F.A.C., or any part thereof.

(17) “Tropical ornamental marine life species” means any species included in subsection (2) or (3) of Rule 68B-42.001, F.A.C., or any part thereof.

(18) “Tropical ornamental marine plant” means any species included in subsection (4) of Rule 68B-42.001, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.002, Amended 2-1-05, 7-1-06, 7-1-09.

68B-42.003 Prohibition of Harvest: Longspine Urchin, Bahama Starfish.

No person shall harvest, possess while in or on the waters of the state, or land any of the following species:

(1) Longspine urchin, *Diadema antillarum*.

(2) Bahama starfish, *Oreaster reticulatus*.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-91, Amended 7-1-92, Formerly 46-42.003.

Effective July 1, 2009

68B-42.0035 Live Landing and Live Well Requirements.

(1) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall land such marine organism alive.

(2) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall have aboard the vessel being used for such harvest a continuously circulating live well or aeration or oxygenation system of adequate size and capacity to maintain such harvested marine organisms in a healthy condition.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-1-92, Formerly 46-42.0035.

68B-42.0036 Harvest in Biscayne National Park Prohibited; Exception.

(1) No person shall harvest any tropical ornamental marine life species or any tropical ornamental marine plant within Biscayne National Park, unless such person possesses a valid collecting permit issued by the superintendent of the park.

(2) For purposes of this rule, the term "Biscayne National Park" shall mean all waters lying within the boundaries of the park as described in subsection 68B-28.004(2), F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-1-92, Formerly 46-42.0036.

68B-42.004 Size Limits.

(1) Angelfishes:

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any of the following species of angelfish (Family Pomacanthidae), of total length outside of the limits specified below:

1. A minimum of one-and-one-half (1 1/2) inches and a maximum of eight (8) inches for:

a. Gray angelfish (*Pomacanthus arcuatus*).

b. French angelfish (*Pomacanthus paru*).

2. A minimum of one-and-three-quarters (1 3/4) inches and a maximum of eight (8) inches for:

a. Blue angelfish (*Holacanthus bermudensis*).

b. Queen angelfish (*Holacanthus ciliaris*).

3. A minimum of two (2) inches and a maximum of five (5) inches for rock beauty (*Holacanthus tricolor*).

(b) Except as provided herein, no person shall purchase, sell, or exchange any angelfish outside the limits specified in paragraph (a). This prohibition shall not apply to angelfish legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, which angelfish are entering Florida in interstate or international commerce. The burden shall be upon any person possessing such angelfish for sale or exchange to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such angelfish originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) waters adjacent to Florida waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

(2) Butterflyfishes:

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any butterflyfish (Family Chaetodontidae) of total length less than one (1) inch.

(b) No person shall harvest, possess while in or on the waters of the state, or land any butterflyfish of total length greater than 4 inches.

(3) Gobies – No person shall harvest, possess while in or on the waters of the state, or land any gobiid (Family Gobiidae) of total length greater than 2 inches.

Effective July 1, 2009

(4) Jawfishes – No person shall harvest, possess while in or on the waters of the state, or land any jawfish (Family Opistognathidae) of total length greater than 4 inches.

(5) Porkfish – No person shall harvest, possess while in or on the waters of this state, or land any porkfish (*Anisotremus virginicus*) of total length less than 1 1/2 inches.

(6) Cuban (Spotfin) and Spanish hogfish:

(a) No person shall harvest, possess while in or on the waters of this state, or land any Spanish hogfish (*Bodianus rufus*) of total length less than 2 inches.

(b) No person shall harvest, possess while in or on the waters of this state, or land any Cuban (spotfin) hogfish (*Bodianus pulchellus*) of total length less than 3 inches.

(c) No person shall harvest, possess while in or on the waters of this state, or land any Spanish hogfish (*Bodianus rufus*) or Cuban (spotfin) hogfish (*Bodianus pulchellus*) of total length greater than 8 inches.

(7) Tangs – No person shall harvest, possess while on the waters of the state, or land any tangs (Family Acanthuridae) of fork length greater than 9 inches.

(8) Parrotfish – No person shall harvest, possess while on the waters of the state, or land any parrotfish (Family Scaridae) of total length greater than 12 inches.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.004, Amended 6-1-99, 7-1-09.

68B-42.005 Recreational Bag Limit.

(1) Except as provided in Rule 68B-42.006, F.A.C., or subsection (3) or (4) of this rule, no person shall harvest, possess while in or on the waters of the state, or land more than 20 individuals per day of tropical ornamental marine life species. No more than 5 of any one species, as defined in subsection 68B-42.001(2) and (3), F.A.C., can be harvested within the 20 organism bag limit. No person shall possess more than 40 total marine life organisms anywhere at any time.

(2) Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land more than one (1) gallon per day of tropical ornamental marine plants, in any combination of species. No person shall harvest or possess more than 2 gallons of tropical ornamental plants anywhere at any time.

(3) Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land more than 5 angelfishes (Family Pomacanthidae) per day. Each angelfish shall be counted for purposes of the 20 individual bag limit specified in subsection (1) of this rule.

(4)(a) Unless the season is closed pursuant to paragraph (b), no person shall harvest, possess while in or on the waters of the state, or land more than 6 colonies per day of octocorals. Each colony of octocorals or part thereof shall be considered an individual of the species for purposes of subsection (1) of this rule and shall be counted for purposes of the 20 individual bag limit specified therein. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

(b) If the harvest of octocorals in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed to all harvesters prior to September 30 of any year, the season for harvest of octocorals in state waters shall also close until the following October 1, upon notice given by the Executive Director of the Fish and Wildlife Conservation Commission, in the manner provided in Section 120.81(5), F.S.

(5) Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land more than 5 single polyps in the order Corallimorpharia. Each polyp must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

(6) Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land more than 5 polyps of the order Zoanthidea. Each zoanthid polyp must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

Effective July 1, 2009

(7) Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land more than 5 ornamental sponges as defined in Rule 68B-42.001, F.A.C. In all state waters north of a line extending due west from the southernmost point of Egmont Key in the Gulf of Mexico, northward and westward these sponges can be collected with substrate within 1 inch of the perimeter of the holdfast at the base of the sponge and extending 1 inch below the holdfast of the sponge. South of this line, no substrate is allowed.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-91, Amended 1-1-95, Formerly 46-42.005, Amended 7-1-09.

68B-42.006 Commercial Season, Harvest Limits.

(1) Except as provided in Rule 68B-42.008, F.A.C., no person shall harvest, possess while in or on the waters of the state, or land quantities of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limits established in Rule 68B-42.005, F.A.C., unless such person is fishing under or harvesting under a valid saltwater products license with both a marine life fishery endorsement and a restricted species endorsement issued by the Fish and Wildlife Conservation Commission.

(2) Persons harvesting tropical ornamental marine life species or tropical ornamental marine plants for commercial purposes shall have a season that begins on October 1 of each year and continues through September 30 of the following year. These persons shall not harvest, possess while in or on the waters of the state, or land tropical ornamental marine life species in excess of the following limits:

(a) A limit of 75 angelfish (Family Pomacanthidae) per person per day or 150 angelfish per vessel per day, whichever is less.

(b) A limit of 50 butterflyfishes (Family Chaetodontidae) per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 100 aboard a vessel at any time with two or more unique saltwater license numbers with marine life endorsements aboard.

(c) A limit of 75 porkfish (*Anisotremus virginicus*) per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 150 porkfish aboard a vessel at any time with two or more unique saltwater products license numbers with marine life endorsements aboard.

(d) A limit of 50 Spanish hogfish (*Bodianus rufus*) and 50 Cuban (spotfin) hogfish (*Bodianus pulchellus*) per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 100 of either aboard a vessel at any time with two or more unique saltwater products license numbers with marine life endorsements aboard.

(e) A limit of 400 dwarf seahorses (*Hippocampus zosterae*) per person or per vessel per day, whichever is less.

(f) There shall be no limits on the harvest for commercial purposes of octocorals unless and until the season for all harvest of octocorals in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed. At such time, the season for harvest of octocorals in state waters shall also close until the following October 1, upon notice given by the Executive Director of the Fish and Wildlife Conservation Commission, in the manner provided in Section 120.81(5), F.S. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

(g) A limit of 200 giant Caribbean or "pink-tipped" anemones (Genus *Condylactis*) per unique saltwater product license number bearing a unique marine life endorsement number with a maximum possession limit of 400 aboard a vessel at any time with two unique marine life endorsement numbers aboard.

(h) A limit of one gallon of starsnails (*Lithopoma americanum*, *Lithopoma tectum*, or *Astralium phoebium*) per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 2 gallons aboard a vessel at any time with two or more unique saltwater

Effective July 1, 2009

products license numbers with marine life endorsements aboard.

(i) A limit of one quart of blue-legged or tricolor hermit crabs (*Clibanarius tricolor*) per person or per vessel each day, whichever is less.

(j) A limit of 100 single polyps in the order Corallimorpharia per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 200 single corallimorph polyps aboard a vessel at any time with two or more unique saltwater products license numbers with marine life endorsements aboard. These polyps must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

(k) A limit of 1 gallon of polyps of the order Zoanthidea per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of 2 gallons aboard a vessel at any time with two or more unique saltwater products license numbers with the marine life endorsement aboard. Zoanthid polyps must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

(l) A limit of 400 emerald crabs (*Mithraculus sculptus*) per person or per vessel per day, whichever is less.

(m) A limit of one quart of scarlet reef hermits (*Paguristes cadenati*) per day per unique saltwater products license number with a marine life endorsement, and a maximum possession limit of two quarts aboard a vessel at any time with two or more unique saltwater products license numbers with marine life endorsements aboard.

(n) There is no harvest limit of ornamental sponges as defined in Rule 68B-42.001, F.A.C., however in all state waters north of a line extending due west from the southernmost point of Egmont Key in the Gulf of Mexico, northward and westward these sponges can be collected with substrate within 1 inch of the perimeter of the holdfast at the base of the sponge and extending 1 inch below the holdfast of the sponge. South of this line, no substrate is allowed.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-91, Amended 7-1-92, 1-1-95, Formerly 46-42.006, Amended 6-1-99, 2-28-02, 7-1-09.

68B-42.0065 Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability.

(1)(a) Beginning in the 2005/2006 license year, in addition to a valid saltwater products license with a valid restricted species endorsement, a marine life tiered endorsement is required to harvest marine life species in quantities greater than the recreational bag limit or to sell marine life species as defined by Rule 68B-42.001, F.A.C.

(b) A marine life endorsement is not required to harvest live rock from a certified state aquaculture lease or federally permitted aquaculture site.

(2) The Commission shall notify all holders of a 2004/2005 saltwater products license with a marine life endorsement of their initial award or denial of a commercial marine life tiered endorsement. Persons will indicate either their acceptance of the initial award on a Marine Life Tiered Endorsement Application (Form DMF-SL4100 (2-05), incorporated herein by reference) or intent to appeal as specified in subsection (14).

(3) Application for issuance of a commercial marine life tiered endorsement (Form DMF-SL4100 (2-05), incorporated herein by reference), must be received by the Commission no later than September 30, 2005. An applicant may be a person, firm, or corporation.

(a) A tiered endorsement applicant must have held a valid marine life endorsement during the 2004/2005 license year. No new marine life tiered endorsement will be issued to an applicant who did not hold a valid saltwater products license with a valid restricted species endorsement and a marine life endorsement pursuant to Section 379.361, F.S., at the time of application or on June 30, 2005.

(b) Qualification for a marine life tiered endorsement shall be determined by landings of marine life species as defined by Rule 68B-42.001, F.A.C., and reported on a valid saltwater products license with a

Effective July 1, 2009

valid restricted species endorsement and a marine life endorsement (ML) and as specified in paragraph (c) of this subsection.

(c) Qualified endorsement applicants must have documented commercial marine life landings, pursuant to Commission trip ticket records generated under the provisions of Rule Chapter 68E-5, F.A.C., during the license year, July 1, 1999 through June 30, 2000; the license year, July 1, 2000 through June 30, 2001; the license year, July 1, 2001 through June 30, 2002; or during the license year, July 1, 2002 through June 30, 2003. Qualifying landings must have been received by the FWC by January 1, 2004.

(d) Landings reported on all the applicant's individual and vessel saltwater products licenses with the current marine life endorsement will be used to determine an applicant's eligibility to receive one of the marine life tiered endorsements specified in subsections (4) through (6).

(4) Marine Life Bycatch Endorsement (MLB) – The marine life bycatch endorsement is required to harvest commercial quantities of marine life using bycatch gears as authorized in paragraph 68B-42.007(1)(f) and subsection 68B-42.007(3), F.A.C., which does not include harvest by diving.

(a) An applicant for the marine life bycatch endorsement must have an annual landings value of marine life as defined in paragraph (3)(b) of greater than zero dollars but less than \$5,000 during any one of the qualifying years specified in paragraph (3)(c).

(b) A marine life bycatch endorsement will be issued on no more than one of an applicant's saltwater products licenses in any one license year.

(c) A marine life bycatch endorsement is transferable pursuant to subsections (16) and (17).

(5) Marine Life Transferable Dive Endorsement (MLD) – The marine life transferable dive endorsement is required to harvest commercial quantities of marine life using all allowable gears as authorized in Rule 68B-42.007, F.A.C., which includes harvest by diving.

(a) No marine life transferable dive endorsement will be issued to an applicant who does not qualify by one of the following methods:

1. An applicant must have qualified as specified in subsection (3) and have documented commercial marine life landings as defined in paragraph (3)(b) of greater than or equal to \$5,000 in any one of the qualifying years specified in paragraph (3)(c), and have documented dive landings during the qualifying years; or

2. An applicant must hold a live rock state lease or federal permit and have documented live rock landings value of greater than or equal to \$5,000 during any one of the qualifying years specified in paragraph (3)(c) and held a marine life endorsement prior to 1998.

(b) A marine life transferable dive endorsement will be issued on no more than two of an applicant's saltwater products licenses in any one license year, except that an individual who has qualified as specified in subparagraph (a)1. and who has additional landings values of commercial marine life landings pursuant to subsection (3) on a subsequent saltwater products license held by the applicant of greater than \$10,000 may place the marine life transferable dive (MLD) on the additional vessel SPL(s) so qualified.

(c) A marine life transferable dive endorsement is transferable pursuant to subsections (16) and (17).

(6) Marine Life Non-transferable Dive Endorsement (MLN) – The marine life non-transferable dive endorsement is required to harvest commercial quantities of marine life by diving as defined in subsection 68B-42.002(3), F.A.C., using dive gears as authorized in paragraphs 68B-42.007(1)(a)-(e) and subsection 68B-42.007(2), F.A.C.

(a) No marine life non-transferable dive endorsements will be issued to an applicant who does not qualify by one of the following methods:

1. As specified in paragraph (4)(a); or

2. An applicant must hold a state live rock lease and/or a federal live rock permit and provide documentation of development of the site or sites and must have held a marine life endorsement prior to September 30, 2003.

(b) A marine life non-transferable dive endorsement will be issued on no more than one of an applicant's saltwater products licenses in any one license year.

Effective July 1, 2009

(c) A marine life non-transferable dive endorsement (MLN) is not transferable, except in the event of death or permanent disability pursuant to subsection (17).

(7) After initial issuance, no endorsement may be converted from one type to another, except as provided in subsection (12).

(8) No Vested Rights. This marine life effort management program does not create any vested rights for endorsement holders whatsoever and may be altered or terminated by the Commission as necessary to protect the marine life resource, the participants of the fishery, or the public interest.

(9) No person, firm, or corporation shall be issued more than one marine life tiered endorsement type or more than one unique marine life tiered endorsement number.

(10) Effective September 30, 2005, no additional tiered endorsements will be issued and no endorsement will be renewed or replaced except those that were issued pursuant to subsection (4), (5), or (6). Beginning in the 2006/2007 license year, persons holding an endorsement that was active during the 2005/2006 license year or an immediate family member of that person must request renewal of the endorsement before September 30 of each year. Failure to renew by September 30 of any year will result in forfeiture of the endorsement.

(11) Requalifying. Beginning with license year 2010/2011, a person renewing a marine life transferable dive (MLD) endorsement must document landings of \$5,000 of marine life species as defined by Rule 68B-42.001, F.A.C., in one of the previous three license years or hold a live rock state lease or federal permit and have documented live rock landings value of greater than or equal to \$5,000 during any one of the previous three license years. This endorsement will be valid for three years from the date of documentation used to qualify, but must still be renewed annually as required by subsection (10).

(12) A marine life transferable dive (MLD) endorsement can be converted to a marine life non-transferable dive (MLN) endorsement after the initial issuance. This MLN is not subject to the requalification requirements of subsection (11). This MLN can never be converted back to a MLD.

(13) A permanent marine life transferable dive (MLD) endorsement shall be available to those persons age 62 and older who held a valid MLD in the previous license year, hold a valid saltwater products license and valid restricted species endorsement at the time of application, and renew the permit pursuant to subsection (10).

(14) Appeals. The Director of the Division of Marine Fisheries Management, or one or more designees of the director, shall consider disputes and other problems arising from the initial denial of a commercial marine life tiered endorsement. The Director shall submit a recommendation to the Executive Director of the Commission for resolution of the appeal, which recommendation shall either allot an endorsement to the appellant or uphold the denial of an endorsement.

(a) An appeal of the initial denial or award of a commercial marine life tiered endorsement is initiated by submission and receipt of a completed appeals application (Form DMF-SL4110 (2-05), incorporated herein by reference) to the Director of the Division of Marine Fisheries Management before April 1, 2005.

(b) The burden of proof shall be on an appellant to demonstrate, through copies of trip tickets or other proof of landings, legitimate sales to a licensed wholesale dealer that were not reported by the wholesale dealer during the qualifying years or included in the agency landings database as of January 1, 2004.

(c) Special circumstances that can be considered during appeals shall include:

1. Persons who became disabled or can document hardship during the qualifying period, but can provide proof of landings of marine life through trip tickets prior to the qualifying period.

2. Persons who were serving in the military during the qualifying years, but can provide proof of landings of marine life through trip tickets prior to the qualifying period.

3. Persons involved in a partnership substantiated by documentation within the qualifying period.

(d) The Executive Director of the Commission may accept or disapprove the recommendations of the Director of the Division of Marine Fisheries Management, with notice given in writing to each party in the dispute explaining the reasons for the final decision. The action of the Executive Director of the Commission constitutes final agency action, and is appealable pursuant to the requirements of Chapter 120,

Effective July 1, 2009

F.S.

(15) Leasing Prohibited. The leasing of marine life endorsements is prohibited.

(16) Transferability. After the initial issuance, the marine life bycatch (MLB) and marine life transferable dive endorsements (MLD) are transferable upon approval of the Commission under the following conditions:

(a) A transferable marine life endorsement may be sold to an otherwise qualified buyer at fair market value upon approval by the Commission.

(b) The buyer must hold a saltwater products license with a valid restricted species endorsement and the seller must hold a transferable marine life tiered endorsement.

(c) The sale or transfer of a marine life transferable dive endorsement (MLD) will result in the forfeiture of the marine life transferable dive endorsement (MLD) on all other licenses held by the seller.

(d) An endorsement holder may elect to permanently forfeit a marine life bycatch endorsement (MLB), a marine life transferable dive endorsement (MLD), or a marine life non-transferable dive endorsement (MLN) to the Commission.

(e) A person who holds a valid marine life bycatch endorsement (MLB) cannot enter into a purchase agreement for a marine life transferable dive endorsement (MLD) until they sell or permanently forfeit the marine life bycatch endorsement (MLB) at the time of transfer.

(f) A marine life bycatch endorsement (MLB) may be transferred, to any person who holds a saltwater products license with a restricted species endorsement.

(g) A marine life transferable dive endorsement (MLD) may be transferred to any person who holds a saltwater products license with a restricted species endorsement.

(h) If the marine life transferable dive endorsement (MLD) has been applied to more than two saltwater products licenses as specified in paragraph (5)(b), only the initial MLD, which serves as an endorsement for no more than two saltwater products licenses, can be transferred. The sale of this portion of the endorsement will result in the forfeiture of the endorsement on all other licenses held by the seller.

(i) The marine life non-transferable dive (MLN) endorsement is not transferable except as specified in subsection (17).

(j) A person who wishes to transfer a tiered endorsement shall submit a notarized statement of intent, that has been signed by both parties to the transaction, hand delivered, or sent by certified mail, return receipt requested, to the Commission between September 1 and November 30 each year. Requests received by the Commission before September 1 or post marked after November 30 of the current license year will not be processed. A transfer request must be received by the Commission within three days of the date of the notarized signature of the intended recipient. The statement of intent (Form DMF-SL4120 (2-05), incorporated herein by reference) shall include the following information:

1. The name, address, and SPL number of seller;
2. The name, address, and SPL number of buyer; and
3. The selling price.

(k) A marine life tiered endorsement shall not be issued, transferred, or renewed until all license fees, surcharges, and any other outstanding fees, fines, or penalties owed to the Commission by either party to the transaction have been paid in full within the transfer period.

(l) Upon receipt of a marine life transferable dive endorsement (MLD), the transferee has 12 months from the date of purchase to produce trip tickets and document income from the sale of marine life as defined in Rule 68B-42.001, F.A.C., in order to renew the endorsement. Once renewed, this endorsement will be valid for three years from the date of documentation used to qualify, but must still be renewed annually as required by subsection (10).

(17) In the event of the death or permanent disability of a person holding a marine life tiered endorsement, the endorsement may be transferred by the license holder or the executor of the estate to a member of his or her immediate family within 12 months of the date of death or disability only after the recipient pays any outstanding fees, fines, or penalties to the Commission in full.

Effective July 1, 2009

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 2-1-05, Amended 7-1-09.

68B-42.007 Gear Specifications and Prohibited Gear.

(1) The following types of gear shall be the only types allowed for the harvest of any tropical fish, whether from state waters or from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters:

(a) Hand held net.

(b) Barrier net, with a total length not exceeding 60 feet, a depth not exceeding 8 feet at any point along the net, and a mesh size not exceeding 3/4 inch stretched mesh.

(c) Drop net, with a maximum dimension not exceeding 12 feet and a mesh size not exceeding 3/4 inch stretched mesh.

(d) Slurp gun.

(e) Quinaldine may be used for the harvest of tropical fish if the person using the chemical or possessing the chemical in or on the waters of the state meets each of the following conditions:

1. The person or corporation must hold a valid MLD or MLN endorsement.

2. The person also possesses and maintains aboard any vessel used in the harvest of tropical fish with quinaldine a special activity license authorizing the use of quinaldine, issued by the Fish and Wildlife Conservation Commission pursuant to Section 379.2421(6), F.S.

3. The quinaldine possessed or applied while in or on the waters of the state is in a diluted form of no more than 2% concentration in solution with seawater. Prior to dilution in seawater, quinaldine shall only be mixed with isopropyl alcohol or ethanol.

(f) A roller frame trawl operated by a person possessing a valid live bait shrimping license issued by the Fish and Wildlife Conservation Commission pursuant to Rule 68B-31.008, F.A.C. and Section 379.361, F.S., if such tropical fish are taken as an incidental bycatch of shrimp lawfully harvested with such trawl.

(g) A trawl meeting the following specifications used to collect live specimens of the dwarf seahorse, *Hippocampus zosterae*, if towed by a vessel no greater than 15 feet in length at no greater than idle speed:

1. The trawl opening shall be no larger than 12 inches by 48 inches.

2. The trawl shall weigh no more than 5 pounds wet when weighed out of the water.

(2) This rule shall not be construed to prohibit the use of any bag or container used solely for storing collected specimens or the use of a single blunt rod in conjunction with any allowable gear, which rod meets each of the following specifications:

(a) The rod shall be made of nonferrous metal, fiberglass, or wood.

(b) The rod shall be no longer than 36 inches and have a diameter no greater than 3/4 inch at any point.

(3) No person shall harvest in or from state waters any tropical fish by or with the use of any gear other than those types specified in subsection (1); provided, however, that tropical fish harvested as an incidental bycatch of other species lawfully harvested for commercial purposes with other types of gear shall not be deemed to be harvested in violation of this rule, if the quantity of tropical fish so harvested does not exceed the bag limits established in Rule 68B-42.005, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-91, Amended 7-1-92, 1-1-95, 9-30-96, Formerly 46-42.007, Amended 7-1-09.

68B-42.008 Live Rock: Harvest in State Waters Prohibited; Aquacultured Live Rock Harvest and Landing Allowed.

(1) No person shall harvest or possess for sale any live rock in or from state waters or land any live rock harvested in or from state waters, except as may be provided in subsection (3).

(2) No person shall sell, within the State of Florida, any live rock harvested in or from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters unless such person possesses an Aquaculture Certificate issued by the Florida Department of Agriculture and Consumer Services pursuant to Chapter 597, Florida Statutes, and a federal Live Rock Aquaculture Permit issued by the National

Effective July 1, 2009

Marine Fisheries Service under 50 C.F.R. Part 638.

(3) Subsection (1) shall not apply to:

(a) Any person possessing an Aquaculture Certificate issued by the Florida Department of Agriculture and Consumer Services pursuant to Chapter 597, Florida Statutes, harvesting and landing live rock cultured on state submerged lands leased from the State of Florida. Rock used for such culture shall be of a readily distinguishable geologic character from rock native to the area or be securely marked or tagged so as to differentiate the cultured rock from naturally occurring live rock. The rock shall be placed on leased submerged lands by the lease-holder or a person possessing written authorization from the lease-holder.

(b) Any person lawfully harvesting substrate as part of the harvest of octocorals pursuant to subsection 68B-42.005(4) or paragraph 68B-42.006(2)(c), F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-92, Amended 10-18-93, 1-1-95, Formerly 46-42.008, Amended 6-1-99.

68B-42.009 Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception.

(1) Except as provided in subsection (2), no person shall take, attempt to take, or otherwise destroy, or sell, or attempt to sell, any sea fan of the species *Gorgonia flabellum* or of the species *Gorgonia ventalina*, or any hard or stony coral (Order Scleractinia) or any fire coral (Genus *Millepora*). No person shall possess any such fresh, uncleaned, or uncured sea fan, hard or stony coral, or fire coral.

(2) Subsection (1) shall not apply to:

(a) Any sea fan, hard or stony coral, or fire coral legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters and entering Florida in interstate or international commerce. The burden shall be upon any person possessing such species to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such species originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) adjacent to state waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

(b) Any sea fan, hard or stony coral, or fire coral harvested and possessed pursuant to the aquacultured live rock provisions of paragraph 68B-42.008(3)(a), F.A.C., Chapter 597, F.S., or pursuant to a Live Rock Aquaculture Permit issued by the National Marine Fisheries Service under 50 C.F.R. Section 622.41(a) and meeting the following requirements:

1. Persons possessing these species in or on the waters of the state shall also possess a state submerged lands lease for live rock aquaculture and an Aquaculture Certificate of Registration issued pursuant to Chapter 5L-3, F.A.C., or a federal Live Rock Aquaculture Permit and an Aquaculture Certificate of Registration issued pursuant to Chapter 5L-3, F.A.C. If the person possessing these species is not the person named in the documents required herein, then the person in such possession shall also possess written permission from the person so named to transport aquacultured live rock pursuant to this exception.

2. The nearest office of the Fish and Wildlife Conservation Commission, Division of Law Enforcement shall be notified at least 24 hours in advance of any transport in or on state waters of aquacultured live rock pursuant to this exception.

3. Persons possessing these species off the water shall maintain and produce upon the request of any duly authorized law enforcement officer sufficient documentation to establish the chain of possession from harvest on a state submerged land lease for live rock aquaculture or in adjacent Exclusive Economic Zone (EEZ) waters pursuant to a federal Live Rock Aquaculture Permit.

4. Any sea fan, hard or stony coral, or fire coral harvested pursuant to paragraph 68B-42.008(3)(a), F.A.C., shall remain attached to the cultured rock.

Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of

Effective July 1, 2009

Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 1-1-95, Amended 7-15-96, Formerly 46-42.009, Amended 7-1-09.