



Reef Fish Species Removed from Federal Management

Consent Agenda Item #3 - Draft Rule

April 13, 2016

Florida Fish and Wildlife Conservation Commission

Division of Marine Fisheries Management

Version 1

This document summarizes the Florida Fish and Wildlife Conservation Commission's (FWC) proposed draft rules that would: remove federal commercial requirements for species that are not managed in federal waters, apply state rules in adjacent federal waters for several reef fish species that are not managed in adjacent federal waters, and remove a species from state management.

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Background and Council Actions



- 2006 Magnuson-Stevens reauthorization by Congress
 - Required Councils to set annual catch limits (ACLs) for all federally-managed species
- 2011 Gulf and South Atlantic Fishery Management Council actions
 - Set ACLs for all species except
 - Species with very low or no landings information
 - Species with a majority of landings from state waters
 - Councils removed several snapper, grouper, and tilefish species fitting these criteria from federal management



In 2006, Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act). As a part of this reauthorization, new language was inserted into the Magnuson Act requiring regional fishery management councils to set annual catch limits (ACLs) for all federally-managed species to prevent overfishing and ensure accountability.

In 2011, both the Gulf of Mexico Fishery Management Council (Gulf Council) and South Atlantic Fishery Management Council (South Atlantic Council) set ACLs for many of their managed species, except for species that had very low landings or were primarily harvested from state waters.

To address the problem of meeting the federal requirement to set ACLs for species with very low landings and those primarily harvested in state waters, both Councils removed species from federal management, which included several snappers, groupers, and tilefishes. The Councils did not foresee having future stock assessments or robust scientific information for setting ACLs for these species. In addition, many of these species were non-target species that were originally included in federal management for data collection purposes, and harvest monitoring for these species continues even without federal management.

In the absence of federal management, all previous regulations no longer apply to harvest of these species in federal waters.

Reef Fish Managed by FWC but Removed from Federal Management in 2011

Species Removed from Gulf Federal Management	Species Removed from South Atlantic Federal Management
Black snapper	Tiger grouper
Dog snapper	
Mahogany snapper	
Schoolmaster	
Tiger grouper	
Misty grouper	
Rock hind	
Red hind	
Blackline tilefish	
Anchor tilefish	



The table above lists reef fish that are managed by the FWC in state waters and were removed from federal management by either the Gulf Council or the South Atlantic Council in 2011. Other species were removed from federal management in 2011, but they are either not managed in state waters and do not require action, or are managed by other FWC rules (such as stone crab). Certain species removed from federal management by the Gulf Council continued to be managed by the South Atlantic Council. Black snapper, dog snapper, mahogany snapper, schoolmaster, misty grouper, rock hind, and red hind continued to be managed by the South Atlantic Council in Atlantic federal waters, and blackline and anchor tilefish were never managed by the South Atlantic Council.

Recent South Atlantic Council Actions



- In 2015, the Council identified additional species that have very low landings to remove from federal management
 - Black snapper
 - Dog snapper
 - Mahogany snapper
 - Schoolmaster
- All four species are most common in south Florida and the Keys
- FWC sent a letter stating intent to manage these species in state and federal waters
- Council supports FWC management
- Removal of species from federal management is pending approval by U.S. Secretary of Commerce



Although the Gulf Council removed black snapper, dog snapper, mahogany snapper and schoolmaster from federal management in 2011, the South Atlantic Council did not take action until 2015. Because landings of these species are very low, the South Atlantic Council determined that federal fishery management for these species was unnecessary and that state management of these species was appropriate. If the state were to assume management of these species in federal waters, the FWC could implement regulations that are consistent across coasts and state and federal boundaries, which simplifies management without sacrificing conservation. This would be beneficial to anglers fishing for these species because they primarily occur off south Florida and the Florida Keys.

During the South Atlantic Council's discussion on removing these species from federal management, the FWC sent a letter of support to the South Atlantic Council stating the intent to assume management of these species in federal waters. FWC's intent to manage these species in the absence of federal regulations and the ability of FWC to create regulatory consistency for these species were key reasons behind the South Atlantic Council's decision to remove these species from federal management.

Removal of these species from federal management is now pending approval by the U.S. Secretary of Commerce. NOAA Fisheries is accepting public comment on this proposed rule until April 4, 2016. Once the U.S. Secretary of Commerce makes a final decision, the federal rule could be finalized by summer 2016.

Need for State Rulemaking

- Remove federal commercial permit and IFQ account requirements for species that are not federally managed
- Opportunity to extend state rules into adjacent federal waters
 - Staff also evaluated whether it was appropriate to manage species in both state and federal waters



Based on past council actions removing species from federal management, action is required at the state level to address state rules for reef fish species not federally managed.

When fishing in state waters for reef fish, FWC rules require commercial harvesters to have a state-issued saltwater products license (SPL) and restricted species endorsement (RS), and the federal permit. Commercial harvesters are also required to have a Gulf commercial IFQ vessel account to harvest Gulf IFQ species (red snapper, groupers, tilefishes) in Gulf state waters. Currently, FWC's reef fish rule requires these permits and IFQ accounts for some species that have been removed from or are otherwise not federally managed, and these requirements should be removed.

Staff also evaluated whether it was appropriate for the state to manage certain species in both state and federal waters. For species that occur in state waters or have a significant proportion of landings from state waters, extending state management into adjacent federal waters may be appropriate.

The following slides outline detailed actions that can be taken to: (1) remove federal commercial permit and IFQ account requirements from state rule for species not federally managed; (2) apply state rules in adjacent federal waters; and (3) remove a species from state management.

Proposed Rule Change – Removal of Commercial Requirements

- State rules require commercial reef fish harvesters to follow federal rules and requirements
 - Federal snapper-grouper permit (for Atlantic state waters)
 - Federal reef fish permit (for Gulf state waters)
 - Federal IFQ Vessel Account (for Gulf state waters)
- If a species is not federally managed, Florida cannot require federal permits and IFQ accounts for the harvest of that species in state waters
- Federal commercial permit and IFQ account requirements for these species should be removed



As stated on the previous slide, state rules require commercial harvesters to follow federal rules and requirements when fishing for reef fish in state waters. When fishing for black snapper, dog snapper, mahogany snapper, and schoolmaster in state waters, Florida rules require commercial harvesters to possess either a federal commercial Atlantic snapper-grouper or Gulf reef fish permit (depending on the coast). When fishing for misty grouper, red hind, and rock hind in state waters of the Gulf, Florida rules require commercial harvesters to possess a federal commercial reef fish permit. In addition, state rules require the federal commercial snapper-grouper permit for commercial harvest of wenchman in Atlantic state waters, even though wenchman is not federally managed in the Atlantic. Similarly, state rules require the federal commercial reef fish permit for commercial harvest of coney and graysby in Gulf state waters, even though coney and graysby are not federally managed in the Gulf. Because the species listed above are not federally managed, FWC cannot legally require the federal commercial permit for the harvest of these species in state waters, and these federal permit requirements should be removed from state rules.

In addition, when fishing in state waters of the Gulf, commercial harvesters are required to have a federal Gulf IFQ vessel account to harvest species included in the federal Gulf IFQ program. Because misty grouper, red hind, rock hind, blackline tilefish, and anchor tilefish are no longer federally managed, FWC cannot legally require a federal Gulf IFQ vessel account for the harvest of these species in Gulf state waters.

For all species not managed in Atlantic or Gulf federal waters that have federal commercial requirements in state rule, staff proposes removing these requirements from rule (see slide 13 for a complete list of species).

Proposed Rule Change – Extending State Rules into Adjacent Federal Waters

- Staff evaluated biological information, landings history, and current state rules on a species-by-species basis
- Extending state rules into federal waters for reef fish that are not federally managed provides for conservation while allowing for flexible management
- State regulations that would apply include
 - SPL and RS requirements
 - Size limits
 - Seasons
 - Inclusion in snapper and grouper aggregate bag limits
 - Extension of snapper and grouper aggregate bag limits (for all species)



Staff evaluated biological information, historical recreational and commercial landings history, and current state rules for all species that have been removed from federal management since 2011.

Based on staff analysis, a number of species could benefit from extending state rules into federal waters, which could provide conservation with the flexibility of state management. Staff proposes applying state rules (such as saltwater product license and restricted species endorsement commercial requirements, size limits, seasons, and the inclusion and extension of the snapper and grouper aggregate bag limits) in adjacent federal waters for several reef fish species that are not managed in adjacent federal waters. This would:

1. Extend statewide regulations into federal waters for black snapper, dog snapper, mahogany snapper, and schoolmaster;
2. Extend Gulf state regulations into adjacent federal waters for misty grouper, red hind, rock hind, coney, and graysby;
3. Extend Atlantic state regulations into adjacent federal waters for wenchman.
4. Extend recreational snapper and grouper aggregate bag limits into adjacent federal waters (except in the case of red snapper).

All of the species for which regulations would be extended into federal waters are included in either the state snapper or grouper aggregate bag limit. Thus, the snapper and grouper aggregate bag limits would also be extended into federal waters for all species with the exception of red snapper. Red snapper would be excluded from the snapper aggregate when harvested from federal waters because it is managed federally separate from the federal snapper aggregate bag limit.

The purpose of these proposed changes is to allow FWC to apply state rules in adjacent federal waters, making regulations consistent across coasts and state and federal boundaries. No new regulations would be created for any of these species. Some species removed from federal management by one council are still managed by the other council. Refer to the backpocket slides for details of regulations that would be extended for each species.

Proposed Rule Change – Removing Tiger Grouper from State Management

- Not managed in federal waters of the Gulf or South Atlantic
- Very rarely encountered; annual landings of this species only exceeded 500 pounds once since 2001
- Management likely not having a noticeable positive or negative impact on the species

Staff recommends removing tiger grouper from state rules



Image courtesy of the South Atlantic Council

When staff evaluated biological information, historical recreational and commercial landings history, and current state rules for tiger grouper, staff determined that state management is not likely having a noticeable positive or negative impact on this species. Tiger grouper is rarely landed in Florida, with annual landings exceeding 500 pounds only once since 2001. It was removed from Atlantic federal management in 2011 and was never managed in Gulf federal waters. Tiger grouper is not targeted or frequently encountered by fishermen, and recreational and commercial management measures currently in state rule are not affecting this species.

Based on this information, staff recommends removing tiger grouper from state management.

Proposed Rules

68B-14.001 Purpose and Intent, Designation as Restricted Species

- Extend state rules into adjacent federal waters for species not federally managed
- Remove tiger grouper from list of restricted species

68B-14.0035 Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper

- Extend size limit requirements for dog snapper, mahogany snapper, and schoolmaster snapper into adjacent federal waters

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption

- Extend aggregate bag limit requirements into adjacent federal waters
- Clarify that only red snapper harvested from state waters are included in the snapper aggregate

68B-14.0039 Recreational Grouper Seasons

- Remove tiger grouper from the list of species included in the annual Jan. 1 – Apr. 30 grouper closure in state waters of the Atlantic



The following slides outline changes that can be made to state rules to: (1) remove federal commercial permit and IFQ account requirements from state rule for species not federally managed; (2) apply state rules in adjacent federal waters; and (3) remove tiger grouper from state management.

Chapter 68B-14.001, FAC, (Purpose and Intent, Designation as Restricted Species.) would be modified to extend state rules into adjacent federal waters for black snapper, dog snapper, mahogany snapper, schoolmaster, wenchman, misty grouper, red hind, rock hind, coney, and graysby. Tiger grouper would be removed from the list of restricted species.

Chapter 68B-14.0035, FAC, (Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper.) would be modified to extend the minimum size limit requirements of 10 inches for schoolmaster and 12 inches for dog snapper and mahogany snapper into adjacent federal waters.

Chapter 68B-14.0036, FAC, (Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption.) would be modified to extend the snapper and grouper aggregate bag limit requirements into adjacent federal waters. New language would be added to clarify that only red snapper harvested from state waters would be included in the snapper aggregate bag limit.

Chapter 68B-14.0039, FAC, (Recreational Grouper Seasons.) would be modified to remove tiger grouper from the list of species included in the annual Jan. 1 through Apr. 30 recreational grouper closure in Atlantic state waters.

Proposed Rules Continued

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

- Remove the requirement for a commercial harvester to possess a federal Atlantic snapper-grouper permit to harvest dog snapper, mahogany snapper, schoolmaster snapper, black snapper, and wenchman
- Remove the requirement for a commercial harvester to possess a federal Gulf reef fish permit to harvest dog snapper, mahogany snapper, schoolmaster snapper, black snapper, misty grouper, rock hind, red hind, coney, and graysby
- Remove the requirement for a commercial harvester to possess a federal Gulf IFQ vessel account to harvest red hind, rock hind, misty grouper, blackline tilefish, and anchor tilefish
- Remove tiger grouper from the list of species included in the annual Jan. 1 – April 30 grouper closure in state waters of the Atlantic



Chapter 68B-14.0045, FAC, (Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.) would be modified to remove federal commercial requirements from state rule for species that are not managed in adjacent federal waters. This would:

1. Remove the federal South Atlantic snapper-grouper permit requirement for Atlantic commercial harvest of wenchman, black snapper, dog snapper, mahogany snapper, and schoolmaster;
2. Remove the federal Gulf reef fish permit requirement for Gulf commercial harvest of misty grouper, rock hind, red hind, coney, graysby, black snapper, dog snapper, mahogany snapper, and schoolmaster;
3. Remove the federal Gulf IFQ vessel account requirement for commercial harvest of Gulf red hind, rock hind, misty grouper, blackline tilefish, and anchor tilefish.

Finally, tiger grouper would be removed from the list of species included in the annual Jan. 1 through Apr. 30 commercial grouper closure in Atlantic state waters. This action is necessary to remove tiger grouper from state management.

Staff Recommendation

Approve the proposed rules to:

- Remove federal commercial permit and IFQ account requirements for species not managed in adjacent federal waters
- Apply state rules in adjacent federal waters for several reef fish species not federally managed
- Extend the snapper and grouper aggregate bag limit into adjacent federal waters
- Remove tiger grouper from state management

If approved by the Commission, the draft rule will be noticed and filed without further hearing unless requested and be effective July 1



Staff recommends approving the proposed rules that would: 1) remove federal commercial requirements from state rule for species that are not federally managed, 2) apply state rules in adjacent federal waters for several reef fish species that are not managed in adjacent federal waters, 3) extend the snapper and grouper aggregate bag limits (excluding red snapper) into adjacent federal waters, and 4) remove tiger grouper from state management.

If the Commission approves the proposed rule amendments, the draft rule will be noticed and filed without further hearing unless requested and become effective July 1, 2016. If approved, state regulations for adjacent federal waters would apply in Gulf federal waters upon implementation of the proposed rules, and in Atlantic federal waters as soon as the South Atlantic Council proposal to remove black snapper, dog snapper, mahogany snapper, and schoolmaster from federal management is finalized (or upon implementation of the state rules, whichever is later).

Staff have evaluated the rules under the standards of 68-1.004, FAC, and found them to be in compliance.

The following slides are considered backup material and are not anticipated to be part of the actual presentation to the Commission



Removal of Commercial Requirements

Species	Remove Atlantic Snapper-Grouper Permit Requirement?	Remove Gulf Reef Fish Permit Requirement?	Remove Gulf IFQ Vessel Account Requirement?
Dog snapper	Yes	Yes	N/A
Mahogany snapper	Yes	Yes	N/A
Schoolmaster	Yes	Yes	N/A
Black snapper	Yes	Yes	N/A
Wenchman	Yes	No	N/A
Misty grouper	No	Yes	Yes
Red hind	No	Yes	Yes
Rock hind	No	Yes	Yes
Coney	No	Yes	N/A
Graysby	No	Yes	N/A
Blackline tilefish	N/A	N/A	Yes
Anchor tilefish	N/A	N/A	Yes



The chart above shows species that are not federally managed in either the Gulf, Atlantic, or both that currently have a commercial federal permit or IFQ account requirement in state rule. FWC cannot legally require a federal permit or Gulf IFQ vessel account for the harvest of a species in state waters when that federal permit or Gulf IFQ vessel account is not required for harvest in federal waters.

Misty grouper, red hind, rock hind, coney, and graysby are still managed in Atlantic federal waters, so the federal Atlantic snapper-grouper permit requirement would remain in place for those species. Wenchman is still managed in Gulf federal waters, so the federal Gulf reef fish permit requirement would remain in place for that species.

Blackline and anchor tilefish are not managed in state or federal waters, and do not have any requirements in state rule beyond inclusion in the list of IFQ vessel account-required species.

Regulations to be Extended for Black Snapper, Dog Snapper, Mahogany Snapper, and Schoolmaster

Recreational

- Minimum size limits (for dog, mahogany, and schoolmaster)
- Inclusion in 10-snapper aggregate bag limit

Commercial

- Minimum size limits (for dog, mahogany, and schoolmaster)
- SPL, RS license requirements

Regulations for these species would be extended into Gulf and Atlantic federal waters



Pending the removal of black snapper, dog snapper, mahogany snapper, and schoolmaster from federal management by the South Atlantic Council, these four species will no longer be managed in federal waters of the Gulf or Atlantic. FWC sent a letter of support to the South Atlantic Council stating the intent for the State of Florida to assume management of these species in federal waters. If the State of Florida were to assume management of these species in state and federal waters, the FWC could create regulatory consistency that would simplify management without sacrificing conservation.

For these four species, both recreational and commercial regulations would be extended into Gulf and Atlantic federal waters.

Recreational and commercial minimum size limits for dog snapper and mahogany snapper (12 inches total length), as well as schoolmaster (10 inches total length) would be extended into adjacent federal waters. There is no minimum size limit for the harvest of black snapper. These species are also included in the 10-snapper aggregate bag limit which would be extended into adjacent federal waters. Finally, state-issued commercial license requirements (the SPL and RS requirements) would also be extended into adjacent federal waters.

Regulations to be Extended for Coney and Graysby

Recreational

- Inclusion in grouper aggregate bag limit

Commercial

- SPL, RS license requirements

Commercial regulations for these species would be extended into Gulf federal waters only



Coney and graysby were never managed in Gulf federal waters by the Gulf Council, but are currently managed in Atlantic federal waters by the South Atlantic Council. Both of these species have low recreational and commercial landings in the Gulf, but may benefit from the oversight of state management, and staff proposes extending state rules into adjacent federal waters for both species. Because these two species are still managed in Atlantic federal waters, commercial regulations would only be extended into Gulf federal waters.

For these two species, both recreational and commercial regulations would be extended.

These species are also included in the grouper aggregate bag limit which would be extended into adjacent federal waters. In addition, state-issued commercial license requirements (the SPL and RS requirements) would be extended into adjacent Gulf federal waters.

Regulations to be Extended for Wenchman

Recreational

- Inclusion in snapper aggregate bag limit

Commercial

- SPL, RS license requirements

Commercial regulations for this species would be extended into Atlantic federal waters only



Wenchman was never managed in Atlantic federal waters by the South Atlantic Council, but is currently managed in Gulf federal waters by the Gulf Council. This species has low recreational and commercial landings in the Atlantic, but may benefit from the oversight of state management, and staff proposes extending state rules into adjacent federal waters for this species. Because this species is still managed in Gulf federal waters, commercial regulations would only be extended into Atlantic federal waters.

For wenchman, both recreational and commercial regulations would be extended.

This species is also included in the 10-snapper aggregate bag limit which would be extended into adjacent federal waters. In addition, state-issued commercial license requirements (the SPL and RS requirements) would be extended into adjacent Atlantic federal waters.

Regulations to be Extended for Misty Grouper, Red Hind, and Rock Hind

Recreational

- Inclusion in grouper aggregate bag limit

Commercial

- SPL, RS license requirements

Commercial regulations for these species would be extended into Gulf federal waters only



Misty grouper, red hind, and rock hind were removed from federal management by the Gulf Council in 2011, but are still managed in Atlantic federal waters by the South Atlantic Council. These three species have low recreational and commercial landings in the Gulf, but may benefit from the oversight of state management, and staff proposes extending state rules into adjacent federal waters for all three species. Because these three species are still managed in Atlantic federal waters, commercial regulations would only be extended into Gulf federal waters.

For these three species, both recreational and commercial regulations would be extended.

These species are also included in the grouper aggregate bag limit which would be extended into adjacent federal waters. In addition, state-issued commercial license requirements (the SPL and RS requirements) would be extended into adjacent Gulf federal waters.

Extending State Rules into Adjacent Federal Waters

Species	Extend State Regulations into Gulf Federal waters?	Extend State Regulations into Atlantic Federal Waters?
Dog snapper	Yes	Yes
Mahogany snapper	Yes	Yes
Schoolmaster	Yes	Yes
Black snapper	Yes	Yes
Wenchman	No	Yes
Misty grouper	Yes	No
Red hind	Yes	No
Rock hind	Yes	No
Coney	Yes	No
Graysby	Yes	No



The chart above shows species that are not federally managed for which staff propose extending state rules into adjacent federal waters.

If pending rules are approved by the U.S. Secretary of Commerce, black snapper, dog snapper, mahogany snapper, and schoolmaster would not be managed in Gulf or Atlantic federal waters, and so state rules could be extended into adjacent Gulf and Atlantic federal waters.

Misty grouper, red hind, rock hind, coney, and graysby are still managed in Atlantic federal waters, so state commercial regulations for these species would only be extended into Gulf federal waters.

Wenchman is still managed in Gulf federal waters, so state commercial regulations for this species would only be extended into Atlantic federal waters.