



## Federal Legislative Outlook

Review and Discussion

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**Florida Fish and Wildlife Conservation Commission**

Division of Marine Fisheries Management

Version 1

This is a review and discussion of recent federal legislative items relating to fish and wildlife.

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# Magnuson-Stevens Fishery Conservation and Management Act

- Principal fisheries management and conservation law for federal waters
  - Last reauthorization occurred in 2006
  - Eligible for reauthorization in 2013

## Current Legislation

- **H.R. 1335** - Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (Young, AK)
  - Approved by the House
- **S. 1403** - Florida Fisheries Improvement Act (Rubio, FL)
  - Approved by Senate Commerce, Science, and Transportation Committee



The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson) is the principal federal law governing marine fisheries in the United States and directs the conservation and management of federal fisheries that we see today. It was originally passed in 1976 to address concerns about foreign fishing vessels in US waters by creating a 200 nautical mile limit (Exclusive Economic Zone) of U.S. control over waters that were once heavily fished by foreign vessels. It also provides the framework for the federal fishery management councils and directs how federal fisheries regulations are promulgated and implemented. The Act includes deadlines for ending overfishing and rebuilding fisheries and also requires the federal councils to set specific harvest limits (i.e., annual catch limits) for federally-managed species. It also outlines the framework for federal limited access privilege programs (LAPPs) like individual fishing quotas (IFQs).

Congress directs U.S. fisheries management and policy by amending Magnuson during reauthorizations. Magnuson was first reauthorized in 1996, then again in 2006. Magnuson has been eligible for another reauthorization since 2013. The Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (H.R. 1335) has been approved by the House of Representatives and would reauthorize Magnuson. FWC staff have been supportive of this bill. On the Senate side, the Florida Fisheries Improvement Act (S. 1403), would modify Magnuson and has been approved by the Senate Commerce, Science, and Transportation Committee.

## Omnibus Appropriations Bill – Signed Into Law

- Extends state waters boundaries for reef fish to 9 nautical miles for all Gulf states
- Provides \$5 million for Gulf red snapper tagging study
- Provides \$5 million for independent (non-NOAA Fisheries) Gulf reef fish stock assessments
- Urges Gulf red snapper allocation increase for private recreational anglers
- No funding for full transition to MRIP until NOAA improves stock assessments and surveys to better account for fish on artificial reefs and offshore rigs



The 2016 Omnibus Appropriations bill that was signed into law in late 2015 contains language that extends Alabama, Mississippi, and Louisiana's seaward boundary for management of red snapper and other reef fish out to nine nautical miles (Florida and Texas already manage waters shoreward of nine nautical miles in the Gulf). It also provides \$5 million for a Gulf red snapper tagging study and \$5 million for independent (non-NOAA Fisheries) stock assessments for Gulf reef fish, including red snapper. This legislation also urges an increase in Gulf red snapper allocation for private recreational anglers. The bill also states that no funding shall be provided for the full transition to the updated Marine Recreational Information Program (MRIP) until NOAA improves stock assessments and surveys to better account for fish on artificial reefs and offshore rigs.

# Congressional Bills Relating to Red Snapper

## Transfer Gulf Red Snapper Management to the States

- H.R. 3094 – Gulf States Red Snapper Management Authority Act (Graves, LA)
- S. 55 – Offshore Fairness Act (Vitter, LA)
- S. 105 – Red Snapper Management Improvement Act (Vitter, LA)

## Stock Assessments and Data Collection

- H.R. 981 – Red Snapper Regulatory Reform Act (Byrne, AL) – Gulf States Marine Fisheries Commission would be required to conduct Gulf reef fish stock assessments
- H.R. 3521 and H.R. 3644 (Jolly, FL) – Award competitive grants for Gulf and Atlantic red snapper and reef fish data collection



Additional bills have been introduced to address red snapper management in the Gulf of Mexico. Several of these bills propose transferring Gulf red snapper management to the Gulf states in some form. Representative Graves' Gulf Red Snapper Management Authority Act (H.R. 3094) would transfer management to the states via a new management body. In October 2015, Executive Director Wiley testified in support of this legislation at a Congressional hearing. Senator Vitter also introduced two bills, the Offshore Fairness Act (S. 55) and the Red Snapper Management Improvement Act (S. 105), that contain provisions that would transfer management to the Gulf states once all Gulf states agree on a management plan for red snapper.

Legislation has also been introduced in the House of Representatives that would address stock assessments and data collection for reef fish and red snapper. The Red Snapper Regulatory Reform Act proposes to require Gulf reef fish (including red snapper) stock assessments be conducted by the Gulf States Marine Fisheries Commission. Representative Jolly introduced the Gulf Red Snapper Data Improvement Act (H.R. 3521) and the South Atlantic Red Snapper Data Improvement Act (H.R. 3644). These bills would authorize \$10 million each for the Gulf of Mexico and South Atlantic to be set aside for data collection to improve red snapper and other reef fish stock assessments.

## Sportsmen's Act Update – H.R. 2406 and S. 405

- Exempt sporting equipment like lead tackle from regulation under the Toxic Substances Control Act
- Require federal officials to facilitate fishing, hunting, and recreational shooting on certain public lands
- H.R. 2406 would also require the National Park Service and NOAA Fisheries to gain approval from relevant state fish and wildlife agencies before creating areas closed to fishing in National Parks and National Marine Sanctuaries
  - Provision based on Preserving Access to Public Waters Act (H.R. 3310 – Ros-Lehtinen, FL)



Sportsmen's Act bills have also been developed in both the House (H.R. 2406) and Senate (S. 405). Both of these bills exempt sporting equipment like lead tackle from regulation under the Toxic Substances Control Act and require federal officials to facilitate fishing, hunting, and recreational shooting on certain public lands.

H.R. 2406, which is titled the Sportsmen's Heritage and Recreational Enhancement Act (SHARE Act), also contains a provision that would require the National Park Service and NOAA Fisheries to gain approval from relevant state fish and wildlife agencies before creating areas closed to fishing in National Parks and National Marine Sanctuaries. Representative Ros-Lehtinen first proposed this change in the Preserving Access to Public Waters Act (H.R. 3310) in response to the fishing area closures proposed in the Biscayne National Park's General Management Plan. FWC staff have been supportive of this effort and testified in a Congressional field hearing on fishing access in Biscayne National Park during August 2015.

## State Wildlife Grants – Omnibus Appropriations Bill

- Purpose – to keep common species common
- \$60.5 million, nationwide
- Increase of \$2 million from last year
- Florida's estimate - \$2.2 million



Also in the Omnibus Appropriations Bill, Congress funded State Wildlife Grants, an annual appropriation to all 50 states for the purpose of keeping common species common. This year's funding is set at \$60.5 million, which is an increase of \$2 million over last year. Florida's portion is estimated to be \$2.2 million.

FWC uses these monies to fund the Wildlife Legacy Initiative, a non-regulatory partnership effort, funding projects at the local level that conserve wildlife and habitat before they decline further.

## Next Steps

- Staff will continue to advocate FWC's positions
  - Meetings with Florida Delegation and Congressional staff
  - Commenting on bills
  - Coordinating with stakeholders and other states
  - Testifying as requested



Staff will continue to advocate for FWC's positions in speaking with Members of the Florida Congressional Delegation, Congressional staff and organizations. As bills are prepared, staff will continue to provide comments on pre-draft versions and submitted versions. Staff will continue to coordinate with stakeholders and other states about new ideas that could improve management of issues such as Gulf red snapper. Finally, staff will also testify as requested at future Congressional hearings on federal fisheries issues.

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



## H.R. 3094 – Gulf States Red Snapper Management Authority Act

- Based on red snapper regional management concept presented at April 2015 Commission meeting and developed by Gulf state directors
- Would transfer red snapper management from Gulf Council to states via this new management body (GSR SMA)
  - Composed of 5 Gulf state directors
  - States would set own management, conduct assessments
  - GSR SMA would approve management plans
  - Commercial fishery would stay with Council for 3 years then be transferred to GSR SMA
- FWC provided support for H.R. 3094 at House Subcommittee on Water, Power, and Oceans legislative hearing held Oct. 22, 2015



## Illegal, Unreported, and Unregulated Fishing Enforcement Act – H.R. 774

- Signed into law
- Intent:
  - Prevent illegally-harvested fish from entering the United States
  - Address seafood fraud
  - Promote sustainable fisheries



## Magnuson Reauthorization – FWC Involvement

- Managing Our Nation's Fisheries Conference 2013
- Meetings with Florida Delegation and Fisheries Committee staff
- Testimony at two Magnuson hearings
- Meet with organizations about FWC ideas
- Comment on bills
  - AFWA Ocean Policy Committee
  - Florida bill sponsors
  - Communication with Congressional staff
  - Council comments
- Coordination with other Gulf and South Atlantic states



FWC staff have been heavily involved in the Magnuson reauthorization process that began in 2013 with the Managing Our Nation's Fisheries Conference in Washington, D.C. Council members nationwide discussed what was working and what could be improved with fishermen and scientists. FWC staff have made trips to Washington, D.C. to meet with the Florida Delegation and Fisheries Committee staff on the House and Senate that will be reviewing Magnuson. During the reauthorization process a number of Congressional hearings are held to discuss specific aspects of federal management. FWC has testified at two Congressional hearings. Both hearings were on Gulf red snapper. Former Commission Chairman Ken Wright testified at a field hearing in 2012 in Panama City and Jessica McCawley testified at the other one in 2013 in Washington, DC.

FWC staff have met with numerous fishing organizations, such as American Sportfishing Association and International Game Fish Association about our ideas for the reauthorization. Staff have also provided comments through multiple avenues on the various bills that are introduced into the House and Senate relative to Magnuson. For example, comments have been provided through AFWA's Ocean Policy Committee, directly to Florida bill sponsors or Congressional staff, and through the Gulf and South Atlantic Fisheries Management Council.

FWC staff have also been working closely with other Gulf and South Atlantic states to discuss what improvements could be made to federal fisheries management that would help the Southeastern United States.

## FWC Ideas – Improving Management through Magnuson Reauthorization

- Flexibility in rebuilding timelines
- Allow alternative measures for managing recreational fisheries
- ✓ Extend all Gulf state territorial boundaries for fisheries management to 9 nautical miles
- Modify referenda for limited access privilege programs/catch shares
- Remove Section 407 – Gulf Red Snapper Research
- Allow states to regulate fishing activity of out-of-state vessels for state-managed fisheries in federal waters
- Prohibit shark feeding in federal waters



Staff has a number of ideas to improve federal management including adding flexibility in timelines for addressing fisheries that are overfished or overfishing is occurring. Although these timelines are in place to spur fast recovery of stocks, in some cases, they have resulted in unnecessarily drastic harvest cuts or changes that negatively impact fishermen and communities. Staff has also advocated for alternative approaches to managing federal recreational fisheries and not just Maximum Sustainable Yield (MSY).

All five Gulf states have advocated for state territorial boundaries for fisheries management to be extended to nine nautical miles in the Gulf of Mexico. This change was approved for Gulf reef fish in the Omnibus Appropriations Bill. Staff has also suggested changes to how referenda on limited access privilege programs like catch shares are conducted. Referenda can be a helpful way to understand what fishermen think about catch share programs, but some of the referenda requirements currently in Magnuson may impede necessary changes to a fishery in some situations. Staff has advocated for removing Section 407 of Magnuson, which specifically addresses Gulf red snapper issues. Many Florida fishermen are particularly in favor of removing Section 407(d), which requires NOAA to close recreational and commercial red snapper harvest when their respective quotas are met.

Staff also suggests that states be able to regulate fishing activity by out-of-state vessels for state-managed fisheries in federal waters. Currently, a state can only regulate such vessels if they are in Florida waters or landing in Florida.

Shark feeding is already prohibited in Florida state waters and is prohibited in federal waters off Hawaii. Staff is recommending it be prohibited in all federal waters.

## FWC Ideas – Improving Data Collection

- More timely data collection
- Increase fisheries independent and dependent monitoring
- Increase frequency and number of stock assessments in the Southeast U.S.
- Include fisheries data from non-governmental sources



There are many ways that federal data collection can be improved. Staff are advocating for changes that provide more timely data collection, increase fisheries independent and dependent monitoring, and increase the frequency and number of stock assessments on fisheries in the Southeast U.S. Staff are also suggesting the use of fisheries data from non-governmental sources for assessment and monitoring of federal fish stocks.

## FWC Ideas – Improving Administration

- Allow fees from penalties to go back to the region
- Increase marketing of wild-caught seafood products
- Increase transparency in the Council and SSC process
- Require disclosing financial interest for AP members
- Maintain simplified Council appointment process for all councils
- Improve NOAA Highly Migratory Species rulemaking process



In the category of improving administration staff think that fees from penalties assessed in the Southeastern U.S. should go back to the region and not into the general fund. Staff also supports the increase in marketing of wild-caught seafood products nationwide. This change would promote local seafood over imported products.

Improvements could be made in the transparency of the Council and Science and Statistical Committee (SSC) process, such as requiring verbatim transcripts of Council, committee, and SSC meetings. Similarly, staff believe that requiring Advisory Panel (AP) members to disclose financial interests will help in the transparency of the management process.

Staff are also advocating for a simplified Council appointment process. There has been a more arduous process in place for only the Gulf Council, that expired in 2012. Some of the bills introduced in 2014 suggested reinstating that process and applying it to the South Atlantic Council also. This additional process is not needed to ensure a fair appointment by Gulf and South Atlantic state Governors.

Staff have also suggested changes to the NOAA Highly Migratory Species (HMS) (i.e., sharks, tunas, billfish, swordfish) management and rulemaking process, such as formation of a Scientific and Statistical Committee or similar scientific body to peer review scientific information that is used for HMS management decisions.