



# Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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## 2015 Legislative Proposal Restricted Species Endorsement

**Title: Repeal Restricted Species Endorsement Criteria from Statute**

**Submitted by:** Division of Marine Fisheries Management

### I. Summary of the Proposal

This proposal would repeal the Restricted Species Endorsement (RS) qualifications from statute. The Commission voted to adopt the RS regulations into rule in June 2014; the repeal of the statutory language would eliminate potential future conflicts should rule qualifications change. A commercial saltwater fisher must acquire an RS to commercially harvest and sell the 32 groups of species designated as “restricted” by FWC. The purpose of the RS is to help ensure the sustainability of the State’s most important commercially harvested species, and to ensure that the higher bag limits are being harvested for commercial purposes. At the request of the industry, the requirement to possess an RS in order to commercially fish such species would be retained in statute. This proposal is supported by: Organization Fishermen of Florida, Florida Keys Commercial Fishermen’s Association, and Shrimp Producers Association.

### II. Present Situation

There are a variety of fishing licenses, endorsements, and permits available to commercial fishermen. Florida’s primary, basic commercial fishing license is the Saltwater Products License (SPL). The SPL is open access and entitles the holder to harvest commercial quantities of saltwater products, use commercial gears, and sell saltwater products to wholesale dealers.

Requirements for other commercial licenses, beyond the SPL, vary depending on what species the fisherman wants to harvest. Fishermen are required to hold a Restricted Species Endorsement (RS), as per s. 379.361(2)(b), F.S., in order to commercially harvest and sell species designated as “restricted” by the FWC. The RS was created by the Florida Legislature in 1987, when marine fisheries management was under the legislatively created Marine Fisheries Commission, a predecessor agency to the Fish and Wildlife Conservation Commission. The creation of the RS was supported by Florida’s commercial fishing industry. It authorizes the holder to commercially harvest and sell restricted species, designated as such by the FWC.

Qualifying requirements for the RS endorsement are currently in statute but, since all aspects of the RS program fall under FWC’s constitutional authority, the requirements are being incorporated into Commission rule allowing FWC to respond in a timely manner to stakeholder needs or requests for change. Currently, some of the statutory requirements are confusing and out of date.

The primary purpose of the RS is to help ensure the sustainability of the State's most important commercially harvested species. It was created in coordination with the commercial industry as a means to ensure that fish harvested under Florida's commercial licenses (and the higher bag limits typically associated with the commercial fishery) are indeed being harvested for commercial purposes and ultimately ending up in the seafood market. Prior to the creation of the RS, some of Florida's recreational fishermen were purchasing commercial licenses to enable them to harvest commercial quantities of their favorite species and then keep them for their own personal use, thus circumventing the recreational bag limits.

Qualifying requirements for an RS follow:

- Must be 16 years of age or older
- Over 25% of income or \$5000, whichever is less, is attributable to the sale of saltwater products under an SPL
- For a firm or corporation, at least \$5000 of income must be attributable to the sale of saltwater products under an SPL
- Charter boat with at least 50% of income attributable to charter fishing – at least \$2500 must be attributable to the sale of saltwater products under an SPL
- Income requirements must be met at least one of the previous three years
- Marine aquaculture producers with an SPL can apply income from the sale of marine aquaculture products
- Income verification can come from: trip tickets or sales records documenting qualifying sales; federal income tax returns; crew share statements; a CPA's notarized statement – all verifying qualifying sales or income must come from saltwater products
- Seafood markets or restaurants who harvest saltwater products to supply their business may provide proof of income/sales by affidavit if they have had an SPL for one of the three years between 1987-1990, have been at the same location for at least three years, have had an occupational license at least three years before 1990
- Exceptions to the income requirements include:
  - A permanent RS shall be available to those 70 and older who have qualified for an RS for at least three of the previous five years
  - The income requirement for those 62 and older is reduced to \$2500
  - Active military duty time shall not be counted for time required to qualify
  - The purchaser of a commercial vessel associated with an RS shall have a complete license year after the purchase before having to qualify for an RS
  - An immediate family member wishing to carry on the fishing operation of an individual who died or has become permanently disabled shall have a complete license year before having to qualify for an RS
  - The income requirement is waived for residents holding an SPL for three of the previous five years before becoming disabled, if the individual is certified totally and permanently disabled by the US Dept. of Veterans Affairs, any branch of the US Armed Services, or Railroad Board, or who is certified disabled by the Social Security Administration or a licensed physician
  - An honorably discharged resident military veteran who is certified to be permanently disabled with a rating of at least 10% has one full license year to

- qualify for an RS, after which time the income requirement is \$2500
- An honorably discharged resident military veteran who applies for an RS within 48 months after discharge has one full license year to qualify for an RS

While many species are still available to legitimate commercial fishermen who do not hold an RS, the most heavily targeted species are designated as restricted. There are approximately 32 species groups that are restricted: Spanish mackerel, king mackerel, black drum, spotted sea trout, grouper, snapper, red porgy, gray triggerfish, banded rudderfish, almaco jack, golden tilefish, amberjack, sea bass, tropical/ornamental marine life, black mullet, silver mullet, blue fish, hogfish, blue crab, stone crab, spiny lobster/crawfish, African pompano, Florida pompano, permit, sheepshead, tripletail, Brevard County clams, shrimp, flounder, cobia, wahoo, dolphin, swordfish.

At the June 2014 Commission meeting, the Commission voted to adopt the existing statutory language detailing the qualification requirements for the RS endorsement into FWC rules. This new rule language is nearly identical to the statutory language with only minor edits made to conform to standards set by the Joint Administrative Procedures Committee. The Commission also directed staff to work with the industry to make modifications and update the requirements.

Anticipated changes may include: 1) clarify that qualifying sales must be legal sales; 2) remove unnecessary and obsolete provisions; 3) close loop holes associated with the exemption from qualifying requirements that allows applicants to receive an RS for one year following the purchase of a used commercial fishing vessel that are resulting in abuse; 4) review acceptable forms of demonstrating a person is “totally and permanently disabled” to address concerns about ease of abuse; and 5) expand the application period from one year to three years after death or permanent disablement of a previously licensed family member.

### **III. Effect of Proposed Changes in the Bill**

The effects of the statutory change would be to remove the statutory language describing the RS qualifying requirements, thus eliminating repetition and potential future conflicting language, should the FWC rules be modified. At the request of the industry, the requirement for commercial fishers to hold an RS if they harvest or sell restricted species will remain in statute.

### **IV. Impact on All Pertinent Statutes/Rules/Constitution**

The proposal would remove the RS qualifications from s.379.361(2)(b), F.S. The Commission approved the incorporation of the statutory provisions into 68B-2, F.A.C.

- A.** Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?  
No
- B.** Does the proposed legislation raise significant constitutional concerns under the United States or Florida Constitutions?

No

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

Not anticipated

**V. Affected Agencies and Groups**

Commercial fishing industry. The following organizations support this proposal: Organized Fishermen of Florida, Florida Keys Commercial Fishermen's Association, and Shrimp Producers Association.

**VI. Fiscal Impact**

**A. On FWC**

- No fiscal impact is anticipated
- There may be a fiscal/workload impact but it can be absorbed in FWC's base operations
- A fiscal or staff impact is anticipated and is estimated in the table below

<b>Revenues</b>	<b>FY 2011-12 Source/Amount/FTE</b>	<b>FY 2012-13 Source/Amount/FTE</b>	<b>FY 2013-14 Source/Amount/FTE</b>
1. Recurring			
2. Non-recurring			
<b>Expenditures</b>			
1. Recurring			
2. Non-recurring			

FWC fiscal comments or explanation:

**B. On Other State Agencies**

None

**D. On Private Sector**

None

**E. On Local Governments**

None

**F. Tax/Fee Issues**

None