

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 553 Fishery Conservation and Management
SPONSOR(S): General Government Policy Council, Coley and Workman
TIED BILLS: **IDEN./SIM. BILLS:** SM 1168

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	General Government Policy Council	14 Y, 0 N, As CS	Deslatte	Hamby
2)	Rules & Calendar Council	12 Y, 0 N	Kirksey	Birtman
3)	Policy Council		Varn	Ciccone
4)				
5)				

SUMMARY ANALYSIS

Council Substitute for House Memorial 553 urges Congress to consider all available mechanisms to lessen the sudden impact of the changes made to the Magnuson-Stevens Fishery Conservation and Management Act and seek to balance resource protection and economic prosperity in Florida.

The memorial provides for copies to be submitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Florida delegation to the United States Congress.

This memorial does not have a fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In 1976, the U.S. Congress passed the Fishery Conservation and Management Act, known as the Magnuson Act of 1976, later renamed the Magnuson-Stevens Act (MSA or Act), due to growing concerns regarding the potential economic losses from foreign fleet catches. The statute was intended to end foreign overfishing, establish a U.S. Exclusive Economic Zone (EEZ), and industrialize the U.S. fishing fleet.¹ Conservation efforts were mentioned in the initial section of the Act, but the primary aim was to extend U.S. territorial waters from 12 to 200 miles and to mandate a phase-out of foreign fishing within the EEZ.²

To render the management process more efficient, the MSA established grant programs and other subsidies to help modernize and industrialize the U.S. commercial fishing fleet. The MSA also created eight Regional Fishery Management Councils composed of state fisheries managers, the regional National Marine Fisheries Service (NMFS)³ fisheries administrator, and qualified fishing industry, academic, and environmental representatives. Florida is represented on two regional councils: the Gulf of Mexico Fishery Management Council (includes the Gulf coast of Florida, Alabama, Mississippi, Louisiana, and Texas) and the South Atlantic Fishery Management Council (includes North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida). The Governor directly appoints one member to both councils as the principal state official with fishery management responsibility. The Governor also submits a list of names to the Secretary of Commerce for discretionary appointment by the Secretary to the councils.⁴

In 1996, the Act was amended to add new regulations intended to stop overfishing, rebuild fish populations, minimize the incidental capture and killing of non-commercial marine life, and protect areas of the ocean vital to the development of juvenile fish. These amendments were meant to ensure that U.S. fisheries remained healthy and productive for future generations.

¹ 16 U.S.C.A. § 1801b (West 2010).

² General Governmental Policy Council (Agriculture and Natural Resources Policy Committee, The National Saltwater Angler Registry/ Florida's Shoreline Exemption, Jan., 2009.

³ The NMFS is a federal agency (under the National Oceanic and Atmospheric Administration (NOAA)) responsible for the stewardship of the nation's living marine resources and their habitat. NOAA falls under the Department of Commerce.

⁴ Florida Fish & Wildlife Conservation Commission (FWCC) 2010 Legislative Bill Analysis on file with the Policy Council.

In 2007, the Act was reauthorized to include a significant additional requirement to implement annual catch limits and accountability measures for all federally managed species (Section 303(a)(15)).⁵ The reauthorized Act set a deadline of 2011 to implement these measures. For those species that were classified as undergoing overfishing, the Act specified a deadline of 2010 to implement annual catch limits and accountability measures. Specifically, Section 304(3)⁶ of the reauthorized Act addresses the rebuilding of overfished stocks including a requirement that overfishing is ended within two years of notification that a fishery is overfished, and that the rebuilding plan not exceed 10 years. Overfishing is defined as harvesting at a rate equal to or greater than that which will meet the management goal. A stock or stock complex is considered undergoing overfishing when the rate of fishing mortality exceeds a specific threshold. A rebuilding plan can exceed 10 years however, if the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the U.S. participates dictates otherwise.⁷

The South Atlantic Fishery Management Council (Council) has initiated steps to meet these deadlines. The Council has implemented a shallow-water grouper closure from January 1 through April 30, 2010. The closure prohibits recreational and commercial harvest of shallow-water grouper species in order to end overfishing of gag, black and red grouper. The Council has also implemented a November 1, 2009 through April 30, 2010, closure on the recreational harvest of vermilion snapper, reducing the annual commercial quota by about 50% according to the Florida Fish and Wildlife Conservation Commission (FWCC) analysis. The Council and the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service are developing regulatory changes to end the overfishing of the Atlantic red snapper and rebuild the stock. NOAA Fisheries has already implemented a temporary action that closed all harvest of red snapper in federal waters of the South Atlantic region. The Council is developing recommendations for permanent changes that would continue to prohibit all red snapper fishing. The Council is also considering a large-area closure to fishing for any species of snapper or grouper because so many red snapper are caught incidentally when other reef fish are being caught, and die when re-released back into the water. Another recommendation the Council has proposed is prohibiting the harvest and possession of several species of deepwater snapper and grouper in federal waters deeper than 240 feet. This action would end overfishing of Warsaw grouper and speckled hind, and give protection to the snowy grouper and golden tilefish, which are overfished.⁸

The Gulf of Mexico has also seen changes in regulations for red snapper over the last few years. In 2008, these regulations reduced the recreational bag limit and substantially reduced the recreational harvest season. For recreational fishers, the bag limit is two red snapper per person per day. However, possession of bag limits by captains and crew of for-hire vessels is prohibited.⁹

Currently, the open recreational harvest season for red snapper in state and federal waters of the Gulf of Mexico is June 1 through August 14.¹⁰ The NMFS estimated that recreational fishers in the Gulf exceeded 2008's annual red snapper catch limit by approximately 1.2 million pounds, and federal law requires that harvest levels must be reduced in the year following a previous year's overharvest. To offset last year's overharvest, the NMFS shortened the recreational red snapper harvest season in Gulf federal waters (beyond 9 nautical miles from shore) from June 1 through September 30 to June 1 through August 14. The FWCC approved the same season change in state waters at its Commission Meeting on June 18, 2009.¹¹

According to FWCC, for the red snapper commercial fishery, an Individual Fishing Quota (IFQ) system was implemented in 2007 and operated under a lower overall quota in 2008. The commercial minimum size limit of harvested and imported fish is 13 inches total length. The commercial daily bag and trip limit is 2 fish per person in state waters. The commercial quota is set at 2.55 million pounds. Seasonal

⁵120 Stat 3575 (2007); PL 109-479.

⁶ Id.

⁷ Florida Fish & Wildlife Conservation Commission (FWCC) 2010 Legislative Bill Analysis on file with the Policy Council.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

and area closures are in place for the commercial shrimping industry to reduce effort in order in minimize juvenile red snapper bycatch.¹²

Effect of Proposed Changes

CS/HM 553 urges Congress to consider all available mechanisms to lessen the sudden impact of the changes made to the Magnuson-Stevens Fishery Conservation and Management Act and seek to balance resource protection and economic prosperity in Florida.

B. SECTION DIRECTORY:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This memorial does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

¹² Id.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Florida Fish and Wildlife Conservation Commission (FWCC)¹³ provided the following comment:

“If the Memorial is acted upon by Congress, the called-for changes have the potential to reduce short-term and perhaps long-term negative economic impacts to recreational and commercial fisheries by ameliorating the hard deadlines established in the 2007 reauthorization of the Act. The following description of the fishery provides an overview of the historical participation in these fisheries and applies to all states in the South Atlantic Fishery Management Council (North Carolina, South Carolina, Georgia, and Florida). It is taken from South Atlantic Fishery Management Council documents (Draft Amendment 17A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region and draft Environmental Impact Statement. November 2009. South Atlantic Fishery Management Council. Charleston, SC.)”

“From 2003-2007, which is the period of data used in the analysis of the expected impacts of this action, an average of 944 vessels per year were permitted to operate in the commercial snapper grouper fishery. Of these vessels, 749 held transferable permits and 195 held non-transferable permits. On average, 890 vessels landed 6.43 million pounds of snapper grouper and 1.95 million pounds of other species on snapper grouper trips. Total dockside revenues from snapper grouper species stood at \$13.81 million (2007 dollars) and from other species, at \$2.30 million (2007 dollars). Considering revenues from both snapper grouper and other species, the revenues per vessel would be \$18,101. An average of 27 vessels per year harvested more than 50,000 pounds of snapper grouper species per year, generating at least, at an average price of \$2.15 (2007 dollars) per pound, dockside revenues of \$107,500. Vessels that operate in the snapper grouper fishery may also operate in other fisheries, the revenues of which cannot be determined with available data and are not reflected in these totals. Although a vessel that possesses a commercial snapper grouper permit can harvest any snapper-grouper species, not all permitted vessels or vessels that landed snapper grouper landed all of the six major species in this amendment. The following average number of vessels landed the subject species in 2003-2007: 292 for gag, 253 for vermilion snapper, 220 for red snapper, 237 for black sea bass, 323 for black grouper, and 402 for red grouper. Combining revenues from snapper grouper and other species on the same trip, the average revenue (2007 dollars) per vessel for vessels landing the subject species would be \$20,551 for gag, \$28,454 for vermilion snapper, \$22,168 for red snapper, \$19,034 for black sea bass, \$7,186 for black grouper, and \$17,164 for red grouper.”

“For the period 2003-2007, an average of 1,635 vessels were permitted to operate in the snapper grouper for-hire fishery, of which 82 are estimated to have operated as headboats. Within the total number of vessels, 227 also possessed a commercial snapper grouper permit and would be included in the summary information provided on the commercial sector. The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. The charterboat annual average gross

¹³ The FWCC's seven Commissioners are appointed by the governor and confirmed by the Florida Senate to five-year terms. Their constitutional duty is to exercise the "...regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees and penalties for violating regulations shall be as provided by law." See Florida Fish and Wildlife Conservation Commission, http://myfwc.com/ABOUT/About_commissioners.htm. (last visited March 08, 2010.) See *also*, Art. IV, § 9 Fla. Const.

revenue is estimated to range from approximately \$62,000-\$84,000 for Florida vessels, \$73,000-\$89,000 for North Carolina vessels, \$68,000-\$83,000 for Georgia vessels, and \$32,000-\$39,000 for South Carolina vessels. For headboats, the appropriate estimates are \$170,000-\$362,000 for Florida vessels, and \$149,000-\$317,000 for vessels in the other states.”

“The sudden reductions in allowable harvest being implemented for a wide range of species will reduce business income. Public testimony to date received by the Councils and NOAA Fisheries Service indicate that recreational charter businesses have been or expect to see reductions in business ranging from 25 to 60% because of the growing number of regulatory restrictions being implemented. Some fishing business owners have stated publicly that they will not be able to stay in business at all.”

“The short-term negative impacts to fishing and fishing industries could be severe. However, there are long term negative fiscal impacts associated with delaying or prolonging the rebuilding and recovery of targeted fisheries. As an example, the current projections for rebuilding the South Atlantic red snapper fishery indicate a doubling of the available harvest (landings) by 2020. This result is expected because fishing pressure will be reduced by about 80% immediately. As the fish population (stock) rebuilds it is expected that commercial and recreational fishermen will benefit from increased harvest allowances and higher average annual yields than are available now.”

“Fiscal estimates of the effects of the Act depend upon the management alternatives used, and the severity of those alternatives. For example, an extended closed season for an economically important species like red snapper would affect the for-hire sector (charter boats and head boats) who have a direct business connection to the availability of that species. Other economic factors, e.g., fuel sales, fishing tackle sales, would also be affected by restrictive management measures associated with rebuilding plans. Likewise, fishing closures have an effect on the availability of species that are commercially sold in the marketplace, and this could lead to that species being replaced in the market by imports or other species not under management.”¹⁴

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 17, 2010, the General Government Policy Council amended and passed HM 553.

The amendment deletes “of 2007” after the “Magnuson-Stevens Conservation and Management Act” to avoid confusion.

The amendment clarifies federal requirements for the implementation of annual catch limits and the deadlines for those catch limits.

The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.

¹⁴ Florida Fish & Wildlife Conservation Commission (FWCC) 2010 Legislative Bill Analysis on file with the Policy Council.