

S. 1748, the Florida Fisheries Improvement Act

Sponsor – Senator Rubio (R-Florida)

Introduced on August 3, 2017

Referred to the Senate Commerce, Science, and Transportation Committee

Section 1 – Short Title; Table of Contents.

Section 2 – References to the Magnuson-Stevens Fishery Conservation and Management Act.

Section 101 – Regional Fishery Management Councils. Current law states that, until the end of Fiscal Year 2012, a Governor submitting nominations for seats for the Gulf of Mexico Fishery Management Council is required submit at least 1 nominee from each of the commercial, recreational, and charter fishing sectors and at least 1 other nominee who is knowledgeable regarding conservation and management of fishery resources under the Council's jurisdiction. This legislation would remove the language limiting this provision from apply only until the end of Fiscal Year 2012 and would add this nomination requirement to Governors submitting nominations for the South Atlantic Council.

This section would require that each scientific and statistical committee provide ongoing scientific advice for fishery management decisions and do so in a transparent manner and allow for public involvement in the process.

This section would authorize the Councils to use alternative fishery management measures in recreational fisheries (or in the recreational component of mixed-use fisheries) including extraction rates, fishing mortality, and harvest control rules to the extent these alternative measures are in accordance with the Act.

This section would require each Council, where practicable, to make a video or audio webcast of each meeting of the Council and each meeting of the SSC available on the Council's website within 30 days of the meeting.

Section 102 – Contents of Fishery Management Plans. This section would exempt species in a fishery with a life cycle of 12 months or less from the requirement to establish a mechanism for specifying annual catch limits. This exemption would also apply to a species in a fishery in which all spawning and recruitment occurs beyond State waters and the EEZ. This exemption would be available unless the Secretary determines that the species is subject to overfishing.

This section would also clarify that the requirement to establish a mechanism for specifying annual catch limits shall not limit or affect National Standard 1 or the requirement to rebuild overfished fisheries.

This section would clarify that nothing in this subsection is intended to affect the effective dates regarding the provision for establishing mechanism for specifying annual catch limits that are provided for under international agreements that the US participates in.

This section would allow Councils to take into account management measures under international agreements in which the United States participates when establishing annual catch limits. In establishing catch limits for these species, a Council would be required to take into account fishing for

the species that takes place outside the U.S. EEZ and the life-history characteristics of the species that are outside the jurisdiction of the Council.

This section would exempt a Council from establishing an annual catch limit for a species if the fishery management activities by another country outside the U.S. EEZ may hinder conservation efforts by U.S. fishermen if the species' recruitment, distribution, life history or other fishing activities are transboundary and there is no informal transboundary agreement. In addition, this section would require that if a Council does establish an annual catch limit for such a species, the catch limit must take into account fishing for the species outside the U.S. EEZ that is not subject to the jurisdiction of the Council.

Section 103 – Funding for Stock Assessments, Surveys, and Data Collection. This section would amend section 311 to allow fines, penalties, and forfeitures of property collected for violations of the Magnuson-Stevens Act or any other marine resource law to be used to pay for the costs of stock assessments, surveys, and data collection in fisheries managed under this Act.

Section 104 – Capital Construction. This section would amend the Capital Construction Fund statute to allow certain shoreside fisheries and aquaculture facilities as well as certain vessels used in processing fish or used for aquaculture operations to participate in the Capital Construction Fund program. This section would define what facilities are eligible and establish ownership requirements for those eligible facilities.

This section would also modify what are allowable uses of a Capital Construction Fund and would detail how the qualified withdrawals of the funds from a CCF account will be treated under tax statutes.

Section 105 – Fisheries Disaster Relief. This section would require that the Secretary of Commerce make a decision on any request for fisheries disaster assistance within 90 days of when the Secretary receives a complete estimate of the economic impact of the disaster from the affected State, tribal government, or fishing community.

Section 106 – Regional Fishery Conservation and Management Authorities. This section would create a new provision in the Act to require the Gulf of Mexico Fishery Management Council, at least once every five years, to review any allocation of fishing privileges among the commercial, recreational and charter components of a fishery managed under an FMP prepared by the Council. The provision would allow the Council, if necessary, to delay action on the review not more than three times using one year incremental delays.

In addition, this section would require a similar review by the South Atlantic Fishery Management Council of allocations for fishery privileges and include the same time restriction on the review.

Section 107 – Study of Allocations in Mixed-Use Fisheries in the Gulf of Mexico and South Atlantic. This section would require the Secretary of Commerce, within 60 days, to enter into an arrangement with the National Academy of Sciences to study to provide guidance on criteria that could be used for allocating fishing privileges including consideration of the conservation and socioeconomic benefits of commercial, recreational, and charter components of fisheries managed under the Magnuson-Stevens Act. This guidance would be provided to the Gulf of Mexico and South Atlantic Councils. The study would also identify sources of information that could be used to support the use of such criteria in allocation decisions.

This section would require, within one year of the contract being awarded, the National Academy of Sciences to submit a report to Congress on the study.

This section would provide that if the Secretary is unable to enter into an agreement with the National Academy of Sciences within one year or the terms of the agreement are unacceptable, the Secretary would be required to enter into a similar agreement with the Atlantic Coastal Cooperative Statistics Program.

Section 108. Requirements Relating to Experimental Fishing Permits for Fishing in Gulf of Mexico or South Atlantic. This section would require the Regional Administrator or Regional Director of the Gulf of Mexico and South Atlantic regions to consult with the State Fish and Wildlife Agency of any State with a fishing community that would be affected by the issuance of an experimental fishing permit (EFP) for fishing in Federal waters in the Gulf of Mexico or the South Atlantic prior to issuing such an EFP.

This section would also prohibit the EFP process to be used to implement a region-wide limited access program or a sector allocation.

Section 201 – Fisheries Research. This section would require the Secretary of Commerce, in consultation with the Councils and within one year, to develop and publish in the Federal Register a plan to conduct stock assessments for all stock managed under a fishery management plan. This plan would be on the same schedule as required for the strategic plan already required under the Act.

This section would require that a schedule for updating the stock assessments that is reasonable – based on the biology and characteristics of the stock – be established for every fishery for which a stock assessment has already been conducted and that an updated stock assessment for those previously assessed stocks be conducted at least once every five years with a possible delay of no more than 3 one-year delays and subject to appropriations. The Secretary could justify and determine a different schedule.

This section would require that for each economically-important stock for which a stock assessment has not been previously conducted, the Secretary conduct a stock assessment within three years and establish a schedule for updating the stock assessment unless the Secretary justifies and establishes a different time period. This requirement is subject to appropriations.

This section would require the Secretary to identify data and analysis especially concerning recreational fishing that would reduce uncertainty and improve stock assessment accuracy in the future. The Secretary would also be required to determine whether such data and analysis could be provided by State Fish and Wildlife Agencies, fishermen, fishing communities, universities, research institutions, and philanthropic organizations.

This section would allow the Secretary to waive a stock assessment for stocks if the Secretary determines the assessment is unnecessary and justifies the determination.

This section would require the Secretary to issue the first stock assessment plan required under this section not later than one year after the date of the enactment of this legislation.

Section 202 – Improving Science. This section would require the Secretary within one year, in consultation with the scientific and statistical committees (SSC) of the Councils, develop a report to Congress on facilitating greater incorporation of data, analysis, stock assessments, and surveys from

additional sources for the use in fisheries management decisions. It lists a number of sources of such data including; State Fish and Wildlife Agencies; fishermen; fishing communities; universities; research institutions; and philanthropic organizations.

This section would require that the report: identify the types of data (especially concerning recreational fishing) that can reliably be used for establishing conservation and management measures; set standards for the collection and use of such data; provide specific guidance for the collection of the data and for performing analyses to reduce uncertainty; consider to what extent it would be possible to establish a registry of persons providing such information; and consider to what extent the acceptance and use of the data and analysis from these sources would be practicable in fishery management decisions.

This section would require the Secretary to submit this report to Congress not later than one year after the date of the enactment of this legislation.

This section would require the Secretary to consider and, to the extent feasible, implement the recommendations of the National Academy of Sciences (Academy) report titled "Review of the Marine Recreational Information Program (2017)". Included in these measures to be considered for implementation is the evaluation of electronic data collection for the Fishing Effort Survey including the use of smartphone applications, electronic diaries for prospective data collection, and an Internet website option. Also to be considered for implementation would be the evaluation of whether the design of the Marine Recreational Information Program (MRIP) for the purposes of stock assessments and the determination of stock assessment reference points is compatible with the needs of in-season management of annual catch limits. If the Academy determines that the MRIP program is not compatible for these needs, the Academy should determine an alternative method for in-season management that is consistent with the requirements of the Act.