

Calendar No. 441

115TH CONGRESS
2D SESSION

S. 1520

[Report No. 115–264]

To expand recreational fishing opportunities through enhanced marine fishery conservation and management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2017

Mr. WICKER (for himself, Mr. NELSON, Mr. BLUNT, Mr. SCHATZ, Mr. MANCHIN, Mr. KENNEDY, Mr. INHOFE, Mr. COCHRAN, Mr. CASSIDY, Ms. KLOBUCHAR, Mr. DONNELLY, Mr. YOUNG, Mrs. FISCHER, Mr. MENENDEZ, Mr. PETERS, and Mr. JONES) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 5, 2018

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To expand recreational fishing opportunities through enhanced marine fishery conservation and management, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
 2 **ERENCES.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Modernizing Recreational Fisheries Management Act of
 5 2017”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents; references.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Process for allocation review for South Atlantic and Gulf of Mexico
 mixed-use fisheries.

Sec. 102. Alternative fishery management.

Sec. 103. Study of limited access privilege programs for mixed-use fisheries.

Sec. 104. Rebuilding overfished fisheries.

Sec. 105. Modifications to the annual catch limit requirement.

Sec. 106. Exempted fishing permits.

**TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND
 DEVELOPMENT**

Sec. 201. Cooperative data collection.

Sec. 202. Recreational data collection.

8 (c) **REFERENCES TO THE MAGNUSON-STEVENS**
 9 **FISHERY CONSERVATION AND MANAGEMENT ACT.**—Ex-
 10 cept as otherwise expressly provided, wherever in this Act
 11 an amendment or repeal is expressed in terms of an
 12 amendment to, or repeal of, a section or other provision,
 13 the reference shall be considered to be made to a section
 14 or other provision of the Magnuson-Stevens Fishery Con-
 15 servation and Management Act (16 U.S.C. 1801 et seq.).

1 **SEC. 2. FINDINGS.**

2 ~~(a) RECREATIONAL FISHING.~~—Section 2(a) ~~(16~~
 3 ~~U.S.C. 1801(a))~~ is amended by adding at the end the fol-
 4 ~~lowing:~~

5 ~~“(13) While both provide significant cultural~~
 6 ~~and economic benefits to the Nation, recreational~~
 7 ~~fishing and commercial fishing are fundamentally~~
 8 ~~different activities, therefore requiring management~~
 9 ~~approaches adapted to the characteristics of each~~
 10 ~~sector.”.~~

11 ~~(b) TECHNICAL CORRECTION.~~—Section 2(a)(3) ~~(16~~
 12 ~~U.S.C. 1801(a)(3))~~ is amended to read as follows:

13 ~~“(3) Commercial and recreational fishing con-~~
 14 ~~stitute major sources of employment and contribute~~
 15 ~~significantly to the economy of the Nation. Many~~
 16 ~~coastal areas are dependent upon fishing and related~~
 17 ~~activities.”.~~

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 ~~(1) APPROPRIATE COMMITTEES OF CON-~~
 21 ~~GRESS.~~—The term “appropriate committees of Con-
 22 ~~gress” means—~~

23 ~~(A) the Committee on Commerce, Science,~~
 24 ~~and Transportation of the Senate; and~~

25 ~~(B) the Committee on Natural Resources~~
 26 ~~of the House of Representatives.~~

1 (2) COUNCIL.—The term “Council” means any
 2 Regional Fishery Management Council established
 3 under section 302 of the Magnuson-Stevens Fishery
 4 Conservation and Management Act (16 U.S.C.
 5 1852).

6 (3) LIMITED ACCESS PRIVILEGE PROGRAM.—
 7 The term “limited access privilege program” means
 8 a program that meets the requirements of section
 9 303A of the Magnuson-Stevens Fishery Conserva-
 10 tion and Management Act (16 U.S.C. 1853a).

11 (4) MIXED-USE FISHERY.—The term “mixed-
 12 used fishery” means a Federal fishery in which two
 13 or more of the following occur:

14 (A) Recreational fishing.

15 (B) Charter fishing.

16 (C) Commercial fishing.

17 **TITLE I—CONSERVATION AND** 18 **MANAGEMENT**

19 **SEC. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH** 20 **ATLANTIC AND GULF OF MEXICO MIXED-USE** 21 **FISHERIES.**

22 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
 23 ERIES.—Not later than 60 days after the date of enact-
 24 ment of this Act, the Secretary of Commerce shall enter
 25 into an arrangement with the National Academy of

1 Sciences to conduct a study of South Atlantic and Gulf
2 of Mexico mixed-use fisheries—

3 (1) to provide guidance to each applicable
4 Council on criteria that could be used for allocating
5 fishing privileges, including consideration of the con-
6 servation and socioeconomic benefits of the commer-
7 cial, recreational, and charter components of a fish-
8 ery, in the preparation of a fishery management
9 plan;

10 (2) to identify sources of information that could
11 reasonably support the use of such criteria in alloca-
12 tion decisions; and

13 (3) to develop procedures for allocation reviews
14 and potential adjustments in allocations.

15 (b) REPORT.—Not later than 1 year after the date
16 an arrangement is entered into under subsection (a), the
17 National Academy of Sciences shall submit to the appro-
18 priate committees of Congress a report on the study con-
19 ducted under that subsection.

20 (c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-
21 LISHMENT.—

22 (1) IN GENERAL.—Not later than 2 years after
23 the date of enactment of this Act, and every 5 years
24 thereafter, an applicable Council shall perform a re-
25 view of the allocations to the commercial fishing sec-

1 tor and the recreational fishing sector of all applica-
2 ble fisheries in its jurisdiction.

3 ~~(2) CONSIDERATIONS.—In conducting a review~~
4 under paragraph (1), an applicable Council shall
5 consider, in each allocation decision, the conserva-
6 tion and socioeconomic benefits of—

7 (A) the commercial fishing sector; and

8 (B) the recreational fishing sector.

9 ~~(d) DEFINITION OF APPLICABLE COUNCIL.—In this~~
10 section, the term “applicable Council” means—

11 (1) the South Atlantic Fishery Management
12 Council; or

13 (2) the Gulf of Mexico Fishery Management
14 Council.

15 **SEC. 102. ALTERNATIVE FISHERY MANAGEMENT.**

16 (a) MANAGEMENT.—Section 302(h) ~~(16 U.S.C.~~
17 1852(h)) is amended—

18 (1) in paragraph (7)(C), by striking “; and”
19 and inserting a semicolon;

20 (2) by redesignating paragraph (8) as para-
21 graph (9); and

22 (3) by inserting after paragraph (7) the fol-
23 lowing:

24 “(8) have the authority to use alternative fish-
25 ery management measures in a recreational fishery

1 (or the recreational component of a mixed-use fish-
 2 ery) in developing a fishery management plan, plan
 3 amendment, or proposed regulations, including ex-
 4 traction rates, fishing mortality targets, harvest con-
 5 trol rules, or traditional or cultural practices of na-
 6 tive communities; and”.

7 (b) REPORT.—Not later than 180 days after the date
 8 of enactment of this Act, the Secretary of Commerce shall
 9 submit to the appropriate committees of Congress a report
 10 summarizing the alternative fishery management meas-
 11 ures each mixed-use fishery plans to implement under sec-
 12 tion 302(h)(8) of the Magnuson-Stevens Fishery Con-
 13 servation and Management Act (16 U.S.C. 1852(h)(8)),
 14 as amended.

15 **SEC. 103. STUDY OF LIMITED ACCESS PRIVILEGE PRO-**
 16 **GRAMS FOR MIXED-USE FISHERIES.**

17 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-
 18 GRAMS.—

19 (1) IN GENERAL.—Not later than 1 year after
 20 the date of enactment of this Act, the Ocean Studies
 21 Board of the National Academies of Sciences, Engi-
 22 neering, and Medicine shall—

23 (A) study the use of limited access privi-
 24 lege programs in mixed-use fisheries, includ-
 25 ing—

(i) identifying any inequities caused by a limited access privilege program;

(ii) recommending policies to address the inequities identified in clause (i), such as—

(I) referenda that cover all participants and sectors in the fishery before establishment, not just the commercial sector participants;

(II) auctions or lotteries for quota assignment in lieu of free quota transfers;

(III) limited duration of access privileges with periodic auction to assign quota ownership;

(IV) mandatory sector allocation analyses prior to quota assignment; and

(V) compensated reallocation plans to allow allocations to shift as demand and demographics shift; and

(iii) identifying and recommending the different factors and information a mixed-use fishery should consider when designing, establishing, or maintaining a limited

1 access privilege program to mitigate any
 2 inequities identified in clause (i); and

3 ~~(B) submit to the appropriate committees~~
 4 ~~of Congress a report on the study under sub-~~
 5 ~~paragraph (A), including the recommendations~~
 6 ~~under clauses (ii) and (iii) of subparagraph (A).~~

7 ~~(2) CONSIDERATIONS.—In conducting the study~~
 8 ~~under paragraph (1), the Ocean Studies Board shall~~
 9 ~~consider, at a minimum—~~

10 ~~(A) the community impacts of assignment~~
 11 ~~of quota to only one sector;~~

12 ~~(B) the disenfranchisement in the manage-~~
 13 ~~ment process of a sector not assigned quota;~~
 14 ~~and~~

15 ~~(C) the loss of public resource rent.~~

16 ~~(b) TEMPORARY MORATORIUM.—~~

17 ~~(1) IN GENERAL.—Except as provided in para-~~
 18 ~~graph (2), there shall be a moratorium on the sub-~~
 19 ~~mission and approval of a limited access privilege~~
 20 ~~program for a mixed-used fishery until the date that~~
 21 ~~the report is submitted under subsection (a)(1)(B).~~

22 ~~(2) EXCEPTION.—Subject to paragraph (3), a~~
 23 ~~Council may submit, and the Secretary of Commerce~~
 24 ~~may approve, for a mixed-use fishery that is man-~~
 25 ~~aged under a limited access system, a limited access~~

1 privilege program if such program was part of a
 2 pending fishery management plan or plan amend-
 3 ment before the date of enactment of this Act.

4 ~~(3)~~ MANDATORY REVIEW.—A Council that ap-
 5 proves a limited access privilege program under
 6 paragraph ~~(2)~~ shall, upon issuance of the report re-
 7 quired under subparagraph (a), review and, to the
 8 extent practicable, revise the limited access privilege
 9 program to be consistent with the recommendations
 10 of the report or any subsequent statutory or regu-
 11 latory requirements designed to implement the rec-
 12 ommendations of the report.

13 ~~(4)~~ RULE OF CONSTRUCTION.—Nothing in this
 14 section may be construed to affect a limited access
 15 privilege program approved by the Secretary of
 16 Commerce before the date of enactment of this Act.

17 **SEC. 104. REBUILDING OVERFISHED FISHERIES.**

18 Section ~~304(c)(4)(A)~~ ~~(16 U.S.C. 1854(c)(4)(A))~~ is
 19 amended to read as follows:

20 “(A) specify a time period for rebuilding
 21 the fishery that—

22 “(i) shall be as short as possible, tak-
 23 ing into account the status and biology of
 24 any overfished stock of fish, the needs of
 25 fishing communities, recommendations by

1 international organizations in which the
 2 United States participates, and the inter-
 3 action of the overfished stock of fish within
 4 the marine ecosystem; and

5 “(ii) except where management meas-
 6 ures under an international agreement in
 7 which the United States participates dic-
 8 tate otherwise, shall not exceed—

9 “(I) 10 years; or

10 “(II) the sum of the time in
 11 which the affected stock of fish is ex-
 12 pected to surpass its maximum sus-
 13 tainable yield biomass level in the ab-
 14 sence of fishing mortality, and the
 15 mean generation of time of the af-
 16 fected stock of fish;”.

17 **SEC. 105. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**
 18 **REQUIREMENT.**

19 (a) **REGIONAL FISHERY MANAGEMENT COUNCILS.—**

20 Section 302 (16 U.S.C. 1852) is amended by adding at
 21 the end the following:

22 “(m) **CONSIDERATIONS FOR MODIFICATIONS TO AN-**
 23 **NUAL CATCH LIMIT REQUIREMENTS.—**

24 “(1) **ANNUAL CATCH LIMIT REQUIREMENT FOR**
 25 **CERTAIN DATA-POOR FISHERIES.—**Notwithstanding

1 subsection (h)(6), in the case of a stock of fish for
 2 which the total annual catch limit is 25 percent or
 3 more below the overfishing limit, a peer-reviewed
 4 stock survey and stock assessment have not been
 5 performed during the preceding 5 fishing years, and
 6 the stock is not subject to overfishing, a Council
 7 may, after notifying the Secretary, maintain the cur-
 8 rent annual catch limit for the stock until a peer-re-
 9 viewed stock survey and stock assessment are con-
 10 ducted and the results can be considered by the
 11 Council and its scientific and statistical committee.

12 “(2) AUTHORIZATION FOR MULTISPECIES COM-
 13 PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—
 14 For purposes of subsection (h)(6), a Council may es-
 15 tablish—

16 “(A) an annual catch limit for a stock
 17 complex; or

18 “(B) annual catch limits for each year in
 19 any continuous period that is not more than 3
 20 years in duration.

21 “(3) RULE OF CONSTRUCTION.—Nothing in
 22 this subsection shall be construed as providing an
 23 exemption from the requirements of section 301(a)
 24 of this Act.”.

1 (b) ACTION BY THE SECRETARY.—Section 304 (16
2 U.S.C. 1854) is amended—

3 (1) by striking “(i) INTERNATIONAL OVER-
4 FISHING.—” and inserting “(j) INTERNATIONAL
5 OVERFISHING.—”;

6 (2) in subsection (j)(1), as redesignated, by in-
7 serting “shall” before “immediately”; and

8 (3) by adding at the end the following:

9 “(k) STOCK SURVEYS AND ASSESSMENTS.—Not later
10 than 2 years after the date that the Secretary receives no-
11 tice from a Council under section 302(m), the Secretary
12 shall complete a peer-reviewed stock survey and stock as-
13 sessment of the applicable stock of fish and transmit the
14 results of the survey and assessment to the Council.”.

15 **SEC. 106. EXEMPTED FISHING PERMITS.**

16 (a) IN GENERAL.—Before the approval and issuance
17 of an exempted fishing permit under section 600.745 of
18 title 50, Code of Federal Regulations, or any successor
19 regulation, the Secretary of Commerce shall—

20 (1) direct a joint peer review of the application
21 for the exempted fishing permit by the appropriate
22 regional fisheries science center and State marine
23 fisheries commission; and

1 (2) certify that the Council or Federal agency
2 with jurisdiction over the affected fishery has deter-
3 mined that—

4 (A) the fishing activity to be conducted
5 under the proposed exempted fishing permit
6 would not negatively impact any management
7 measures or conservation objectives included
8 within existing fishery management plans or
9 plan amendments;

10 (B) the social and economic impacts in
11 both dollar amounts and loss of fishing oppor-
12 tunities on all participants in each sector of the
13 fishery expected to occur as a result of the pro-
14 posed exempted fishing permit would be mini-
15 mal;

16 (C) the information that would be collected
17 through the fishing activity to be conducted
18 under the proposed exempted fishing permit will
19 have a positive and direct impact on the con-
20 servation, assessment, or management of the
21 fishery; and

22 (D) the Governor of each coastal State po-
23 tentially impacted by the proposed exempted
24 fishing permit, as determined by the Secretary;

1 has been consulted on the fishing activity to be
2 conducted.

3 (b) ~~DURATION AND RENEWAL.~~—Beginning on the
4 date of enactment of this Act, each exempted fishing per-
5 mit issued under section 600.745 of title 50, Code of Fed-
6 eral Regulations, or any successor regulation—

7 (1) shall expire at the end of the 12-month pe-
8 riod beginning on the date the exempted fishing per-
9 mit is issued; and

10 (2) may be renewed in accordance with this sec-
11 tion.

12 (c) ~~SAVINGS PROVISION.~~—Except for subsection
13 (b)(2), nothing in this section may be construed to affect
14 an exempted fishing permit approved under section
15 600.745 of title 50, Code of Federal Regulations, before
16 the date of enactment of this Act.

17 **TITLE II—RECREATION FISHERY** 18 **INFORMATION, RESEARCH,** 19 **AND DEVELOPMENT**

20 **SEC. 201. COOPERATIVE DATA COLLECTION.**

21 (a) ~~IMPROVING DATA COLLECTION AND ANALYSIS.~~—
22 Section 404 (16 U.S.C. 1881c) is amended by adding at
23 the end the following:

24 “(c) ~~IMPROVING DATA COLLECTION AND ANAL-~~
25 ~~YSIS.~~—

1 ~~“(1) IN GENERAL.—Not later than 1 year after~~
2 ~~the date of enactment of the Modernizing Rec-~~
3 ~~reational Fisheries Management Act of 2017, the~~
4 ~~Secretary shall develop, in consultation with the~~
5 ~~science and statistical committees of the Councils es-~~
6 ~~tablished under section 302(g) and the Marine Fish-~~
7 ~~eries Commissions, and submit to the Committee on~~
8 ~~Commerce, Science, and Transportation of the Sen-~~
9 ~~ate and the Committee on Natural Resources of the~~
10 ~~House of Representatives a report on facilitating~~
11 ~~greater incorporation of data, analysis, stock assess-~~
12 ~~ments, and surveys from State agencies and non-~~
13 ~~governmental sources described in paragraph (2)~~
14 ~~into fisheries management decisions.~~

15 ~~“(2) NONGOVERNMENTAL SOURCES.—Non-~~
16 ~~governmental sources referred to in paragraph (1)~~
17 ~~include the following:~~

18 ~~“(A) Fishermen.~~

19 ~~“(B) Fishing communities.~~

20 ~~“(C) Universities.~~

21 ~~“(D) Research and philanthropic institu-~~
22 ~~tions.~~

23 ~~“(3) CONTENT.—In developing the report~~
24 ~~under paragraph (1), the Secretary shall—~~

1 “(A) identify types of data and analysis;
2 especially concerning recreational fishing; that
3 can be reliably used for purposes of this Act as
4 the basis for establishing conservation and man-
5 agement measures as required by section
6 303(a)(1); including setting standards for the
7 collection and use of that data and analysis in
8 stock assessments and surveys and for other
9 purposes;

10 “(B) provide specific recommendations for
11 collecting data and performing analyses identi-
12 fied as necessary to reduce uncertainty in and
13 improve the accuracy of future stock assess-
14 ments; including whether such data and anal-
15 ysis could be provided by nongovernmental
16 sources; including fishermen; fishing commu-
17 nities; universities; and research institutions;

18 “(C) consider the extent to which it is pos-
19 sible to establish a registry of persons collecting
20 or submitting the data and performing the
21 analyses identified under subparagraphs (A)
22 and (B); and

23 “(D) consider the extent to which the ac-
24 ceptance and use of data and analyses identi-

1 fied in the report in fishery management deci-
2 sions is practicable.”.

3 (b) ~~NAS REPORT RECOMMENDATIONS.~~—The Sec-
4 retary of Commerce shall take into consideration and, to
5 the extent feasible, implement the recommendations of the
6 National Academy of Sciences in the report entitled “Re-
7 view of the Marine Recreational Information Program
8 (2017)”, including—

9 (1) prioritizing the evaluation of electronic data
10 collection, including smartphone applications, elec-
11 tronic diaries for prospective data collection, and an
12 Internet website option for panel members or for the
13 public;

14 (2) evaluating whether the design of the Marine
15 Recreational Information Program for the purposes
16 of stock assessment and the determination of stock
17 management reference points is compatible with the
18 needs of in-season management of annual catch lim-
19 its; and

20 (3) if the Marine Recreational Information Pro-
21 gram is incompatible with the needs of in-season
22 management of annual catch limits, determining an
23 alternative method for in-season management.

1 **SEC. 202. RECREATIONAL DATA COLLECTION.**

2 (a) ~~FEDERAL-STATE PARTNERSHIPS.~~—Section
3 401(g) (16 U.S.C. 1881(g)) is amended—

4 (1) by redesignating paragraph (4) as para-
5 graph (5); and

6 (2) by inserting after paragraph (3) the fol-
7 lowing:

8 ~~“(4) FEDERAL-STATE PARTNERSHIPS.—~~

9 “(A) ESTABLISHMENT.—The Secretary
10 shall establish a partnership with a State to de-
11 velop best practices for implementing the State
12 program established under paragraph (2).

13 ~~“(B) GUIDANCE.—The Secretary shall de-~~
14 ~~velop guidance, in cooperation with the States,~~
15 ~~that details best practices for administering~~
16 ~~State programs pursuant to paragraph (2), and~~
17 ~~provide such guidance to the States.~~

18 ~~“(C) BIENNIAL REPORT.—The Secretary~~
19 ~~shall submit to the appropriate committees of~~
20 ~~Congress and publish biennial reports that in-~~
21 ~~clude—~~

22 ~~“(i) the estimated accuracy of—~~

23 ~~“(I) the information provided~~
24 ~~under subparagraphs (A) and (B) of~~
25 ~~paragraph (1) for each registry pro-~~

1 gram established under that para-
2 graph; and

3 “(H) the information from each
4 State program that is used to assist
5 in completing surveys or evaluating
6 effects of conservation and manage-
7 ment measures under paragraph (2);

8 “(ii) priorities for improving rec-
9 reational fishing data collection; and

10 “(iii) an explanation of any use of in-
11 formation collected by such State programs
12 and by the Secretary.

13 “(D) STATES GRANT PROGRAM.—The Sec-
14 retary shall make grants to States to improve
15 implementation of State programs consistent
16 with this subsection. The Secretary shall
17 prioritize such grants based on the ability of the
18 grant to improve the quality and accuracy of
19 such programs.

20 “(E) FUNDING.—A portion of the funds
21 made available through the Saltonstall-Ken-
22 nedy Grant Program under section 2 of the
23 Saltonstall-Kennedy Act (15 U.S.C. 713e-3)
24 shall be provided for implementation of this sec-
25 tion.”.

1 (b) ACTION BY SECRETARY OF COMMERCE.—The
2 Secretary of Commerce shall—

3 (1) not later than 90 days after the date of en-
4 actment of this Act, enter into an agreement with
5 the National Academy of Sciences to evaluate, in the
6 form of a report, whether the design of the Marine
7 Recreational Information Program, for the purposes
8 of stock assessment and the determination of stock
9 management reference points, is compatible with the
10 needs of in-season management of annual catch lim-
11 its under section 303(a)(15) of the Magnuson-Ste-
12 vens Fishery Conservation and Management Act (16
13 U.S.C. 1853(a)(1)), including whether in-season
14 management of annual catch limits is appropriate
15 for all recreational fisheries; and

16 (2) not later than 180 days after the date the
17 Secretary receives the report under paragraph (1),
18 submit to the appropriate committees of Congress
19 recommendations regarding—

20 (A) changes that could be made to the Ma-
21 rine Recreational Information Program to make
22 the program compatible with in-season manage-
23 ment of annual catch limits and other require-
24 ments under section 303(a)(15) of that Act for
25 those recreational fisheries for which in-season

1 management of annual catch limits is appro-
 2 priate; and

3 (B) alternative management approaches
 4 that could be applied to recreational fisheries
 5 for which the Marine Recreational Information
 6 Program is incapable of providing data at the
 7 level of accuracy and timeliness necessary for
 8 in-season management of annual catch limits,
 9 consistent with other requirements of this Act.

10 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
 11 **ERENCES.**

12 (a) *SHORT TITLE.*—*This Act may be cited as the*
 13 *“Modernizing Recreational Fisheries Management Act of*
 14 *2018”.*

15 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 16 *Act is as follows:*

Sec. 1. Short title; table of contents; references.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—CONSERVATION AND MANAGEMENT

*Sec. 101. Process for allocation review for South Atlantic and Gulf of Mexico
 mixed-use fisheries.*

Sec. 102. Fishery management measures.

Sec. 103. Study of limited access privilege programs for mixed-use fisheries.

Sec. 104. Rebuilding overfished fisheries.

Sec. 105. Authorization for multispecies complexes and multiyear catch limits.

Sec. 106. Exempted fishing permits.

**TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND
 DEVELOPMENT**

Sec. 201. Cooperative data collection.

Sec. 202. Recreational data collection.

TITLE III—RULE OF CONSTRUCTION

Sec. 301. Rule of construction.

1 (c) *REFERENCES TO THE MAGNUSON-STEVEN'S FISH-*
 2 *ERY CONSERVATION AND MANAGEMENT ACT.—Except as*
 3 *otherwise expressly provided, wherever in this Act an*
 4 *amendment or repeal is expressed in terms of an amend-*
 5 *ment to, or repeal of, a section or other provision, the ref-*
 6 *erence shall be considered to be made to a section or other*
 7 *provision of the Magnuson-Stevens Fishery Conservation*
 8 *and Management Act (16 U.S.C. 1801 et seq.).*

9 **SEC. 2. FINDINGS.**

10 Section 2(a) (16 U.S.C. 1801(a)) is amended by add-
 11 *ing at the end the following:*

12 “(13) While both provide significant cultural
 13 and economic benefits to the Nation, recreational fish-
 14 ing and commercial fishing are different activities.
 15 Therefore, management approaches should be adapted
 16 to the characteristics of each sector.”.

17 **SEC. 3. DEFINITIONS.**

18 *In this Act:*

19 (1) *APPROPRIATE COMMITTEES OF CONGRESS.—*
 20 *The term “appropriate committees of Congress”*
 21 *means—*

22 (A) *the Committee on Commerce, Science,*
 23 *and Transportation of the Senate; and*

1 (B) the Committee on Natural Resources of
2 the House of Representatives.

3 (2) COUNCIL.—The term “Council” means any
4 Regional Fishery Management Council established
5 under section 302 of the Magnuson-Stevens Fishery
6 Conservation and Management Act (16 U.S.C. 1852).

7 (3) LIMITED ACCESS PRIVILEGE PROGRAM.—The
8 term “limited access privilege program” means a pro-
9 gram that meets the requirements of section 303A of
10 the Magnuson-Stevens Fishery Conservation and
11 Management Act (16 U.S.C. 1853a).

12 (4) MIXED-USE FISHERY.—The term “mixed-use
13 fishery” means a Federal fishery in which 2 or more
14 of the following occur:

15 (A) Recreational fishing.

16 (B) Charter fishing.

17 (C) Commercial fishing.

18 **TITLE I—CONSERVATION AND** 19 **MANAGEMENT**

20 **SEC. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH** 21 **ATLANTIC AND GULF OF MEXICO MIXED-USE** 22 **FISHERIES.**

23 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
24 ERIES.—Not later than 60 days after the date of enactment
25 of this Act, the Secretary of Commerce shall enter into an

1 *arrangement with the National Academy of Sciences to con-*
 2 *duct a study of South Atlantic and Gulf of Mexico mixed-*
 3 *use fisheries—*

4 *(1) to provide guidance to each applicable Coun-*
 5 *cil on criteria that could be used for allocating fishing*
 6 *privileges, including consideration of the ecological,*
 7 *economic, and social factors of each component of a*
 8 *mixed-use fishery, in the preparation of a fishery*
 9 *management plan;*

10 *(2) to identify sources of information that could*
 11 *reasonably support the use of such criteria in alloca-*
 12 *tion decisions; and*

13 *(3) to develop procedures for allocation reviews*
 14 *and potential adjustments in allocations.*

15 *(b) REPORT.—Not later than 1 year after the date an*
 16 *arrangement is entered into under subsection (a), the Na-*
 17 *tional Academy of Sciences shall submit to the appropriate*
 18 *committees of Congress a report on the study conducted*
 19 *under that subsection.*

20 *(c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-*
 21 *LISHMENT.—*

22 *(1) IN GENERAL.—Not later than 2 years after*
 23 *the date of enactment of this Act, and every 5 years*
 24 *thereafter, an applicable Council shall perform a re-*
 25 *view of the allocations to the commercial fishing sec-*

1 *tor and the recreational fishing sector of all applica-*
 2 *ble fisheries in its jurisdiction, consistent with the*
 3 *provisions of this Act.*

4 (2) *CONSIDERATIONS.—In conducting a review*
 5 *under paragraph (1), an applicable Council shall*
 6 *consider, in each allocation decision, the ecological,*
 7 *economic, and social factors of—*

8 (A) *the commercial fishing sector; and*

9 (B) *the recreational fishing sector.*

10 (d) *DEFINITION OF APPLICABLE COUNCIL.—In this*
 11 *section, the term “applicable Council” means—*

12 (1) *the South Atlantic Fishery Management*
 13 *Council; or*

14 (2) *the Gulf of Mexico Fishery Management*
 15 *Council.*

16 **SEC. 102. FISHERY MANAGEMENT MEASURES.**

17 (a) *MANAGEMENT.—Section 302(h) (16 U.S.C.*
 18 *1852(h)) is amended—*

19 (1) *in paragraph (7)(C), by striking “; and” and*
 20 *inserting a semicolon;*

21 (2) *by redesignating paragraph (8) as para-*
 22 *graph (9); and*

23 (3) *by inserting after paragraph (7) the fol-*
 24 *lowing:*

1 “(8) have the authority to use fishery manage-
 2 ment measures in a recreational fishery (or the rec-
 3 reational component of a mixed-use fishery) in devel-
 4 oping a fishery management plan, plan amendment,
 5 or proposed regulations, such as extraction rates, fish-
 6 ing mortality targets, harvest control rules, or tradi-
 7 tional or cultural practices of native communities;
 8 and”.

9 (b) *REPORT*.—Not later than 180 days after the date
 10 of enactment of this Act, the Secretary of Commerce shall
 11 submit to the appropriate committees of Congress a report
 12 that describes any actions pursuant to paragraph (8) of sec-
 13 tion 302(h) of the Magnuson-Stevens Fishery Conservation
 14 and Management Act (16 U.S.C. 1852(h)), as added by sub-
 15 section (a).

16 (c) *OTHER FISHERIES*.—Nothing in paragraph (8) of
 17 section 302(h) of the Magnuson-Stevens Fishery Conserva-
 18 tion and Management Act (16 U.S.C. 1852(h)), as added
 19 by subsection (a), shall be construed to affect management
 20 of any fishery not described in such paragraph (8).

21 **SEC. 103. STUDY OF LIMITED ACCESS PRIVILEGE PRO-**
 22 **GRAMS FOR MIXED-USE FISHERIES.**

23 (a) *STUDY ON LIMITED ACCESS PRIVILEGE PRO-*
 24 *GRAMS*.—

1 (1) *IN GENERAL.*—Not later than 2 years after
2 the date of enactment of this Act, the Ocean Studies
3 Board of the National Academies of Sciences, Engi-
4 neering, and Medicine shall—

5 (A) complete a study on the use of limited
6 access privilege programs in mixed-use fisheries,
7 including—

8 (i) an assessment of progress in meet-
9 ing the goals of the program and this Act;

10 (ii) an assessment of the social, eco-
11 nomic, and ecological effects of the program,
12 considering each sector of a mixed-use fish-
13 ery and related businesses, coastal commu-
14 nities, and the environment;

15 (iii) an assessment of any impacts to
16 stakeholders in a mixed-use fishery caused
17 by a limited access privilege program;

18 (iv) recommendations of policies to ad-
19 dress any impacts identified under clause
20 (iii); and

21 (v) identification of and recommenda-
22 tion of the different factors and information
23 that should be considered when designing,
24 establishing, or maintaining a limited ac-
25 cess privilege program in a mixed-use fish-

1 *ery to mitigate any impacts identified in*
 2 *clause (iii); and*

3 *(B) submit to the appropriate committees of*
 4 *Congress a report on the study under subpara-*
 5 *graph (A), including the recommendations under*
 6 *clauses (iv) and (v) of subparagraph (A).*

7 *(2) EXCLUSION.—The study described in this*
 8 *subsection shall not include the areas covered by the*
 9 *North Pacific Fishery Management Council.*

10 *(b) TEMPORARY MORATORIUM.—*

11 *(1) IN GENERAL.—Except as provided in para-*
 12 *graph (2), with respect to applicable Councils, there*
 13 *shall be a moratorium on the submission and ap-*
 14 *proval of a limited access privilege program for a*
 15 *mixed-used fishery for 2 years after the date of enact-*
 16 *ment of this Act.*

17 *(2) EXCEPTION.—Subject to paragraph (3), an*
 18 *applicable Council may submit, and the Secretary of*
 19 *Commerce may approve, for a mixed-use fishery that*
 20 *is managed under a limited access system, a limited*
 21 *access privilege program if such program was part of*
 22 *a pending fishery management plan or plan amend-*
 23 *ment before the date of enactment of this Act.*

24 *(3) MANDATORY REVIEW.—An applicable Coun-*
 25 *cil that approves a limited access privilege program*

1 *under paragraph (2) shall, upon issuance of the re-*
 2 *port required under subparagraph (a), review and, to*
 3 *the extent practicable, revise the limited access privi-*
 4 *lege program to be consistent with the recommenda-*
 5 *tions of the report or any subsequent statutory or reg-*
 6 *ulatory requirements designed to implement the rec-*
 7 *ommendations of the report.*

8 (4) *LIMITED ACCESS PRIVILEGE PROGRAM.—*
 9 *Nothing in this section may be construed to affect a*
 10 *limited access privilege program approved by the Sec-*
 11 *retary of Commerce before the date of enactment of*
 12 *this Act.*

13 (5) *APPLICABLE COUNCIL.—In this subsection,*
 14 *the term “applicable Council” means—*

15 (A) *the Gulf of Mexico Fishery Management*
 16 *Council;*

17 (B) *the South Atlantic Fishery Management*
 18 *Council; or*

19 (C) *the Mid-Atlantic Fishery Management*
 20 *Council.*

21 **SEC. 104. REBUILDING OVERFISHED FISHERIES.**

22 *Section 304(e) (16 U.S.C. 1854(e)) is amended—*

23 (1) *in paragraph (4), by amending subpara-*
 24 *graph (A)(ii) to read as follows:*

1 “(ii) not exceed the shortest time pos-
 2 sible within which the stock of fish would be
 3 rebuilt without fishing occurring, plus one
 4 mean generation, unless management meas-
 5 ures under international agreement in
 6 which the United States participates dictate
 7 otherwise;” and

8 (2) in paragraph (7)—

9 (A) by redesignating subparagraphs (A)
 10 and (B) as clauses (i) and (ii);

11 (B) by striking “(7) The Secretary” and in-
 12 serting the following:

13 “(7)(A) The Secretary”;

14 (C) by striking “If the Secretary” and in-
 15 serting the following:

16 “(B) If the Secretary”;

17 (D) in subparagraph (A), as so redesign-
 18 ated, by striking “two years” and inserting the
 19 following: “2 years. The Secretary shall find that
 20 adequate progress toward ending overfishing and
 21 rebuilding affected fish stocks has not resulted
 22 if—

23 “(i) the status of the stock is not improving,
 24 such that it becomes unlikely that the stock will
 25 be rebuilt within the rebuilding time period;

1 “(ii) the applicable fishing mortality rate
2 or catch limits are exceeded, and the causes and
3 rebuilding consequences of such exceedances have
4 not been corrected;

5 “(iii) the rebuilding expectations are sig-
6 nificantly changed due to new information about
7 the status of the stock, and the new information
8 indicates that less progress than expected has
9 been made toward rebuilding the stock; or

10 “(iv) for other reasons, as appropriate.”;
11 and

12 (E) by adding at the end the following:

13 “(C) A Council shall not adopt, and the Sec-
14 retary shall not approve, a fishery management plan,
15 plan amendment, or proposed regulation required
16 under this subsection for any fishery that has pre-
17 viously been under such a plan that did not rebuild
18 such fishery to the biomass necessary to achieve max-
19 imum sustainable yield, as determined by the Coun-
20 cil’s scientific and statistical committee, unless the
21 new plan, amendment, or proposed regulation has at
22 least a 75 percent chance of rebuilding the fishery
23 within the time limit proposed by the Council, as cal-
24 culated by the Council’s scientific and statistical com-
25 mittee pursuant to section 302(g)(1)(B).”.

1 **SEC. 105. AUTHORIZATION FOR MULTISPECIES COMPLEXES**
 2 **AND MULTIYEAR CATCH LIMITS.**

3 *Section 302 (16 U.S.C. 1852) is amended by adding*
 4 *at the end the following:*

5 “(m) **AUTHORIZATION FOR MULTISPECIES COM-**
 6 **PLEXES AND MULTIYEAR CATCH LIMITS.**—For purposes of
 7 subsection (h)(6), a Council may establish—

8 “(1) *an annual catch limit for a stock complex;*
 9 *or*

10 “(2) *annual catch limits for each year in any*
 11 *continuous period that is not more than 3 years in*
 12 *duration.”.*

13 **SEC. 106. EXEMPTED FISHING PERMITS.**

14 (a) **OBJECTIONS.**—*If the Fishery Management Coun-*
 15 *cil, the Interstate Marine Fisheries Commission, or the fish*
 16 *and wildlife agency of an affected State objects to the ap-*
 17 *proval and issuance of an exempted fishing permit under*
 18 *section 600.745 of title 50, Code of Federal Regulations, or*
 19 *any successor regulation, the Regional Administrator of the*
 20 *National Marine Fisheries Service who issued such exempt-*
 21 *ed fishing permit shall respond to such entity in writing*
 22 *detailing why such exempted fishing permit was issued.*

23 (b) **12-MONTH FINDING.**—*At the end of the 12-month*
 24 *period beginning on the date the exempted fishing permit*
 25 *is issued under section 600.745 of title 50, Code of Federal*
 26 *Regulations, or any successor regulation, the Council that*

1 prepared the fishery management plan, or the Secretary in
 2 the case of a fishery management plan prepared and imple-
 3 mented by the Secretary, shall review the exempted fishing
 4 permit and determine whether any unintended negative im-
 5 pacts have occurred that would warrant the discontinuation
 6 of the permit.

7 (c) SAVINGS PROVISION.—Nothing in this section may
 8 be construed to affect an exempted fishing permit approved
 9 under section 600.745 of title 50, Code of Federal Regula-
 10 tions, before the date of enactment of this Act.

11 **TITLE II—RECREATION FISHERY** 12 **INFORMATION, RESEARCH,** 13 **AND DEVELOPMENT**

14 **SEC. 201. COOPERATIVE DATA COLLECTION.**

15 (a) IMPROVING DATA COLLECTION AND ANALYSIS.—
 16 Section 404 (16 U.S.C. 1881c) is amended by adding at
 17 the end the following:

18 “(e) IMPROVING DATA COLLECTION AND ANALYSIS.—

19 “(1) IN GENERAL.—Not later than 1 year after
 20 the date of enactment of the Modernizing Recreational
 21 Fisheries Management Act of 2017, the Secretary
 22 shall develop, in consultation with the science and
 23 statistical committees of the Councils established
 24 under section 302(g) and the Marine Fisheries Com-
 25 missions, and submit to the Committee on Commerce,

1 *Science, and Transportation of the Senate and the*
2 *Committee on Natural Resources of the House of Rep-*
3 *resentatives a report on facilitating greater incorpo-*
4 *ration of data, analysis, stock assessments, and sur-*
5 *veys from State agencies and nongovernmental*
6 *sources described in paragraph (2), to the extent such*
7 *information is consistent with section 301(a)(2), into*
8 *fisheries management decisions.*

9 “(2) *CONTENT.*—*In developing the report under*
10 *paragraph (1), the Secretary shall—*

11 “(A) *identify types of data and analysis, es-*
12 *pecially concerning recreational fishing, that can*
13 *be used for purposes of this Act as the basis for*
14 *establishing conservation and management meas-*
15 *ures as required by section 303(a)(1), including*
16 *setting standards for the collection and use of*
17 *that data and analysis in stock assessments and*
18 *surveys and for other purposes;*

19 “(B) *provide specific recommendations for*
20 *collecting data and performing analyses identi-*
21 *fied as necessary to reduce uncertainty in and*
22 *improve the accuracy of future stock assessments,*
23 *including whether such data and analysis could*
24 *be provided by nongovernmental sources; and*

1 “(C) consider the extent to which the accept-
 2 ance and use of data and analyses identified in
 3 the report in fishery management decisions is
 4 practicable and compatible with the require-
 5 ments of section 301(a)(2).”.

6 (b) *NAS REPORT RECOMMENDATIONS.*—*The Secretary*
 7 *of Commerce shall take into consideration and, to the extent*
 8 *feasible, implement the recommendations of the National*
 9 *Academy of Sciences in the report entitled “Review of the*
 10 *Marine Recreational Information Program (2017)”*, and
 11 *shall submit, every 2 years following the date of enactment*
 12 *of this Act, a report to the appropriate committees of Con-*
 13 *gress detailing progress made implementing those rec-*
 14 *ommendations. Recommendations considered shall in-*
 15 *clude—*

16 (1) *prioritizing the evaluation of electronic data*
 17 *collection, including smartphone applications, elec-*
 18 *tronic diaries for prospective data collection, and an*
 19 *internet website option for panel members or for the*
 20 *public;*

21 (2) *evaluating whether the design of the Marine*
 22 *Recreational Information Program for the purposes of*
 23 *stock assessment and the determination of stock man-*
 24 *agement reference points is compatible with the needs*
 25 *of in-season management of annual catch limits; and*

1 (3) if the Marine Recreational Information Pro-
 2 gram is incompatible with the needs of in-season
 3 management of annual catch limits, determining an
 4 alternative method for in-season management.

5 **SEC. 202. RECREATIONAL DATA COLLECTION.**

6 Section 401 (16 U.S.C. 1881) is amended—

7 (1) in subsection (g)—

8 (A) by redesignating paragraph (4) as
 9 paragraph (5); and

10 (B) by inserting after paragraph (3) the fol-
 11 lowing:

12 “(4) *FEDERAL-STATE PARTNERSHIPS.*—

13 “(A) *ESTABLISHMENT.*—The Secretary shall
 14 establish a partnership with a State to develop
 15 best practices for implementing the State pro-
 16 gram established under paragraph (2).

17 “(B) *GUIDANCE.*—The Secretary shall de-
 18 velop guidance, in cooperation with the States,
 19 that details best practices for administering
 20 State programs pursuant to paragraph (2), and
 21 provide such guidance to the States.

22 “(C) *BIENNIAL REPORT.*—The Secretary
 23 shall submit to the appropriate committees of
 24 Congress and publish biennial reports that in-
 25 clude—

1 “(i) the estimated accuracy of—

2 “(I) the information provided
3 under subparagraphs (A) and (B) of
4 paragraph (1) for each registry pro-
5 gram established under that para-
6 graph; and

7 “(II) the information from each
8 State program that is used to assist in
9 completing surveys or evaluating effects
10 of conservation and management meas-
11 ures under paragraph (2);

12 “(ii) priorities for improving rec-
13 reational fishing data collection; and

14 “(iii) an explanation of any use of in-
15 formation collected by such State programs
16 and by the Secretary.

17 “(D) STATES GRANT PROGRAM.—The Sec-
18 retary may make grants to States to improve
19 implementation of State programs consistent
20 with this subsection, and assist such programs in
21 complying with requirements related to changes
22 in recreational data collection under paragraph
23 (3). Any funds awarded through such grants
24 shall be used to support data collection, quality
25 assurance, and outreach to entities submitting

1 *such data. The Secretary shall prioritize such*
 2 *grants based on the ability of the grant to im-*
 3 *prove the quality and accuracy of such pro-*
 4 *grams.”; and*

5 *(2) by adding at the end the following:*

6 *“(h) ACTION BY SECRETARY.—The Secretary shall—*
 7 *“(1) within 90 days after the date of the enact-*
 8 *ment of the Modernizing Recreational Fisheries Man-*
 9 *agement Act of 2018, enter into an agreement with*
 10 *the National Academy of Sciences to evaluate, in the*
 11 *form of a report—*

12 *“(A) how the design of the Marine Rec-*
 13 *reational Information Program, for the purposes*
 14 *of stock assessment and the determination of*
 15 *stock management reference points, can be im-*
 16 *proved to better meet the needs of in-season man-*
 17 *agement of annual catch limits under section*
 18 *303(a)(15); and*

19 *“(B) what actions the Secretary, Councils,*
 20 *and States could take to improve the accuracy*
 21 *and timeliness of data collection and analysis to*
 22 *improve the Marine Recreational Information*
 23 *Program and facilitate in-season management;*
 24 *and*

1 “(2) within 6 months after receiving the report
2 under paragraph (1), submit to Congress rec-
3 ommendations regarding—

4 “(A) changes to be made to the Marine Rec-
5 reational Information Program to make the pro-
6 gram better meet the needs of in-season manage-
7 ment of annual catch limits and other require-
8 ments under such section; and

9 “(B) alternative management approaches
10 that could be applied to recreational fisheries for
11 which the Marine Recreational Information Pro-
12 gram is not meeting the needs of in-season man-
13 agement of annual catch limits, consistent with
14 other requirements of this Act, until such time as
15 the changes in subparagraph (A) are imple-
16 mented.”.

17 **TITLE III—RULE OF** 18 **CONSTRUCTION**

19 **SEC. 301. RULE OF CONSTRUCTION.**

20 *Nothing in this Act shall be construed as modifying*
21 *the requirements of sections 301(a), 302(h)(6), or*
22 *303(a)(15) of the Magnuson-Stevens Fishery Conservation*
23 *and Management Act (16 U.S.C. 1851(a); 1852(h)(6);*
24 *1853(a)(15)).*

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[Report No. 115-264]

A BILL

To expand recreational fishing opportunities through enhanced marine fishery conservation and management, and for other purposes.

JUNE 5, 2018

Reported with an amendment