

115TH CONGRESS
1ST SESSION

S. 1520

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, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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,*

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

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Modernizing Recreational Fisheries Management Act of
7 2017”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 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.

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

9 **SEC. 2. FINDINGS.**

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

13 “(13) While both provide significant cultural
 14 and economic benefits to the Nation, recreational
 15 fishing and commercial fishing are fundamentally
 16 different activities, therefore requiring management

1 approaches adapted to the characteristics of each
 2 sector.”.

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

5 “(3) Commercial and recreational fishing con-
 6 stitute major sources of employment and contribute
 7 significantly to the economy of the Nation. Many
 8 coastal areas are dependent upon fishing and related
 9 activities.”.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) APPROPRIATE COMMITTEES OF CON-
 13 GRESS.—The term “appropriate committees of Con-
 14 gress” means—

15 (A) the Committee on Commerce, Science,
 16 and Transportation of the Senate; and

17 (B) the Committee on Natural Resources
 18 of the House of Representatives.

19 (2) COUNCIL.—The term “Council” means any
 20 Regional Fishery Management Council established
 21 under section 302 of the Magnuson-Stevens Fishery
 22 Conservation and Management Act (16 U.S.C.
 23 1852).

24 (3) LIMITED ACCESS PRIVILEGE PROGRAM.—
 25 The term “limited access privilege program” means

a program that meets the requirements of section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853a).

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

(A) Recreational fishing.

(B) Charter fishing.

(C) Commercial fishing.

TITLE I—CONSERVATION AND MANAGEMENT

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

(a) STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall enter into an arrangement with the National Academy of Sciences to conduct a study of South Atlantic and Gulf of Mexico mixed-use fisheries—

(1) to provide guidance to each applicable Council on criteria that could be used for allocating fishing privileges, including consideration of the conservation and socioeconomic benefits of the commercial, recreational, and charter components of a fish-

1 ery, in the preparation of a fishery management
2 plan;

3 (2) to identify sources of information that could
4 reasonably support the use of such criteria in alloca-
5 tion decisions; and

6 (3) to develop procedures for allocation reviews
7 and potential adjustments in allocations.

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

13 (c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-
14 LISHMENT.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date of enactment of this Act, and every 5 years
17 thereafter, an applicable Council shall perform a re-
18 view of the allocations to the commercial fishing sec-
19 tor and the recreational fishing sector of all applica-
20 ble fisheries in its jurisdiction.

21 (2) CONSIDERATIONS.—In conducting a review
22 under paragraph (1), an applicable Council shall
23 consider, in each allocation decision, the conserva-
24 tion and socioeconomic benefits of—

25 (A) the commercial fishing sector; and

1 (B) the recreational fishing sector.

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

4 (1) the South Atlantic Fishery Management
5 Council; or

6 (2) the Gulf of Mexico Fishery Management
7 Council.

8 **SEC. 102. ALTERNATIVE FISHERY MANAGEMENT.**

9 (a) MANAGEMENT.—Section 302(h) (16 U.S.C.
10 1852(h)) is amended—

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

13 (2) by redesignating paragraph (8) as para-
14 graph (9); and

15 (3) by inserting after paragraph (7) the fol-
16 lowing:

17 “(8) have the authority to use alternative fish-
18 ery management measures in a recreational fishery
19 (or the recreational component of a mixed-use fish-
20 ery) in developing a fishery management plan, plan
21 amendment, or proposed regulations, including ex-
22 traction rates, fishing mortality targets, harvest con-
23 trol rules, or traditional or cultural practices of na-
24 tive communities; and”.

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

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

11 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-
 12 GRAMS.—

13 (1) IN GENERAL.—Not later than 1 year after
 14 the date of enactment of this Act, the Ocean Studies
 15 Board of the National Academies of Sciences, Engi-
 16 neering, and Medicine shall—

17 (A) study the use of limited access privi-
 18 lege programs in mixed-use fisheries, includ-
 19 ing—

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

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

1 (I) referenda that cover all par-
2 ticipants and sectors in the fishery be-
3 fore establishment, not just the com-
4 mercial sector participants;

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

8 (III) limited duration of access
9 privileges with periodic auction to as-
10 sign quota ownership;

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

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

17 (iii) identifying and recommending the
18 different factors and information a mixed-
19 use fishery should consider when design-
20 ing, establishing, or maintaining a limited
21 access privilege program to mitigate any
22 inequities identified in clause (i); and

23 (B) submit to the appropriate committees
24 of Congress a report on the study under sub-

1 paragraph (A), including the recommendations
 2 under clauses (ii) and (iii) of subparagraph (A).

3 (2) CONSIDERATIONS.—In conducting the study
 4 under paragraph (1), the Ocean Studies Board shall
 5 consider, at a minimum—

6 (A) the community impacts of assignment
 7 of quota to only one sector;

8 (B) the disenfranchisement in the manage-
 9 ment process of a sector not assigned quota;
 10 and

11 (C) the loss of public resource rent.

12 (b) TEMPORARY MORATORIUM.—

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

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

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

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

14 **SEC. 104. REBUILDING OVERFISHED FISHERIES.**

15 Section 304(e)(4)(A) (16 U.S.C. 1854(e)(4)(A)) is
 16 amended to read as follows:

17 “(A) specify a time period for rebuilding
 18 the fishery that—

19 “(i) shall be as short as possible, tak-
 20 ing into account the status and biology of
 21 any overfished stock of fish, the needs of
 22 fishing communities, recommendations by
 23 international organizations in which the
 24 United States participates, and the inter-

1 action of the overfished stock of fish within
2 the marine ecosystem; and

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

7 “(I) 10 years; or

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

15 **SEC. 105. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**
16 **REQUIREMENT.**

17 (a) REGIONAL FISHERY MANAGEMENT COUNCILS.—
18 Section 302 (16 U.S.C. 1852) is amended by adding at
19 the end the following:

20 “(m) CONSIDERATIONS FOR MODIFICATIONS TO AN-
21 NUAL CATCH LIMIT REQUIREMENTS.—

22 “(1) ANNUAL CATCH LIMIT REQUIREMENT FOR
23 CERTAIN DATA-POOR FISHERIES.—Notwithstanding
24 subsection (h)(6), in the case of a stock of fish for
25 which the total annual catch limit is 25 percent or

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

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

14 “(A) an annual catch limit for a stock
 15 complex; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (D) the Governor of each coastal State po-
20 tentially impacted by the proposed exempted
21 fishing permit, as determined by the Secretary,
22 has been consulted on the fishing activity to be
23 conducted.

24 (b) DURATION AND RENEWAL.—Beginning on the
25 date of enactment of this Act, each exempted fishing per-

1 mit issued under section 600.745 of title 50, Code of Fed-
 2 eral Regulations, or any successor regulation—

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

6 (2) may be renewed in accordance with this sec-
 7 tion.

8 (c) SAVINGS PROVISION.—Except for subsection
 9 (b)(2), nothing in this section may be construed to affect
 10 an exempted fishing permit approved under section
 11 600.745 of title 50, Code of Federal Regulations, before
 12 the date of enactment of this Act.

13 **TITLE II—RECREATION FISHERY** 14 **INFORMATION, RESEARCH,** 15 **AND DEVELOPMENT**

16 **SEC. 201. COOPERATIVE DATA COLLECTION.**

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

20 “(e) IMPROVING DATA COLLECTION AND ANAL-
 21 YSIS.—

22 “(1) IN GENERAL.—Not later than 1 year after
 23 the date of enactment of the Modernizing Rec-
 24 reational Fisheries Management Act of 2017, the
 25 Secretary shall develop, in consultation with the

1 science and statistical committees of the Councils es-
 2 tablished under section 302(g) and the Marine Fish-
 3 eries Commissions, and submit to the Committee on
 4 Commerce, Science, and Transportation of the Sen-
 5 ate and the Committee on Natural Resources of the
 6 House of Representatives a report on facilitating
 7 greater incorporation of data, analysis, stock assess-
 8 ments, and surveys from State agencies and non-
 9 governmental sources described in paragraph (2)
 10 into fisheries management decisions.

11 “(2) NONGOVERNMENTAL SOURCES.—Non-
 12 governmental sources referred to in paragraph (1)
 13 include the following:

14 “(A) Fishermen.

15 “(B) Fishing communities.

16 “(C) Universities.

17 “(D) Research and philanthropic institu-
 18 tions.

19 “(3) CONTENT.—In developing the report
 20 under paragraph (1), the Secretary shall—

21 “(A) identify types of data and analysis,
 22 especially concerning recreational fishing, that
 23 can be reliably used for purposes of this Act as
 24 the basis for establishing conservation and man-
 25 agement measures as required by section

1 303(a)(1), including setting standards for the
2 collection and use of that data and analysis in
3 stock assessments and surveys and for other
4 purposes;

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

13 “(C) consider the extent to which it is pos-
14 sible to establish a registry of persons collecting
15 or submitting the data and performing the
16 analyses identified under subparagraphs (A)
17 and (B); and

18 “(D) consider the extent to which the ac-
19 ceptance and use of data and analyses identi-
20 fied in the report in fishery management deci-
21 sions is practicable.”.

22 (b) NAS REPORT RECOMMENDATIONS.—The Sec-
23 retary of Commerce shall take into consideration and, to
24 the extent feasible, implement the recommendations of the
25 National Academy of Sciences in the report entitled “Re-

1 view of the Marine Recreational Information Program
 2 (2017)”, including—

3 (1) prioritizing the evaluation of electronic data
 4 collection, including smartphone applications, elec-
 5 tronic diaries for prospective data collection, and an
 6 Internet website option for panel members or for the
 7 public;

8 (2) evaluating whether the design of the Marine
 9 Recreational Information Program for the purposes
 10 of stock assessment and the determination of stock
 11 management reference points is compatible with the
 12 needs of in-season management of annual catch lim-
 13 its; and

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

18 **SEC. 202. RECREATIONAL DATA COLLECTION.**

19 (a) FEDERAL-STATE PARTNERSHIPS.—Section
 20 401(g) (16 U.S.C. 1881(g)) is amended—

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

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

25 “(4) FEDERAL-STATE PARTNERSHIPS.—

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

5 “(B) GUIDANCE.—The Secretary shall de-
6 velop guidance, in cooperation with the States,
7 that details best practices for administering
8 State programs pursuant to paragraph (2), and
9 provide such guidance to the States.

10 “(C) BIENNIAL REPORT.—The Secretary
11 shall submit to the appropriate committees of
12 Congress and publish biennial reports that in-
13 clude—

14 “(i) the estimated accuracy of—

15 “(I) the information provided
16 under subparagraphs (A) and (B) of
17 paragraph (1) for each registry pro-
18 gram established under that para-
19 graph; and

20 “(II) the information from each
21 State program that is used to assist
22 in completing surveys or evaluating
23 effects of conservation and manage-
24 ment measures under paragraph (2);

“(ii) priorities for improving recreational fishing data collection; and

“(iii) an explanation of any use of information collected by such State programs and by the Secretary.

“(D) STATES GRANT PROGRAM.—The Secretary shall make grants to States to improve implementation of State programs consistent with this subsection. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.

“(E) FUNDING.—A portion of the funds made available through the Saltonstall–Kennedy Grant Program under section 2 of the Saltonstall–Kennedy Act (15 U.S.C. 713c–3) shall be provided for implementation of this section.”.

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

(1) not later than 90 days after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences to evaluate, in the form of a report, whether the design of the Marine Recreational Information Program, for the purposes

1 of stock assessment and the determination of stock
2 management reference points, is compatible with the
3 needs of in-season management of annual catch lim-
4 its under section 303(a)(15) of the Magnuson-Ste-
5 vens Fishery Conservation and Management Act (16
6 U.S.C. 1853(a)(1)), including whether in-season
7 management of annual catch limits is appropriate
8 for all recreational fisheries; and

9 (2) not later than 180 days after the date the
10 Secretary receives the report under paragraph (1),
11 submit to the appropriate committees of Congress
12 recommendations regarding—

13 (A) changes that could be made to the Ma-
14 rine Recreational Information Program to make
15 the program compatible with in-season manage-
16 ment of annual catch limits and other require-
17 ments under section 303(a)(15) of that Act for
18 those recreational fisheries for which in-season
19 management of annual catch limits is appro-
20 priate; and

21 (B) alternative management approaches
22 that could be applied to recreational fisheries
23 for which the Marine Recreational Information
24 Program is incapable of providing data at the
25 level of accuracy and timeliness necessary for

- 1 in-season management of annual catch limits,
- 2 consistent with other requirements of this Act.

