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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) Short Title.—This Act may be cited as the “Modernizing Recreational Fisheries Management Act of 2017”.

(b) Table of Contents.—The table of contents of this Act is as follows:

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

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.

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

SEC. 2. FINDINGS.

(a) RECREATIONAL FISHING.—Section 2(a) (16 U.S.C. 1801(a)) is amended by adding at the end the following:

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

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

“(3) Commercial and recreational fishing constitute major sources of employment and contribute significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities.”.

SEC. 3. DEFINITIONS.

In this Act:

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

   (A) the Committee on Commerce, Science, and Transportation of the Senate; and
   (B) the Committee on Natural Resources of the House of Representatives.

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

(3) LIMITED ACCESS PRIVILEGE PROGRAM.—

   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-
ery, in the preparation of a fishery management plan;

(2) to identify sources of information that could reasonably support the use of such criteria in allocation decisions; and

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

(b) Report.—Not later than 1 year after the date an arrangement is entered into under subsection (a), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under that subsection.

(c) Process for Allocation Review and Establishment.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, an applicable Council shall perform a review of the allocations to the commercial fishing sector and the recreational fishing sector of all applicable fisheries in its jurisdiction.

(2) Considerations.—In conducting a review under paragraph (1), an applicable Council shall consider, in each allocation decision, the conservation and socioeconomic benefits of—

(A) the commercial fishing sector; and
(B) the recreational fishing sector.

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

(1) the South Atlantic Fishery Management Council; or

(2) the Gulf of Mexico Fishery Management Council.

SEC. 102. ALTERNATIVE FISHERY MANAGEMENT.

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

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

(2) by redesignating paragraph (8) as paragraph (9); and

(3) by inserting after paragraph (7) the following:

“(8) have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) in developing a fishery management plan, plan amendment, or proposed regulations, including extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities; and”.
(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the appropriate committees of Congress a report summarizing the alternative fishery management measures each mixed-use fishery plans to implement under section 302(h)(8) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(h)(8)), as amended.

SEC. 103. STUDY OF LIMITED ACCESS PRIVILEGE PROGRAMS FOR MIXED-USE FISHERIES.

(a) Study on Limited Access Privilege Programs.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine shall—

(A) study the use of limited access privilege programs in mixed-use fisheries, including—

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

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

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

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

(B) the disenfranchisement in the management process of a sector not assigned quota; and

(C) the loss of public resource rent.

(b) TEMPORARY MORATORIUM.—

(1) IN GENERAL.—Except as provided in paragraph (2), there shall be a moratorium on the submission and approval of a limited access privilege program for a mixed-used fishery until the date that the report is submitted under subsection (a)(1)(B).

(2) EXCEPTION.—Subject to paragraph (3), a Council may submit, and the Secretary of Commerce may approve, for a mixed-use fishery that is managed under a limited access system, a limited access privilege program if such program was part of a pending fishery management plan or plan amendment before the date of enactment of this Act.
(3) **MANDATORY REVIEW.**—A Council that approves a limited access privilege program under paragraph (2) shall, upon issuance of the report required under subparagraph (a), review and, to the extent practicable, revise the limited access privilege program to be consistent with the recommendations of the report or any subsequent statutory or regulatory requirements designed to implement the recommendations of the report.

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

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

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

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

“(i) shall be as short as possible, taking into account the status and biology of any overfished stock of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the inter-
action of the overfished stock of fish within
the marine ecosystem; and

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

“(I) 10 years; or

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

SEC. 105. MODIFICATIONS TO THE ANNUAL CATCH LIMIT
REQUIREMENT.

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

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

“(1) ANNUAL CATCH LIMIT REQUIREMENT FOR
CERTAIN DATA-POOR FISHERIES.—Notwithstanding
subsection (h)(6), in the case of a stock of fish for
which the total annual catch limit is 25 percent or
more below the overfishing limit, a peer-reviewed stock survey and stock assessment have not been performed during the preceding 5 fishing years, and the stock is not subject to overfishing, a Council may, after notifying the Secretary, maintain the current annual catch limit for the stock until a peer-reviewed stock survey and stock assessment are conducted and the results can be considered by the Council and its scientific and statistical committee.

“(2) AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—For purposes of subsection (h)(6), a Council may establish—

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

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

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

(b) ACTION BY THE SECRETARY.—Section 304 (16 U.S.C. 1854) is amended—
(1) by striking “(i) INTERNATIONAL OVER-
FISHING.—” and inserting “(j) INTERNATIONAL
OVERFISHING.—”;
(2) in subsection (j)(1), as redesignated, by in-
serting “shall” before “immediately”; and
(3) by adding at the end the following:
“(k) STOCK SURVEYS AND ASSESSMENTS.—Not later
than 2 years after the date that the Secretary receives no-
notice from a Council under section 302(m), the Secretary
shall complete a peer-reviewed stock survey and stock as-
se ssment of the applicable stock of fish and transmit the
results of the survey and assessment to the Council.”.

SEC. 106. EXEMPTED FISHING PERMITS.

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

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

(2) certify that the Council or Federal agency
with jurisdiction over the affected fishery has deter-
mined that—
(A) the fishing activity to be conducted under the proposed exempted fishing permit would not negatively impact any management measures or conservation objectives included within existing fishery management plans or plan amendments;

(B) the social and economic impacts in both dollar amounts and loss of fishing opportunities on all participants in each sector of the fishery expected to occur as a result of the proposed exempted fishing permit would be minimal;

(C) the information that would be collected through the fishing activity to be conducted under the proposed exempted fishing permit will have a positive and direct impact on the conservation, assessment, or management of the fishery; and

(D) the Governor of each coastal State potentially impacted by the proposed exempted fishing permit, as determined by the Secretary, has been consulted on the fishing activity to be conducted.

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

(1) shall expire at the end of the 12-month period beginning on the date the exempted fishing permit is issued; and

(2) may be renewed in accordance with this section.

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

TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

SEC. 201. COOPERATIVE DATA COLLECTION.

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

“(e) IMPROVING DATA COLLECTION AND ANALYSIS.—

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

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

“(A) Fishermen.
“(B) Fishing communities.
“(C) Universities.
“(D) Research and philanthropic institu-
tions.

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

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

“(B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by nongovernmental sources, including fishermen, fishing communities, universities, and research institutions;

“(C) consider the extent to which it is possible to establish a registry of persons collecting or submitting the data and performing the analyses identified under subparagraphs (A) and (B); and

“(D) consider the extent to which the acceptance and use of data and analyses identified in the report in fishery management decisions is practicable.”.

(b) NAS REPORT RECOMMENDATIONS.—The Secretary of Commerce shall take into consideration and, to the extent feasible, implement the recommendations of the National Academy of Sciences in the report entitled “Re-
view of the Marine Recreational Information Program (2017), including—

(1) prioritizing the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection, and an Internet website option for panel members or for the public;

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

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

SEC. 202. RECREATIONAL DATA COLLECTION.

(a) Federal-State Partnerships.—Section 401(g) (16 U.S.C. 1881(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

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

“(B) GUIDANCE.—The Secretary shall develop guidance, in cooperation with the States, that details best practices for administering State programs pursuant to paragraph (2), and provide such guidance to the States.

“(C) BIENNIAL REPORT.—The Secretary shall submit to the appropriate committees of Congress and publish biennial reports that include—

“(i) the estimated accuracy of—

“(I) the information provided under subparagraphs (A) and (B) of paragraph (1) for each registry program established under that paragraph; and

“(II) the information from each State program that is used to assist in completing surveys or evaluating effects of conservation and management 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
of stock assessment and the determination of stock management reference points, is compatible with the needs of in-season management of annual catch limits under section 303(a)(15) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)(1)), including whether in-season management of annual catch limits is appropriate for all recreational fisheries; and

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

(A) changes that could be made to the Marine Recreational Information Program to make the program compatible with in-season management of annual catch limits and other requirements under section 303(a)(15) of that Act for those recreational fisheries for which in-season management of annual catch limits is appropriate; and

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