To amend the Magnuson-Stevens Fishery Conservation and Management Act to promote sustainable conservation and management for the Gulf of Mexico and South Atlantic fisheries and the communities that rely on them, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2017

Mr. RUBIO (for himself and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to promote sustainable conservation and management for the Gulf of Mexico and South Atlantic fisheries and the communities that rely on them, 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.

(a) Short Title.—This Act may be cited as the “Florida Fisheries Improvement Act of 2017”.

(b) Table of Contents.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Regional fishery management councils.
Sec. 102. Contents of fishery management plans.
Sec. 103. Funding for stock assessments, surveys, and data collection.
Sec. 104. Capital construction.
Sec. 105. Fisheries disaster relief.
Sec. 106. Regional fishery conservation and management authorities.
Sec. 107. Study of allocations in mixed-use fisheries in the Gulf of Mexico and South Atlantic.
Sec. 108. Requirements relating to experimental fishing permits for fishing in Gulf of Mexico or South Atlantic.

TITLE II—FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. Fisheries research.
Sec. 202. Improving science.

SEC. 2. 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.).

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) VOTING MEMBERS.—Section 302(b)(2)(D) (16 U.S.C. 1852(b)(2)(D)) is amended—
(1) in clause (i), in the matter before subclause (I)—

(A) by striking “Fisheries” and inserting “Fishery”; and

(B) by inserting “or the South Atlantic Fishery Management Council” after “Management Council”; and

(2) by striking clause (iv).

(b) COMMITTEES AND ADVISORY PANELS.—Section 302(g)(1)(B) (16 U.S.C. 1852(g)(1)(B)) is amended to read as follows:

“(B) Each scientific and statistical committee shall—

“(i) provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices; and

“(ii) carry out the requirements of this subparagraph in a transparent man-
ner, allowing for public involvement in the process.”.

(c) FUNCTIONS.—Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) in paragraph (7)(C), by striking “and” at the end;

(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), including extraction rates, fishing mortality, and harvest control rules, to the extent they are in accordance with the requirements of this Act; and”.

(d) WEBCASTS OF COUNCIL MEETINGS.—Section 302(i)(2) (16 U.S.C. 1852(i)(2)) is amended by adding at the end the following:

“(G) Unless closed in accordance with paragraph (3), each Council shall, where practicable, make available on the Internet website of the Council a video or audio webcast of each meeting of the Council and each meeting of the scientific and statistical committee of the Coun-
cil not later than 30 days after the date of the
conclusion of such meeting.”.

SEC. 102. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) LIMITATIONS.—Section 303 (16 U.S.C. 1853) is
amended by adding at the end the following:

“(d) LIMITATIONS.—

“(1) IN GENERAL.—The requirements under
subsection (a)(15) shall not—

“(A) apply to a species in a fishery that
has a mean life cycle of 12 months or less, or
to a species in a fishery with respect to which
the vast majority of spawning and recruitment
occurs beyond State waters and the exclusive
economic zone, unless the Secretary has deter-
mined the fishery is subject to overfishing of
that species; or

“(B) limit or otherwise affect the require-
ments of section 301(a)(1) or 304(e) of this
Act.

“(2) CONSTRUCTION.—Nothing in this sub-
section shall be construed to affect any effective date
regarding the requirements under subsection (a)(15)
otherwise provided for under an international agree-
ment in which the United States participates.”.
(b) Relationship of Catch Limit Requirements to International Fishery Efforts.—Such section is further amended by adding at the end the following:

“(e) Consideration of International Fishery Efforts in Developing Catch Limits.—

“(1) In general.—Each annual catch limit developed under section 302(h)(6) and each mechanism established under subsection (a)(15) of this section—

“(A) may take into account management measures under international agreements in which the United States participates; and

“(B) in the case of an annual catch limit developed by a Council for a species, shall take into account fishing for the species outside the exclusive economic zone and the life-history characteristics of the species that are not subject to the jurisdiction of the Council.

“(2) Exception to Annual Catch Limit Requirement.—If fishery management activities by another country with respect to fishing outside the exclusive economic zone may hinder conservation efforts by United States fishermen for a fish species for which any of the recruitment, distribution, life history, or fishing activities are transboundary, and
for which there is no informal transboundary agree-
ment with that country in effect—

“(A) notwithstanding section 302(h)(6), no
annual catch limit is required to be developed
for the species by a Council; and

“(B) if an annual catch limit is developed
by a Council for the species, the catch limit
shall take into account fishing for the species
outside the exclusive economic zone that is not
subject to the jurisdiction of the Council.”.

SEC. 103. FUNDING FOR STOCK ASSESSMENTS, SURVEYS,
AND DATA COLLECTION.

Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amend-
ed—

(1) in subparagraph (E), by striking “; and”
and inserting a semicolon;

(2) in subparagraph (F), by striking the period
at the end and inserting “; and”; and

(3) by inserting after subparagraph (F) the fol-
lowing:

“(G) the costs of stock assessments, sur-
veys, and data collection in fisheries managed
under this Act.”.
(a) Definitions; Eligible and Qualified Fishery Facilities.—Section 53501 of title 46, United States Code, is amended—

(1) by striking ``(7) United States foreign trade.—'' and inserting ``(11) United States foreign trade.—'';

(2) by striking ``(8) Vessel.—'' and inserting ``(12) Vessel.—'';

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (8), (9), and (10), respectively;

(4) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(5) by redesignating paragraph (1) as paragraph (2);

(6) by inserting before paragraph (2), as redesignated, the following:

``(1) Agreement fishery facility.—The term ‘agreement fishery facility’ means an eligible fishery facility or a qualified fishery facility that is subject to an agreement under this chapter.’’;

(7) by inserting after paragraph (2), as redesignated, the following:

``(3) Eligible fishery facility.—The term ‘eligible fishery facility’ means—

(A) for operations on land—
“(i) a structure or an appurtenance thereto designed for unloading and receiving from a vessel, processing, holding pending processing, distribution after processing, or holding pending distribution, of fish from a fishery;

“(ii) the land necessary for the structure or appurtenance described in subsection (1); and

“(iii) equipment that is for use with the structure or appurtenance that is necessary to perform a function described in clause (i);

“(B) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, processing fish; or

“(C) for aquaculture, including operations on land or elsewhere—

“(i) a structure or an appurtenance thereto designed for aquaculture;

“(ii) the land necessary for the structure or appurtenance;

“(iii) equipment that is for use with the structure or appurtenance and that is
necessary to perform a function described in clause (i); and

“(iv) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.”.

(8) by inserting after paragraph (6), as redesignated, the following:

“(7) QUALIFIED FISHERY FACILITY.—The term ‘qualified fishery facility’ means—

“(A) for operations on land—

“(i) a structure or an appurtenance thereto designed for unloading and receiving from a vessel, processing, holding pending processing, distribution after processing, or holding pending distribution, of fish from a fishery;

“(ii) the land necessary for the structure or appurtenance; and

“(iii) equipment that is for use with the structure or appurtenance and necessary to perform a function described in clause (i);

“(B) for operations not on land, a vessel built in the United States and used for,
equipped to be used for, or of a type normally used for, processing fish; or

“(C) for aquaculture, including operations on land or elsewhere—

“(i) a structure or an appurtenance thereto designed for aquaculture;

“(ii) the land necessary for the structure or appurtenance;

“(iii) equipment that is for use with the structure or appurtenance and necessary for performing a function described in clause (i); and

“(iv) a vessel built in the United States.”.

(b) ELIGIBLE FISHERY FACILITIES.—

(1) DEFINITION OF SECRETARY.—Paragraph (9)(A) of section 53501 of title 46, United States Code, as redesignated by subsection (a) of this section, is amended to read as follows:

“(A) the Secretary of Commerce with respect to—

“(i) an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; or
“(ii) an eligible fishery facility or a qualified fishery facility; and”.

(2) Establishing a Capital Construction Fund.—Section 53503 of title 46, United States Code, is amended—

(A) in subsection (a)—

(i) by inserting “or eligible fishery facility” after “eligible vessel”; and

(ii) by striking the period at the end and inserting “or fishery facility.”; and

(B) by amending subsection (b) to read as follows:

“(b) Allowable Purpose.—The purpose of the agreement shall be—

“(1) to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation trade or in the fisheries of the United States; or

“(2) to provide for the acquisition, construction, or reconstruction of a fishery facility.”.

(c) Agreement Fishery Facilities.—
(1) **Deposits and withdrawals.**—Section 53504(b) of title 46, United States Code, is amended by striking the period at the end and inserting “or an agreement fishery facility.”.

(2) **Ceiling on deposits.**—Section 53505 of title 46, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or agreement fishery facilities” after “agreement vessels”;

(ii) in paragraph (2), by striking the semicolon at the end and inserting “or agreement fishery facilities;” and

(iii) in paragraph (3) by inserting “or agreement fishery facility” after “agreement vessel” both places that term appears; and

(B) in subsection (b)—

(i) by inserting “or agreement fishery facility” after “an agreement vessel”; and

(ii) by inserting “or fishery facility” after “the vessel”.

(d) **Technical Amendment.**—Paragraph (8)(A)(iii) of section 53501 of title 46, United States Code, as redesignated by subsection (a) of this section,
is amended by striking “trade trade” and inserting “trade”.

SEC. 105. FISHERIES DISASTER RELIEF.

Section 312(a) (16 U.S.C. 1861a(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) The Secretary shall make a decision regarding a request under paragraph (1) not later than 90 days after the date the Secretary receives a complete estimate of the economic impact of the fishery resource disaster from the affected State, tribal government, or fishing community.”.

SEC. 106. REGIONAL FISHERY CONSERVATION AND MANAGEMENT AUTHORITIES.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended by inserting after section 313, the following:

“SEC. 313A. GULF OF MEXICO FISHERIES CONSERVATION AND MANAGEMENT.

“At least once every 5 years, the Gulf of Mexico Fishery Management Council shall review, in accordance with the provisions of this Act, any allocation of fishing privileges among the commercial, recreational, and charter components of a fishery managed under a fishery manage-
ment plan prepared by the Council, except that the Coun-
cil may delay action for not more than 3 additional 1-year
periods if necessary.

“SEC. 313B. SOUTH ATLANTIC FISHERIES CONSERVATION
AND MANAGEMENT.

“At least once every 5 years, the South Atlantic Fish-
ery Management Council shall review, in accordance with
the provisions of this Act, any allocation of fishing privi-
leges among the commercial, recreational, and charter
components of a fishery managed under a fishery manage-
ment plan prepared by the Council, except that the Coun-
cil may delay action for not more than 3 additional 1-year
periods if necessary.”.

(b) TABLE OF CONTENTS.—The table of contents in
the first section is amended by inserting after the item
relating to section 313, the following:

“313A. Gulf of Mexico fisheries conservation and management.
“313B. South Atlantic fisheries conservation and management.”.

SEC. 107. STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES IN THE GULF OF MEXICO AND SOUTH ATLANTIC.

(a) Study Requirements.—Not later than 60 days
after the date of the enactment of this Act, the Secretary
of Commerce shall seek to enter into an arrangement with
the National Academy of Sciences to conduct a study—
(1) to provide guidance 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 fishery, to the Gulf of Mexico and South Atlantic Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852) in the preparation of a fishery management plan under that Act; and

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

(b) REPORT.—Not later than 1 year after the date the Secretary enters into an arrangement under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the study conducted under subsection (a).

(c) ALTERNATE CONTRACT SCIENTIFIC ORGANIZATION.—

(1) IN GENERAL.—If the Secretary is unable within the time period prescribed in subsection (a) to enter into an agreement described in such sub-
section (a) with the National Academy of Sciences on terms acceptable to the Secretary, the Secretary shall seek to enter into such an agreement with the Atlantic Coastal Cooperative Statistics Program.

(2) TREATMENT.—If the Secretary enters into an agreement with the Atlantic Coastal Cooperative Statistics Program as described in paragraph (1), any reference in this section to the National Academy of Sciences shall be treated as a reference to the Atlantic Coastal Cooperative Statistics Program.

SEC. 108. REQUIREMENTS RELATING TO EXPERIMENTAL FISHING PERMITS FOR FISHING IN GULF OF MEXICO OR SOUTH ATLANTIC.

Section 318(d) (16 U.S.C. 1867(d)) is amended—

(1) by striking “Not later” and inserting the following:

“(1) IN GENERAL.—Not later”; and

(2) by adding at the end the following:

“(2) REQUIREMENTS RELATING TO GULF OF MEXICO AND SOUTH ATLANTIC.—

“(A) CONSULTATION.—The Regional Administrator or Director shall 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 fish-

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ing permit under paragraph (1) for fishing in
Federal waters in the Gulf of Mexico or the
South Atlantic before issuing such permit.

“(B) LIMITATION.—The process created
under paragraph (1) may not be used in such
manner as to implement a region-wide limited
access privilege program under section 303A or
a sector allocation.”.

TITLE II—FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

SEC. 201. FISHERIES RESEARCH.

(a) Stock Assessment Plan.—Section 404 (16
U.S.C. 1881c) is amended by adding at the end the fol-
lowing:

“(e) Stock Assessment Plan.—

“(1) In general.—The Secretary, in consulta-
tion with the Councils, shall develop, submit to Com-
mittee on Commerce, Science, and Transportation of
the Senate and the Committee on Natural Resources
of the House of Representatives, and publish in the
Federal Register, on the same schedule as required
for the strategic plan required under subsection (b),
a plan to conduct stock assessments for all stocks of
fish for which a fishery management plan is in effect under this Act.

“(2) CONTENTS.—The plan shall—

“(A) for each stock of fish for which a stock assessment has previously been conducted—

“(i) establish a schedule for updating the stock assessment that is reasonable given the biology and characteristics of the stock; and

“(ii) subject to the availability of appropriations, require completion of a new stock assessment, or an update of the most recent stock assessment—

“(I) at least once every 5 years, except a Council may delay action for not more than 3 additional 1-year periods; or

“(II) within such other time period specified and justified by the Secretary in the plan;

“(B) for each economically important stock of fish for which a stock assessment has not previously been conducted—
“(i) establish a schedule for conducting an initial stock assessment that is reasonable given the biology and characteristics of the stock; and

“(ii) subject to the availability of appropriations, require completion of the initial stock assessment not later than 3 years after the date that the plan is published in the Federal Register unless another time period is specified and justified by the Secretary in the plan; and

“(C) identify data and analysis, especially concerning recreational fishing, that, if available, would reduce uncertainty in and improve the accuracy of future stock assessments, including whether that data and analysis could be provided by State fish and wildlife agencies, fishermen, fishing communities, universities, research institutions, and philathropic organizations.

“(3) WAIVER OF STOCK ASSESSMENT REQUIREMENT.—Notwithstanding subparagraphs (A)(ii) and (B)(ii) of paragraph (2), a stock assessment shall not be required for a stock of fish in the plan if the Secretary determines that such a stock assessment
is not necessary and justifies the determination in
the Federal Register notice required by this sub-
section.”.

(b) DEADLINE.—Notwithstanding paragraph (1) of
section 404(e) of the Magnuson-Stevens Fishery Con-
servation and Management Act, as added by this section,
the Secretary of Commerce shall issue the first stock as-
essment plan under that section by not later than 1 year
after the date of the enactment of this Act.

SEC. 202. IMPROVING SCIENCE.

(a) IMPROVING DATA COLLECTION AND ANALYSIS.—

(1) IN GENERAL.—Section 404 (16 U.S.C.
1881c), as amended by section 201 of this Act, is
further amended by adding at the end the following:

“(f) IMPROVING DATA COLLECTION AND ANAL-
YSIS.—

“(1) IN GENERAL.—The Secretary, in consulta-
tion with the scientific and statistical committees of
the Councils established under section 302(g), shall
develop and submit to the Committee on Commerce,
Science, and Transportation of the Senate and the
Committee on Natural Resources of the House of
Representatives a report on facilitating greater in-
corporation of data, analysis, stock assessments, and
surveys from State fish and wildlife agencies, fisher-
men, fishing communities, universities, research
institutions, and philanthropic organizations, into fish-
eries management decisions.

“(2) CONTENT.—The report under paragraph
(1) shall—

“(A) identify types of data and analysis,
especially concerning recreational fishing, that
can be reliably used for purposes of this Act
and the basis for establishing conservation and
management 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 identi-
fied as necessary to reduce the uncertainty re-
ferred to in section 404(e)(2)(C);

“(C) consider the extent to which it is pos-
sible to establish a registry of persons providing
such information; and

“(D) consider the extent to which the ac-
ceptance and use of data and analysis identified
in the report in fishery management decisions is
practicable.”.
(2) **DEADLINE.**—The Secretary of Commerce shall submit the report required by section 404(f) of the Magnuson-Stevens Fishery Conservation and Management Act, as added by paragraph (1), not later than 1 year after the date of the enactment of this Act.

(b) **NAS REPORT RECOMMENDATIONS.**—The Secretary of Commerce shall consider, and to the extent feasible, implement the recommendations of the National Academy of Sciences in its report entitled “Review of the Marine Recreational Information Program (2017)”, including—

1. prioritizing the evaluation of electronic data collection for the Fishing Effort Survey, including smartphone applications, electronic diaries for prospective data collection, and an Internet website option; and

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, if such program is incompatible with such needs, determining an alternative method for in-season management that is consistent with the require-
ments of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).