

115TH CONGRESS
2D SESSION

S. 1520

AN ACT

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 2018”.

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

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.

8 (c) **REFERENCES TO THE MAGNUSON-STEVENSONS**
 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 Section 2(a) (16 U.S.C. 1801(a)) is amended by add-
3 ing at the end the following:

4 “(13) While both provide significant cultural
5 and economic benefits to the Nation, recreational
6 fishing and commercial fishing are different activi-
7 ties. Therefore, science-based conservation and man-
8 agement approaches should be adapted to the char-
9 acteristics of each sector.”.

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
26 a program that meets the requirements of section

1 303A of the Magnuson-Stevens Fishery Conserva-
 2 tion and Management Act (16 U.S.C. 1853a).

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

6 (A) Recreational fishing.

7 (B) Charter fishing.

8 (C) Commercial fishing.

9 **TITLE I—CONSERVATION AND**
 10 **MANAGEMENT**

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

14 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
 15 ERIES.—Not later than 1 year after the date of enactment
 16 of this Act, the Comptroller General of the United States
 17 shall conduct a study and submit to the appropriate com-
 18 mittees of Congress a report on mixed-use fisheries in each
 19 applicable Council’s jurisdiction, which shall include—

20 (1) recommendations on criteria that could be
 21 used by such Councils for allocating or reallocating
 22 fishing privileges in the preparation of a fishery
 23 management plan or plan amendment, including
 24 consideration of the ecological, conservation, eco-

1 nomic, and social factors of each component of a
2 mixed-use fishery;

3 (2) identification of the sources of information
4 that could reasonably support the use of such cri-
5 teria in allocation decisions;

6 (3) an assessment of the budgetary require-
7 ments for performing periodic allocation reviews for
8 each applicable Council; and

9 (4) developing recommendations of procedures
10 for allocation reviews and potential adjustments in
11 allocation.

12 (b) CONSULTATION WITH STAKEHOLDERS.—The
13 Comptroller General of the United States shall consult
14 with the National Oceanic and Atmospheric Administra-
15 tion, the applicable Councils, the Science and Statistical
16 Committees of such Councils, the applicable State fish-
17 eries management commissions, the recreational fishing
18 sector, the commercial fishing sector, the charter fishing
19 sector, and other stakeholders, to the extent practicable,
20 in conducting the study required under subsection (a).

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

23 (1) the South Atlantic Fishery Management
24 Council; or

1 (2) the Gulf of Mexico Fishery Management
2 Council.

3 **SEC. 102. FISHERY MANAGEMENT MEASURES.**

4 (a) MANAGEMENT.—Section 302(h) (16 U.S.C.
5 1852(h)) is amended—

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

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

10 (3) by inserting after paragraph (7) the fol-
11 lowing:

12 “(8) in addition to complying with the stand-
13 ards and requirements under paragraph (6), sections
14 301(a), 303(a)(15), and 304(e), and other applicable
15 provisions of this Act, have the authority to use fish-
16 ery management measures in a recreational fishery
17 (or the recreational component of a mixed-use fish-
18 ery) in developing a fishery management plan, plan
19 amendment, or proposed regulations, such as extrac-
20 tion rates, fishing mortality targets, harvest control
21 rules, or traditional or cultural practices of native
22 communities in such fishery or fishery component;
23 and”.

24 (b) REPORT.—Not later than 180 days after the date
25 of enactment of this Act, the Secretary of Commerce shall

1 submit to the appropriate committees of Congress a report
2 that describes any actions pursuant to paragraph (8) of
3 section 302(h) of the Magnuson-Stevens Fishery Con-
4 servation and Management Act (16 U.S.C. 1852(h)), as
5 added by subsection (a).

6 (c) OTHER FISHERIES.—Nothing in paragraph (8) of
7 section 302(h) of the Magnuson-Stevens Fishery Con-
8 servation and Management Act (16 U.S.C. 1852(h)), as
9 added by subsection (a), shall be construed to affect man-
10 agement of any fishery not described in such paragraph
11 (8).

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

14 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-
15 GRAMS.—Not later than 2 years after the date of enact-
16 ment of this Act, the Ocean Studies Board of the National
17 Academies of Sciences, Engineering, and Medicine shall—

18 (1) complete a study on the use of limited ac-
19 cess privilege programs in mixed-use fisheries, in-
20 cluding—

21 (A) an assessment of progress in meeting
22 the goals of the program and this Act;

23 (B) an assessment of the social, economic,
24 and ecological effects of the program, consid-
25 ering each sector of a mixed-use fishery and re-

1 lated businesses, coastal communities, and the
2 environment;

3 (C) an assessment of any impacts to stake-
4 holders in a mixed-use fishery caused by a lim-
5 ited access privilege program;

6 (D) recommendations of policies to address
7 any impacts identified under subparagraph (C);

8 (E) identification of and recommendation
9 of the different factors and information that
10 should be considered when designing, estab-
11 lishing, or maintaining a limited access privilege
12 program in a mixed-use fishery to mitigate any
13 impacts identified in subparagraph (C), to the
14 extent practicable; and

15 (F) a review of best practices and chal-
16 lenges faced in the design and implementation
17 of limited access privilege programs under the
18 jurisdiction of each of the 8 Regional Fishery
19 Management Councils; and

20 (2) submit to the appropriate committees of
21 Congress a report on the study under paragraph (1),
22 including the recommendations under subparagraphs
23 (D) and (E) of paragraph (1).

24 (b) EXCLUSION.—Except as provided in subsection
25 (a)(1)(F), the study described in this section shall not in-

1 clude the areas covered by the Pacific Fishery Manage-
2 ment Council and the North Pacific Fishery Management
3 Council.

4 **TITLE II—RECREATION FISHERY**
5 **INFORMATION, RESEARCH,**
6 **AND DEVELOPMENT**

7 **SEC. 201. COOPERATIVE DATA COLLECTION.**

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

11 “(e) IMPROVING DATA COLLECTION AND ANAL-
12 YSIS.—

13 “(1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of the Modernizing Rec-
15 reational Fisheries Management Act of 2017, the
16 Secretary shall develop, in consultation with the
17 science and statistical committees of the Councils es-
18 tablished under section 302(g) and the Marine Fish-
19 eries Commissions, and submit to the Committee on
20 Commerce, Science, and Transportation of the Sen-
21 ate and the Committee on Natural Resources of the
22 House of Representatives a report on facilitating
23 greater incorporation of data, analysis, stock assess-
24 ments, and surveys from State agencies and non-
25 governmental sources described in paragraph (2), to

1 the extent such information is consistent with sec-
2 tion 301(a)(2), into fisheries management decisions.

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

5 “(A) identify types of data and analysis,
6 especially concerning recreational fishing, that
7 can be used for purposes of this Act as the
8 basis for establishing conservation and manage-
9 ment measures as required by section
10 303(a)(1), including setting standards for the
11 collection and use of that data and analysis in
12 stock assessments and surveys and for other
13 purposes;

14 “(B) provide specific recommendations for
15 collecting data and performing analyses identi-
16 fied as necessary to reduce uncertainty in and
17 improve the accuracy of future stock assess-
18 ments, including whether such data and anal-
19 ysis could be provided by nongovernmental
20 sources; and

21 “(C) consider the extent to which the ac-
22 ceptance and use of data and analyses identi-
23 fied in the report in fishery management deci-
24 sions is practicable and compatible with the re-
25 quirements of section 301(a)(2).”.

1 (b) NAS REPORT RECOMMENDATIONS.—The Sec-
2 retary of Commerce shall take into consideration and, to
3 the extent feasible, implement the recommendations of the
4 National Academy of Sciences in the report entitled “Re-
5 view of the Marine Recreational Information Program
6 (2017)”, and shall submit, every 2 years following the date
7 of enactment of this Act, a report to the appropriate com-
8 mittees of Congress detailing progress made implementing
9 those recommendations. Recommendations considered
10 shall include—

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

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

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

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

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

3 (1) in subsection (g)—

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

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

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 “(II) 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.—

14 “(i) IN GENERAL.—The Secretary
15 may make grants to States to—

16 “(I) improve implementation of
17 State programs consistent with this
18 subsection; and

19 “(II) assist such programs in
20 complying with requirements related
21 to changes in recreational data collec-
22 tion under paragraph (3).

23 “(ii) USE OF FUNDS.—Any funds
24 awarded through such grants shall be used
25 to support data collection, quality assur-

1 ance, and outreach to entities submitting
2 such data. The Secretary shall prioritize
3 such grants based on the ability of the
4 grant to improve the quality and accuracy
5 of such programs.”; and

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

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

13 “(A) how the design of the Marine Rec-
14 reational Information Program, for the pur-
15 poses of stock assessment and the determina-
16 tion of stock management reference points, can
17 be improved to better meet the needs of in-sea-
18 son management of annual catch limits under
19 section 303(a)(15); and

20 “(B) what actions the Secretary, Councils,
21 and States could take to improve the accuracy
22 and timeliness of data collection and analysis to
23 improve the Marine Recreational Information
24 Program and facilitate in-season management;
25 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
5 Recreational Information Program to make the
6 program better meet the needs of in-season
7 management of annual catch limits and other
8 requirements under such section; and

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

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),
22 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery
23 Conservation and Management Act (16 U.S.C. 1851(a),
24 1852(h)(6), 1853(a)(15), and 1854(e)), or the equal appli-
25 cation of such requirements and other standards and re-

1 quirements under the Magnuson-Stevens Fishery Con-
2 servation and Management Act (16 U.S.C. 1801 et seq.)
3 to commercial, charter, and recreational fisheries, includ-
4 ing each component of mixed-use fisheries.

Passed the Senate December 17, 2018.

Attest:

Secretary.

115TH CONGRESS
2^D SESSION

S. 1520

AN ACT

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