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U.S. GOVERNMENT
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115TH CONGRESS
2D SESSION

S. 1520

AN ACT

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 2018''.

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

(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.

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 different activities. Therefore, science-based conservation and management approaches should be adapted to the characteristics of each sector.".

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-use fishery'' means a Federal fishery in which 2 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 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the appropriate committees of Congress a report on mixed-use fisheries in each applicable Council's jurisdiction, which shall include—

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

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

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

(3) an assessment of the budgetary requirements for performing periodic allocation reviews for each applicable Council; and

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

(b) CONSULTATION WITH STAKEHOLDERS.—The Comptroller General of the United States shall consult with the National Oceanic and Atmospheric Administration, the applicable Councils, the Science and Statistical Committees of such Councils, the applicable State fisheries management commissions, the recreational fishing sector, the commercial fishing sector, the charter fishing sector, and other stakeholders, to the extent practicable, in conducting the study required under subsection (a).

(c) 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. FISHERY MANAGEMENT MEASURES.

(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) in addition to complying with the standards and requirements under paragraph (6), sections 301(a), 303(a)(15), and 304(e), and other applicable provisions of this Act, have the authority to use 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, such as extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities in such fishery or fishery component; 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 that describes any actions pursuant to paragraph (8) of section 302(h) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(h)), as added by subsection (a).

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

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

(a) STUDY ON LIMITED ACCESS PRIVILEGE PROGRAMS.—Not later than 2 years after the date of enactment of this Act, the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine shall—

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

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

(B) an assessment of the social, economic, and ecological effects of the program, considering each sector of a mixed-use fishery and re-

lated businesses, coastal communities, and the environment;

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

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

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

(F) a review of best practices and challenges faced in the design and implementation of limited access privilege programs under the jurisdiction of each of the 8 Regional Fishery Management Councils; and

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

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

clude the areas covered by the Pacific Fishery Management Council and the North Pacific Fishery Management Council.

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 established under section 302(g) and the Marine Fisheries Commissions, 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 incorporation of data, analysis, stock assessments, and surveys from State agencies and nongovernmental sources described in paragraph (2), to

the extent such information is consistent with section 301(a)(2), into fisheries management decisions.

"(2) 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 used for purposes of this Act as 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 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; and

"(C) consider the extent to which the acceptance and use of data and analyses identified in the report in fishery management decisions is practicable and compatible with the requirements of section 301(a)(2).".

(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 ''Review of the Marine Recreational Information Program (2017)'', and shall submit, every 2 years following the date of enactment of this Act, a report to the appropriate committees of Congress detailing progress made implementing those recommendations. Recommendations considered shall include—

(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.

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

(1) in subsection (g)—

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

(B) 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 pro-

gram 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.—

"(i) IN GENERAL.—The Secretary may make grants to States to—

"(I) improve implementation of State programs consistent with this subsection; and

"(II) assist such programs in complying with requirements related to changes in recreational data collection under paragraph (3).

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

ance, and outreach to entities submitting such data. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.''; and

(2) by adding at the end the following:

''(h) ACTION BY SECRETARY.—The Secretary shall—

''(1) within 90 days after the date of the enactment of the Modernizing Recreational Fisheries Management Act of 2018, enter into an agreement with the National Academy of Sciences to evaluate, in the form of a report—

''(A) how the design of the Marine Recreational Information Program, for the purposes of stock assessment and the determination of stock management reference points, can be improved to better meet the needs of in-season management of annual catch limits under section 303(a)(15); and

''(B) what actions the Secretary, Councils, and States could take to improve the accuracy and timeliness of data collection and analysis to improve the Marine Recreational Information Program and facilitate in-season management; and

"(2) within 6 months after receiving the report under paragraph (1), submit to Congress recommendations regarding—

"(A) changes to be made to the Marine Recreational Information Program to make the program better meet the needs of in-season management of annual catch limits and other requirements under such section; and

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

TITLE III—RULE OF CONSTRUCTION

SEC. 301. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as modifying the requirements of sections 301(a), 302(h)(6), 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a), 1852(h)(6), 1853(a)(15), and 1854(e)), or the equal application 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.

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