

Calendar No. 441

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 115-264

MODERNIZING RECREATIONAL FISHERIES
MANAGEMENT ACT OF 2017

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1520



JUNE 5, 2018.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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MODERNIZING RECREATIONAL FISHERIES MANAGEMENT ACT OF 2017

JUNE 5, 2018.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1520]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1520) to expand recreational fishing opportunities through enhanced marine fishery conservation and management, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA)¹ to provide fisheries managers more flexibility in managing fisheries that are used by recreational, charter, and commercial fishing sectors through evidence-based decision making and partnership with non-governmental sources.

BACKGROUND AND NEEDS

Fisheries play an important role in the culture, food security, environment, and economy of the United States. United States commercial fishermen landed 9.6 billion pounds of seafood valued at \$5.3 billion in 2016 and recreational anglers made over 63 million

¹ 16 U.S.C. 1801 et seq.

marine recreational fishing trips, landing nearly 372 million fish.² In 2015, recreational fishing contributed to nearly 440,000 American jobs, \$63 billion in sales, \$23 billion in income, and \$36 billion in value-added contributions made to the gross domestic product.³

Marine fisheries resources in the United States are managed under State and Federal authorities. Fisheries in the U.S. Exclusive Economic Zone (U.S. EEZ) are managed under the authority of the MSA. The U.S. EEZ is the largest in the world; it extends from coastal State boundaries⁴ to 200 nautical miles from shore, encompassing about 3.4 million square nautical miles of area. Within a few miles of shore, States are responsible for fisheries management, often in coordination with neighboring States and with the Federal Government.

Recreational and commercial fishing are inherently different activities. Commercial fishing entails extracting large volumes of one or a few targeted species from the water and maximizing profit. Recreational fishermen often value the experience of fishing and maximizing days at sea can be more important than absolute catch. While an individual angler removes far fewer fish, there are often many more anglers and their activity is harder to monitor, so their cumulative impact is substantial. Charter boats and head boats are owned and operated by professionals whose customers are recreational anglers; their catch allocation is often included in the recreational allocation. Most regions assign allowable catch limits (ACLs) to commercial and recreational fishing industries separately; the charter quota is often included in the recreational quota.

The demand for recreational fishing of stocks that are also commercially important necessitates scientific review of mixed-use fisheries, revisions in how ACLs are allocated among sectors, and review of how catch data is recorded, analyzed, and implemented into decision making.

SUMMARY OF PROVISIONS

If enacted, S. 1520 would do the following:

- Direct Fishery Management Councils (Councils) to review allocations to commercial and recreational fishing sectors every 5 years.
- Clarify that Councils have the authority to use certain fishery management measures in a recreational fishery in developing a management plan or proposed regulations.
- Authorize Councils to establish annual catch limits for multi-species complexes or annual limits for each year in any continuous 3-year period.
- Direct the Secretary of Commerce (Secretary) to develop a report to Congress on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources and to establish a partnership with States to

²National Marine Fisheries Service, Fisheries of the United States, 2016. U.S. Department of Commerce, Current Fishery Statistics No. 2016.

³U.S. Department of Commerce, National Marine Fisheries Service, May 2017, Fisheries Economics of the United States 2015. NOAA Technical Memorandum NMFS-F/SPO-170.

⁴Most States' seaward boundaries extend 3 miles from shore; however, the seaward boundaries of Texas, Puerto Rico, and the gulf coast of Florida are at 9 nautical miles. Louisiana has recently claimed State jurisdiction out to 10 miles (Act 336, passed by the State legislature in 2011, and implemented by the State's Wildlife and Fisheries Commission in 2012).

develop guidance detailing best practices for administering State programs.

LEGISLATIVE HISTORY

S. 1520 was introduced on July 10, 2017, by Senator Wicker, for himself and Senators Nelson, Blunt, Schatz, Manchin, and Kennedy. Senators Cassidy, Cochran, Donnelly, Fischer, Inhofe, Jones, Klobuchar, Menendez, Peters, and Young are also cosponsors. On February 28, 2018, the Committee considered S. 1520 in open Executive Session. Senator Wicker offered an amendment in the nature of a substitute. Senator Blumenthal offered an amendment to provide continued support for State recreational data collection programs.

The Committee adopted both amendments and ordered the bill, as amended, reported favorably by voice vote, with an amendment (in nature of substitute). Senators Udall, Cortez Masto, Markey, Cantwell, and Blumenthal asked to be recorded as voting “no” for the record.

Representative Graves (R-LA-6) introduced a companion to S. 1520, H.R. 2023, on April 6, 2017, which was referred to the Committee on Natural Resources of the House of Representatives.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1520—Modernizing Recreational Fisheries Management Act of 2018

Summary: S. 1520 would allow the National Oceanic and Atmospheric Administration (NOAA) to make grants to states to improve their registration practices for recreational fishing. The bill also would require NOAA and the National Academy of Sciences (NAS) to conduct several studies and reviews related to fishery conservation and management.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1520 would cost \$7 million over the 2019–2023 period.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1520 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 1520 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal government: The estimated budgetary effect of S. 1520 is shown in the following table. The costs of the legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	7	*	*	0	0	7
Estimated Outlays	0	6	1	*	*	0	7

* = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that S. 1520 will be enacted near the end of 2018 and that the necessary amounts will be appropriated each year beginning in 2019.

S. 1520 would establish a partnership between NOAA and coastal states to improve implementation of those states' processes for issuing recreational fishing permits. The partnership would aim to improve the recreational fishing data collected by states so that such data is adequate for NOAA to use when completing surveys of marine recreational fisheries. In 2018, NOAA provided \$11 million to states to assist them with collecting recreational fishing data. Under the bill, NOAA would be authorized to provide additional grants to states and territories to improve their permitting programs. Using information from NOAA about the number of states and territories that would be likely to receive grants to update their processes for issuing recreational fishing permits and the average grant size, CBO estimates that implementing the grant program would cost \$6 million over the 2019–2023 period.

S. 1520 would require NOAA to contract with NAS to complete three reports related to mixed-use fishery management and data collection to assess fish stocks. The bill also would require NOAA to complete eight reports over the 2019–2023 period related to assess fishery conservation, management, and data collection. Using information from NOAA about similar reports, CBO estimates that those reports would cost about \$1 million.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 1520 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 1520 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Robert Reese; Mandates: Zach Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1520, as reported, would not create any new programs, but may impose new regulatory requirements. The bill affects commercial, charter, and recreational fishers and entities already subject to Federal fishing rules and regulations, and therefore the number

of persons covered should be consistent with the current levels of individuals impacted under current regulations.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation's economy.

PRIVACY

The reported bill is not expected to impact the personal privacy of individuals.

PAPERWORK

The Secretary would be required to submit, every 2 years following the date of enactment of this Act, a report to the appropriate committees of Congress detailing progress made implementing recommendations of the National Academy of Sciences report entitled, "Review of the Marine Recreational Information Program (2017)."

The Secretary would be required to submit to the appropriate committees of Congress and publish biennial reports on Federal-State partnerships.

The Secretary would be required to enter into an agreement with the National Academy of Sciences to develop a report on improvement of the Marine Recreational Information Program.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents; references.

This section would provide that the Act may be cited as the Modernizing Recreational Fisheries Management Act of 2018.⁵

Section 2. Findings.

This section would amend section 2(a) of the MSA to add that recreational and commercial fishing, as fundamentally different activities, require different management approaches.

Section 3. Definitions.

This section would provide technical definitions for the purposes of this Act, notably "mixed-use fishery," which would be defined as a Federal fishery in which two or more of the following occur: recreational fishing, charter fishing, and commercial fishing.

Section 101. Process for allocation review for South Atlantic and Gulf of Mexico mixed-use fisheries.

This section would direct the Secretary to enter into an agreement with the National Academy of Sciences to conduct a study

⁵The reported bill updates the year in the short title from 2017 to 2018.

and to provide a report on South Atlantic and Gulf of Mexico mixed-use fisheries to provide guidance to Councils on criteria that could be used for allocating fishing privileges. This section also would direct the South Atlantic and Gulf of Mexico Fishery Management Councils to review allocations to the commercial and recreational fishing sectors 2 years after the date of enactment of this Act and every 5 years thereafter. In consideration of the ecological, economic, and social factors of each sector, these reviews do not necessarily need to result in a change of allocation.

Section 102. Fishery management measures.

This section would clarify that Councils possess the authority to use certain fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) when developing a management plan or proposed regulations, such as extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities. The Committee does not intend for this clarification of Council authority to be interpreted as altering in any way the annual catch limits, accountability measures, national standards, or other sustainable fishing requirements of the MSA. This section also would direct the Secretary to submit a report to Congress summarizing the fishery management measures dealt with in this provision that the Councils plan to implement in each recreational and mixed-use fishery they manage.

Section 103. Study of limited access privilege programs for mixed-use fisheries.

This section would direct the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine to study and report to Congress on the use of limited access privilege programs in mixed-use fisheries to identify any resulting inequities and recommend policies to address them, and to identify and recommend the different factors and information a mixed-use fishery should consider when designing a limited access privilege program. This section also would impose a moratorium on the submission and approval of a limited access privilege program for a mixed-use fishery for 2 years after the date of enactment of this Act. This moratorium would not apply to those programs that are part of a pending fishery management plan or plan amendment before such enactment.

Section 104. Rebuilding overfished fisheries.

This section would add a provision to the MSA limiting the time period for rebuilding a fishery under a rebuilding plan to the sum of the time in which the affected stock of fish is expected to surpass its maximum sustainable yield biomass level in the absence of fishing mortality and the mean generation time of that stock. This section also would provide criteria for the Secretary in finding that rebuilding has not occurred. Additionally, this section would require that new fishery management plans, plan amendments, or proposed regulations for fisheries that have failed to rebuild to the biomass necessary to achieve maximum sustainable yield have at least a 75 percent chance of rebuilding the fishery within the proposed time limits.

Section 105. Authorization for multispecies complexes and multiyear catch limits.

This section would authorize the Councils to establish annual catch limits for multispecies complexes or annual catch limits for each year in any continuous 3-year period.

Section 106. Exempted fishing permits.

This section would require a Regional Administrator who issues an exempted fishing permit to respond in writing to an objection to the issuance of the exempted fishing permit by a Council, Interstate Marine Fisheries Commission, or affected State fish and wildlife agency. This section also would require at the end of 12 months the Council or Secretary who prepares or implements an exempted fishing permit to review the exempted fishing permit and determine if any unintended negative impacts have occurred.

Section 201. Cooperative data collection.

This section would direct the Secretary to develop, in consultation with the Councils and Marine Fisheries Commissions, a report to Congress on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources, such as fishermen, fishing communities, and research institutions. This section also would require the Secretary to submit a report to Congress every 2 years detailing progress made in implementing recommendations from the National Academy of Sciences report entitled, "Review of the Marine Recreational Information Program (2017)."

Section 202. Recreational data collection.

This section would add a provision to section 401(g) of the MSA on Federal-State partnerships, including directing the Secretary to establish a partnership with States to develop guidance detailing best practices for administering State programs, providing biennial reports to Congress on the accuracy of registry programs. This section also would direct the Secretary to make grants to States to improve implementation of State programs and assist them in complying with requirements related to changes in recreational data collection. Additionally, this section also would direct the Secretary to enter into an agreement with the National Academy of Sciences to evaluate whether the design of the Marine Recreational Information Program is compatible with needs of in-season management of annual catch limits.

Section 301. Rule of construction.

This section would specify that this bill does not modify the requirements of sections 301(a), 302(h)(6), or 303(a)(15) of the MSA.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

MAGNUSON-STEVENS FISHERY CONSERVATION AND
MANAGEMENT ACT

[16 U.S.C. 1801 et seq.]

SEC. 2. FINDINGS, PURPOSES AND POLICY.

[16 U.S.C. 1801]

(a) FINDINGS.—The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(13) *While both provide significant cultural and economic benefits to the Nation, recreational fishing and commercial fishing are different activities. Therefore, management approaches should be adapted to the characteristics of each sector.*

(b) * * *

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS.

[16 U.S.C. 1852]

(a) * * *

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C) or section 204(d), and any fishery management plan or amendment transmitted to it under section 304(c)(4);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term “geographical area concerned” may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in subsection (a)(3)) within its geographical area of authority;

(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and

(8) *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; and*

[(8)](9) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

(i) * * *

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

(1) *an annual catch limit for a stock complex; or*

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

SEC. 304. ACTION BY SECRETARY.

[16 U.S.C. 1854]

(a) * * *

(e) **REBUILDING OVERFISHED FISHERIES.—**

(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the

Secretary estimates that the fishery will become overfished within two years.

(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

(3) Within 2 years after an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare and implement a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

(A) to end overfishing immediately in the fishery and to rebuild affected stocks of fish; or

(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

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

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

[(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;]

(ii) not exceed the shortest time possible within which the stock of fish would be rebuilt without fishing occurring, plus one mean generation, unless management measures under international agreement in which the United States participates dictate otherwise;

(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

(5) If, within the 2-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

[(7)][The Secretary] (7)(A) *The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed [two years]. 2 years. The Secretary shall find that adequate progress toward ending overfishing and rebuilding affected fish stocks has not resulted if—*

(i) the status of the stock is not improving, such that it becomes unlikely that the stock will be rebuilt within the rebuilding time period;

(ii) the applicable fishing mortality rate or catch limits are exceeded, and the causes and rebuilding consequences of such exceedances have not been corrected;

(iii) the rebuilding expectations are significantly changed due to new information about the status of the stock, and the new information indicates that less progress than expected has been made toward rebuilding the stock; or

(iv) for other reasons, as appropriate.; and

[If the Secretary]

(B) If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

[(A)]*(i) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or*

[(B)]*(ii) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.*

(C) A Council shall not adopt, and the Secretary shall not approve, a fishery management plan, plan amendment, or proposed regulation required under this subsection for any fishery that has previously been under such a plan that did not rebuild such fishery to the biomass necessary to achieve maximum sustainable yield, as determined by the Council's scientific and statistical committee, unless the new plan, amendment, or proposed regulation has at least a 75 percent chance of rebuilding the fishery within the time limit proposed by the Council, as calculated by the Council's scientific and statistical committee pursuant to section 302(g)(1)(B).

(f) * * *

SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

[16 U.S.C. 1881]

(a) * * *

(g) RECREATIONAL FISHERIES.—

(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

(i) in the Exclusive Economic Zone;

(ii) for anadromous species; or

(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

(3) DATA COLLECTION.—

(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.

(B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report Review of Recreational Fisheries Survey Methods (2006), including—

(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of management decisions, and its usefulness for social and economic analyses; and

(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

(C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—

(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

(iii) collection and analysis of vessel trip report data from charter fishing vessels;

(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

(v) an independent committee composed of recreational fishermen, academics, persons with expertise in stock assessments and survey design, and appropriate personnel from the National Marine Fisheries Service to review the collection estimates, geographic, and other variables related to dockside intercepts and to identify deficiencies in recreational data collection, and possible correction measures.

(D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

(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 may make grants to States to improve implementation of State programs consistent with this subsection, and assist such programs in complying with requirements related to changes in recreational data collection under paragraph (3). Any funds awarded through such grants shall be used to support data collection, quality assurance, 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.

[(4)](5) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.

(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.

SEC. 404. FISHERIES RESEARCH.

[16 U.S.C. 1881c]

(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

(2) indicate goals and timetables for the program described in paragraph (1);

(3) provide a role for commercial fishermen in such research, including involvement in field testing;

(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

(c) AREAS OF RESEARCH.—Areas of research are as follows:

(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

(4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

(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).

