

112TH CONGRESS
1ST SESSION

H. R. 3061

To amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2011

Mr. PALLONE (for himself, Mr. JONES, Mr. ANDREWS, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flexibility and Access
5 in Rebuilding American Fisheries Act of 2011”.

1 **SEC. 2. EXTENSION OF TIME PERIOD FOR REBUILDING**
2 **CERTAIN OVERFISHED FISHERIES.**

3 Section 304(e) of the Magnuson-Stevens Fishery
4 Conservation and Management Act (16 U.S.C.
5 1854(e)(4)) is amended—

6 (1) in paragraph (4)(A)—

7 (A) in clause (I) by striking “possible” and
8 inserting “practicable”; and

9 (B) by amending clause (ii) to read as fol-
10 lows:

11 “(ii) not exceed 10 years, except in
12 cases where—

13 “(I) the biology of the stock of
14 fish, other environmental conditions,
15 or management measures under an
16 international agreement in which the
17 United States participates dictate oth-
18 erwise;

19 “(II) the Secretary determines
20 that such 10-year period should be ex-
21 tended because the cause of the fish-
22 ery decline is outside the jurisdiction
23 of the Council or the rebuilding pro-
24 gram cannot be effective only by lim-
25 iting fishing activities;

1 “(III) the Secretary determines
2 that such 10-year period should be ex-
3 tended to provide for the sustained
4 participation of fishing communities
5 or to minimize the economic impacts
6 on such communities, provided that
7 there is evidence that the stock of fish
8 is on a positive rebuilding trend;

9 “(IV) the Secretary determines
10 that such 10-year period should be ex-
11 tended for one or more stocks of fish
12 of a multi-species fishery, provided
13 that there is evidence that those
14 stocks are on a positive rebuilding
15 trend;

16 “(V) the Secretary determines
17 that such 10-year period should be ex-
18 tended because of a substantial
19 change to the biomass rebuilding tar-
20 get for the stock of fish concerned
21 after the rebuilding plan has taken ef-
22 fect; or

23 “(VI) the Secretary determines
24 that such 10-year period should be ex-
25 tended because the biomass rebuilding

1 target exceeds the highest abundance
2 of the stock of fish in the 25-year pe-
3 riod preceding and there is evidence
4 that the stock is on a positive rebuild-
5 ing trend;” or

6 (2) in paragraph (7), in the matter preceding
7 subparagraph (A), by inserting after the first sen-
8 tence the following: “In evaluating progress to end
9 overfishing and to rebuild overfished stocks of fish,
10 the Secretary shall review factors, other than com-
11 mercial fishing and recreational fishing, that may
12 contribute to a stock’s overfished status, such as
13 commercial, residential, and industrial development
14 of, or agricultural activity in, coastal areas and their
15 impact on the marine environment, predator-prey re-
16 lationships of target and related species, and other
17 environmental and ecological changes to the marine
18 conditions.”; and

19 (3) by adding at the end the following:

20 “(8) If the Secretary determines that extended
21 rebuilding time is warranted under subclause (III),
22 (IV), (V), or (VI) of paragraph (4)(A)(ii), the max-
23 imum time allowed for rebuilding the stock of fish
24 concerned may not exceed the sum of the following
25 time periods:

1 “(A) The initial 10-year rebuilding period.

2 “(B) The expected time to rebuild the
3 stock absent any fishing mortality and under
4 prevailing environmental conditions.

5 “(C) The mean generation time of the
6 stock.

7 “(9) In this subsection the term ‘on a positive
8 rebuilding trend’ means that the biomass of the
9 stock of fish has shown a substantial increase in
10 abundance since the implementation of the rebuild-
11 ing plan.”.

12 **SEC. 3. COMMITTEE REPORTS.**

13 (a) REPORT ON SCIENTIFIC AND STATISTICAL COM-
14 MITTEE PROCESS.—Section 302(g)(1)(B) of the Magnu-
15 son-Stevens Fishery Conservation and Management Act
16 (16 U.S.C. 1852(g)(1)(B)) is amended—

17 (1) by striking “(B) Each” and inserting
18 “(B)(i) Each”; and

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

20 “(ii) Each scientific and statistical committee
21 shall submit to its Council each year a report on the
22 process and information used in providing the sci-
23 entific advice described in clause (i). The report
24 shall include—

1 “(I) an evaluation of the quality and quan-
2 tity of the available scientific and biological in-
3 formation relating to such advice;

4 “(II) a description of the quality of each
5 stock assessment used to develop the commit-
6 tee’s recommendations;

7 “(III) a description of the information
8 used to develop the committee’s recommenda-
9 tions for acceptable biological catch;

10 “(IV) a description of any uncertainty con-
11 sidered and incorporated into the committee’s
12 recommendations;

13 “(V) a justification of any variation be-
14 tween maximum sustainable yield and the com-
15 mittee’s recommendations for allowable biologi-
16 cal catch;

17 “(VI) a description of the social and eco-
18 nomic impacts of the committee’s recommended
19 management measures and whether such meas-
20 ures are consistent with the national standard
21 set forth in section 301(a)(8); and

22 “(VII) recommendations for—

23 “(aa) decreasing the level of uncer-
24 tainty in the committee’s recommenda-
25 tions;

1 “(bb) improving the quality and quan-
2 tity of available scientific and biological in-
3 formation; and

4 “(cc) ensuring current and future con-
5 sistency between management measures
6 and the national standard set forth in sec-
7 tion 301(a)(8).”.

8 (b) PUBLICATION OF COMMITTEE REPORTS.—Sec-
9 tion 302(g)(1) of the Magnuson-Stevens Fishery Con-
10 servation and Management Act (16 U.S.C. 1852(g)(1)) is
11 amended by adding at the end the following:

12 “(H) Each Council shall submit to the Sec-
13 retary and shall make available to the public any re-
14 ports or other information provided by its scientific
15 and statistical committee.”.

16 **SEC. 4. ANNUAL CATCH LIMITS.**

17 (a) CONSIDERATION OF DATA ON RECREATIONAL
18 FISHERMEN.—Section 303(a)(15) of the Magnuson-Ste-
19 vens Fishery Conservation and Management Act (16
20 U.S.C. 1853(a)(15)) is amended by striking “specifica-
21 tions, at a level” and all that follows through “account-
22 ability.” and inserting “specifications, that—”

23 “(A) results in specification of such limits
24 at a level such that overfishing does not occur
25 in the fishery;

1 “(B) requires the Council to consider any
2 data collected pursuant to section 401(g) in de-
3 termining such limits; and

4 “(C) includes measures to ensure account-
5 ability.”.

6 (b) AUTHORITY TO SUSPEND ANNUAL CATCH LIM-
7 ITS.—Section 304 of the Magnuson-Stevens Fishery Con-
8 servation and Management Act (16 U.S.C. 1854) is
9 amended by adding at the end the following:

10 “(j) AUTHORITY TO SUSPEND ANNUAL CATCH LIM-
11 ITS.—The Secretary may suspend the application of an-
12 nual catch limits to a fishery for any period in which the
13 Secretary determines that—

14 “(1) the fishery is not overfished or approach-
15 ing a condition of being overfished;

16 “(2) any stock of fish in the fishery previously
17 affected by overfishing is rebuilt; and

18 “(3) the scientific advice relating to such an-
19 nual catch limits provided by the scientific and sta-
20 tistical committee of the Council with jurisdiction
21 over the fishery is based on a level of uncertainty
22 that is insufficient to ensure that the fishery man-
23 agement plan for the fishery is consistent with the
24 national standard set forth in section 301(a)(8).”.

1 **SEC. 5. FISHERY IMPACT STATEMENTS; ANNUAL IMPACT**
2 **STATEMENTS.**

3 (a) **IMPACT ON COASTAL BUSINESSES.**—Section
4 303(a)(9) of the Magnuson-Stevens Fishery Conservation
5 and Management Act (16 U.S.C. 1853(a)(9)) is amended
6 by—

7 (1) redesignating subparagraphs (B) and (C) as
8 subparagraphs (C) and (D), respectively; and

9 (2) inserting after subparagraph (A) the fol-
10 lowing:

11 “(B) coastal businesses that are dependent
12 on the recreational and commercial fishing in-
13 dustries;”.

14 (b) **ANNUAL IMPACT STATEMENT.**—

15 (1) **IN GENERAL.**—Section 302(h) of the Mag-
16 nuson-Stevens Fishery Conservation and Manage-
17 ment Act (16 U.S.C. 1852(h)) is amended—

18 (A) in paragraph (7)(C), by striking “and”
19 after the semicolon at the end;

20 (B) by redesignating paragraph (8) as
21 paragraph (9); and

22 (C) by inserting after paragraph (7) the
23 following:

24 “(8) on an annual basis, prepare, in consulta-
25 tion with the Council’s fishing industry advisory

1 committee, and submit to the Secretary an annual
2 impact statement that contains—

3 “(A) a description of whether each fishery
4 management plan under the jurisdiction of the
5 Council is having or is projected to have any
6 adverse economic impact on recreational and
7 commercial fishermen and other coastal busi-
8 nesses that are dependent on the fishery; and

9 “(B) an estimate of the dollar amount of
10 any such impact; and”.

11 (2) ACTION BY SECRETARY.—Section 304 of
12 the Magnuson-Stevens Fishery Conservation and
13 Management Act (16 U.S.C. 1854), as amended by
14 section 3(b), is amended by adding at the end the
15 following:

16 “(k) MITIGATION OF ADVERSE IMPACT.—

17 “(1) IN GENERAL.—The Secretary shall take
18 such actions as may be necessary to mitigate any
19 adverse impacts identified in the annual impact
20 statement submitted under section 302(h)(8).

21 “(2) REPORT TO CONGRESS.—The Secretary
22 shall submit to Congress each year a report that in-
23 cludes—

1 “(A) a description of the effects of any
2 mitigation efforts implemented under this sub-
3 section during the previous year; and

4 “(B) recommendations for the improve-
5 ment of Federal fisheries programs to promote
6 sustainable fisheries and economic vitality in
7 recreational and commercial fishermen and
8 other coastal businesses that are dependent on
9 the fishery.”.

10 **SEC. 6. STUDY ON RECREATIONAL FISHERIES DATA.**

11 Section 401(g) of the Magnuson-Stevens Fishery
12 Conservation and Management Act (16 U.S.C. 1881(g))
13 is amended by adding at the end the following:

14 “(5) STUDY ON PROGRAM IMPLEMENTATION.—

15 “(A) IN GENERAL.—Not later than 60
16 days after the enactment of this paragraph, the
17 Secretary shall enter into an agreement with
18 the National Research Council of the National
19 Academy of Sciences to study the implementa-
20 tion of the programs described in this section.
21 The study shall—

22 “(i) provide an updated assessment of
23 recreational survey methods established or
24 improved since the publication of the

1 Council's report Review of Recreational
2 Fisheries Survey Methods (2006);

3 “(ii) evaluate the extent to which the
4 recommendations made in that report were
5 implemented pursuant to paragraph
6 (3)(B); and

7 “(iii) examine any limitations of the
8 Marine Recreational Fishery Statistics
9 Survey and the Marine Recreational Infor-
10 mation Program established under para-
11 graph (1).

12 “(B) REPORT.—Not later than 1 year
13 after entering into an agreement under sub-
14 paragraph (A), the Secretary shall submit a re-
15 port to Congress on the results of the study
16 under subparagraph (A).”.

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