

112TH CONGRESS
1ST SESSION

H. R. 1646

To amend the Magnuson-Stevens Fishery Conservation and Management Act to preserve jobs and coastal communities through transparency and accountability in fishery management, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. RUNYAN 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 preserve jobs and coastal communities through transparency and accountability in fishery 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Angler Pres-
5 ervation Act”.

1 **SEC. 2. IMPROVING SCIENTIFIC REVIEW.**

2 Section 302 of the Magnuson-Stevens Fishery Con-
3 servation and Management Act (16 U.S.C. 1852) is
4 amended—

5 (1) in subsection (g)(1)(B)—

6 (A) by inserting “(i)” after “(B)”;

7 (B) by inserting “risk neutral” before “sci-
8 entific advice”; and

9 (C) by adding at the end the following:

10 “(i) A scientific and statistical committee
11 may not provide a recommendation to increase
12 or decrease an annual catch limit by 20 percent
13 or greater unless the recommendation has been
14 approved in a peer review process conducted ex-
15 clusively by non-governmental entities.”; and

16 (2) in subsection (h)(7)—

17 (A) by striking “and” after the semicolon
18 at the end of subparagraph (B); and

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

20 “(D) be submitted to Congress; and”.

21 **SEC. 3. EXTENSION OF TIME PERIOD FOR REBUILDING**
22 **CERTAIN OVERFISHED FISHERIES.**

23 Section 304(e) of the Magnuson-Stevens Fishery
24 Conservation and Management Act (16 U.S.C.
25 1854(e)(4)) is amended—

26 (1) in paragraph (4)(A)—

1 (A) in clause (i), by striking “possible”
2 and inserting “practicable”; and

3 (B) by amending clause (ii) to read as fol-
4 lows:

5 “(ii) not exceed 10 years, except in
6 cases where—

7 “(I) the biology of the stock of
8 fish, other environmental conditions,
9 or management measures under an
10 international agreement in which the
11 United States participates dictate oth-
12 erwise;

13 “(II) the Secretary determines
14 that such 10-year period should be ex-
15 tended because the cause of the fish-
16 ery decline is outside the jurisdiction
17 of the Council or the rebuilding pro-
18 gram cannot be effective only by lim-
19 iting fishing activities;

20 “(III) the Secretary determines
21 that such 10-year period should be ex-
22 tended to provide for the sustained
23 participation of fishing communities
24 or to minimize the economic impacts
25 on such communities, provided that

1 there is evidence that the stock of fish
2 is on a positive rebuilding trend;

3 “(IV) the Secretary determines
4 that such 10-year period should be ex-
5 tended for one or more stocks of fish
6 of a multi-species fishery, provided
7 that there is evidence that those
8 stocks are on a positive rebuilding
9 trend;

10 “(V) the Secretary determines
11 that such 10-year period should be ex-
12 tended because of a substantial
13 change to the biomass rebuilding tar-
14 get for the stock of fish concerned
15 after the rebuilding plan has taken ef-
16 fect; or

17 “(VI) the Secretary determines
18 that such 10-year period should be ex-
19 tended because the biomass rebuilding
20 target exceeds the highest abundance
21 of the stock of fish in the 25-year pe-
22 riod preceding and there is evidence
23 that the stock is on a positive rebuild-
24 ing trend;”; and

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

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

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

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

22 “(B) The expected time to rebuild the
23 stock absent any fishing mortality and under
24 prevailing environmental conditions.

1 “(C) The mean generation time of the
2 stock.

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

8 **SEC. 4. DEADLINE FOR DISASTER DECLARATIONS.**

9 Section 312(a)(1) of the Magnuson-Stevens Fishery
10 Conservation and Management Act (16 U.S.C. 1861a) is
11 amended—

12 (1) by inserting “(A)” after “(1)”;

13 (2) by redesignating subparagraphs (A) through
14 (C), respectively, as clauses (i) through (iii); and

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

16 “(B) When acting on the request of the Governor of
17 an affected State or a fishing community, the Secretary
18 shall make the determination not later than 60 days after
19 the date on which the Secretary receives the request.”.

20 **SEC. 5. APPROVAL OF LIMITED ACCESS PRIVILEGE PRO-**
21 **GRAMS.**

22 (a) INITIATION BY ELIGIBLE FISHERMEN.—Section
23 303A(c)(6)(D) of the Magnuson-Stevens Fishery Con-
24 servation and Management Act (16 U.S.C. 1853a(c)(6))
25 is amended to read as follows:

1 “(D) NEW ENGLAND, MID-ATLANTIC,
2 SOUTH ATLANTIC, AND GULF INITIATION.—

3 “(i) IN GENERAL.—In the case of a
4 fishery under the authority of the New
5 England, Mid-Atlantic, South Atlantic, or
6 Gulf of Mexico Fishery Management Coun-
7 cil, a fishery management plan or an
8 amendment to a fishery management plan
9 that would establish a limited access privi-
10 lege program to harvest fish may not take
11 effect unless—

12 “(I) a petition requesting devel-
13 opment of such a program is sub-
14 mitted in accordance with clause (ii)
15 and certified under clause (iii); and

16 “(II) the proposed plan or
17 amendment has been approved by a
18 vote of two-thirds of eligible fishermen
19 in the fishery for which the program
20 would be established.

21 “(ii) PETITION.—A group of fisher-
22 men constituting more than 50 percent of
23 eligible fishermen in a fishery may submit
24 a petition to the Secretary requesting the
25 development of a limited access privilege

1 program for the fishery. Any such petition
2 shall clearly state the fishery to which the
3 limited access privilege program would
4 apply.

5 “(iii) CERTIFICATION BY SEC-
6 RETARY.—Upon the receipt of any such
7 petition, the Secretary shall review all of
8 the signatures on the petition and, if the
9 Secretary determines that the signatures
10 on the petition are those of more than 50
11 percent of eligible fishermen in the fishery
12 for which the program would be estab-
13 lished, the Secretary shall certify the peti-
14 tion.

15 “(iv) DEFINITION OF ELIGIBLE FISH-
16 ERMEN.—For purposes of this subpara-
17 graph, the term ‘eligible fishermen’ means
18 holders of permits issued under a fishery
19 management plan.”.

20 (b) TERMINATION AFTER FIVE YEARS.—Section
21 303A of the Magnuson-Stevens Fishery Conservation and
22 Management Act (16 U.S.C. 1853a) is amended by adding
23 at the end the following:

24 “(j) TERMINATION.—A limited access privilege pro-
25 gram for a fishery under the authority of the New Eng-

1 land, Mid-Atlantic, South Atlantic, or Gulf of Mexico
2 Fishery Management Council shall terminate at the end
3 of the five-year period beginning on the date that the pro-
4 gram is established unless at least two-thirds of eligible
5 fishermen (as defined in subsection (c)(6)) in the fishery
6 to which the program applies approve the continuation of
7 the program.”.

8 **SEC. 6. CERTIFICATION REQUIRED FOR FISHERY CLOSURE.**

9 (a) SECRETARIAL REQUIREMENTS.—

10 (1) CERTIFICATION REQUIREMENT.—Section
11 303 of the Magnuson-Stevens Fishery Conservation
12 and Management Act (16 U.S.C. 1853) is amended
13 by adding at the end the following:

14 “(d) CERTIFICATION REQUIRED FOR FISHERY CLO-
15 SURE.—(1) The Secretary may not implement a closure
16 of a fishery that would have a direct or indirect affect of
17 at least \$50,000 on each of more than 25 small businesses
18 that do business related to the recreational, charter, or
19 commercial fishing industries involved in the fishery being
20 closed, unless the Secretary certifies that—

21 “(A) the closure is the only option avail-
22 able for maintaining the fishery at a sustainable
23 level;

1 “(B) the stock assessment for the fishery
2 has been updated and peer reviewed within the
3 preceding 3-year period; and

4 “(C) the stock assessment was developed
5 using at least 2 models that were subjected to
6 outside peer review by non-governmental enti-
7 ties prior to such use.

8 “(2) In this subsection, the term ‘small business’
9 means any business that has had gross revenues of less
10 than \$500,000 per year for a minimum of three years.”.

11 (2) APPLICATION TO EXISTING CLOSURES.—

12 The Secretary shall—

13 (A) review any fishery closure for which
14 notice was published in the Federal Register
15 within the 2-year period preceding the date of
16 enactment of this Act, and—

17 (i) within the 60-day period beginning
18 on such date of enactment, make the cer-
19 tification described in the amendment
20 made by subsection (a)(1) with respect to
21 such closure; or

22 (ii) within the 90-day period begin-
23 ning on such date of enactment, review
24 and implement options other than closure

1 for maintaining the fishery at a sustainable
2 level;

3 (B) review the effects of each such closure
4 on coastal communities, including—

5 (i) the direct and indirect impact of
6 the closure on all affected small businesses
7 in such communities;

8 (ii) the job losses as a result of the
9 closure that have already occurred in such
10 communities; and

11 (iii) the job losses as a result of the
12 closure that are expected to occur in such
13 communities within the 1-year period be-
14 ginning on the date the review is initiated;
15 and

16 (C) report to Congress on the actions
17 taken under the amendment made by sub-
18 section (a)(1) or this paragraph for each such
19 closure.

20 (b) REPORT TO CONGRESS.—The Secretary shall re-
21 port to Congress by not later than 120 days after the date
22 of enactment of this Act on—

23 (1) the number of fishery closures that were es-
24 tablished within the 5-year period preceding such
25 date of enactment;

- 1 (2) the reason for each such closure;
- 2 (3) the duration of each such closure;
- 3 (4) the impact of each such closure on coastal
- 4 communities; and
- 5 (5) the expected duration of each such closure.

6 (c) DEFINITIONS.—In this section:

7 (1) FISHERY.—The term “fishery” has the
8 meaning given that term in section 3 of the Magnu-
9 son-Stevens Fishery Conservation and Management
10 Act (16 U.S.C. 1802).

11 (2) SECRETARY.—The term “Secretary” means
12 the Secretary of Commerce, acting through the Na-
13 tional Oceanic and Atmospheric Administration.

14 (3) SMALL BUSINESS.—The term “small busi-
15 ness” means any business that has had gross reve-
16 nues of less than \$500,000 per year for a minimum
17 of three years.

○