

111TH CONGRESS  
1ST SESSION

# S. 1255

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 SENATE OF THE UNITED STATES

JUNE 11, 2009

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## 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 in Rebuild-  
5       ing American Fisheries Act of 2009”.

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. 1854(e))  
5 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 in which—

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 during the 25-year  
 3 period preceding the date the rebuild-  
 4 ing plan has taken effect and there is  
 5 evidence that the stock is on a positive  
 6 rebuilding trend;”;

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

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

22 “(8) If the Secretary determines that extended  
 23 rebuilding time is warranted under subclause (III),  
 24 (IV), (V), or (VI) of paragraph (4)(A)(ii), the max-  
 25 imum time allowed for rebuilding the stock of fish

1       concerned may not exceed the sum of the following  
2       time periods:

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

4               “(B) The expected time to rebuild such  
5       stock absent any fishing mortality and under  
6       prevailing environmental conditions.

7               “(C) The mean generation time of such  
8       stock.

9               “(9) In this subsection, the term ‘on a positive  
10      rebuilding trend’ means, with respect to a stock of  
11      fish, that the biomass of the stock of fish has shown  
12      a substantial increase in abundance since the imple-  
13      mentation of the rebuilding plan.”.

○