Public Law 98-613
98th Congress

An Act

To provide for the conservation and management of Atlantic striped bass, and for other purposes.

Oct. 31, 1984
[H.R. 5492]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Atlantic Striped Bass Conservation Act.
16 USC 1851 note.
Fish and fishing.
16 USC 1851 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atlantic Striped Bass Conservation Act".

SEC. 2. FINDINGS AND PURPOSES.

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

(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

(2) As a consequence of increased fishing pressure, environmental pollution, the loss and alteration of habitat, and the inadequacy of fishery conservation and management practices and controls, certain stocks of Atlantic striped bass have been severely reduced in number.

(3) Because no single government entity has full management authority throughout the range of the Atlantic striped bass, the harvesting and conservation of these fish have been subject to diverse, inconsistent, and intermittent State regulation that has been detrimental to the long-term maintenance of stocks of the species and to the interests of fishermen and the Nation as a whole.

(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

SEC. 3. DEFINITIONS.

16 USC 1851 note.

As used in this Act—

(1) The term "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(2) The term "Atlantic striped bass" means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A).

(3) The term "coastal waters" means—

(A) all waters, whether salt or fresh, of a coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

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(B) the waters of a coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(4) The term "coastal State" means Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.

(5) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

56 Stat. 267, 64 Stat. 467.

(6) The term "fishing" means—

(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(7) The term "Plan" means the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, prepared by the Commission, and all amendments thereto related to fishing, including interim restoration measures for Chesapeake Bay striped bass stocks as developed by the Atlantic States Marine Fisheries Commission Striped Bass Management Board in December 1983, whether or not such language is formally adopted as an amendment to the Plan of October 1, 1981.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "Secretaries" means the Secretary of Commerce and the Secretary of the Interior.

16 USC 1851 note.

SEC. 4. COMMISSION FUNCTIONS.

(a) COASTAL STATE REGULATORY MEASURES.—The Commission shall decide during June 1985 whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters. The Commission shall immediately notify the Secretaries of each negative determination made by it under the preceding sentence.

(b) MONITORING OF ENFORCEMENT.—Commencing on July 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

(c) NOTIFICATION TO SECRETARY OF RESULTS OF ENFORCEMENT MONITORING.—On December 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretaries of the results of the monitoring under subsection (b) of each coastal State.

(d) SECRETARIAL ACTION AFTER NOTIFICATION.—Immediately upon receiving notice from the Commission—

(1) under subsection (a) that a coastal State has not taken the actions described in that subsection; or

(2) under subsection (c) that the enforcement of the Plan by a coastal State is not satisfactory;

the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.

SEC. 5. MORATORIUM.

16 USC 1851 note.

(a) DEFINITIONS.—For purposes of this section—

(1) The term "moratorium area" means the coastal waters with respect to which a declaration under section 4(d) applies.

(2) The term "moratorium period" means the period beginning on the day on which moratorium is declared under section 4(d) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

(b) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under section 4(d) applies to that State; or

(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

(c) PENALTIES AND FORFEITURES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act that is unlawful under subsection (b), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $1,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, any history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)-(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpenas) shall apply to penalties assessed under paragraph (1) to the same extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(d) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in

connection with, or the result of, the commission of any act that is unlawful under subsection (b), shall be subject to forfeiture to the United States. All or part of the vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of section 310 of the Act of 1976 (16 U.S.C. 1860(c)-(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(e) ENFORCEMENT.—The Secretary shall enforce a moratorium declared under section 4(d). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a coastal State in carrying out that enforcement.

16 USC 1851 note.

SEC. 6. COMPREHENSIVE ANNUAL SURVEYS.

For the purposes of implementing the provisions of this Act, the Secretary and the Secretary of the Interior shall jointly conduct a comprehensive annual survey of the Atlantic striped bass fisheries. Each survey shall include, but not be limited to, a compilation and assessment of the recreational and commercial landings of that species in the coastal States during the period considered in the survey. The results of each annual survey shall be published in the Federal Register.

Federal Register, publication.

16 USC 1851 note.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Funds for activities in fiscal year 1985 under this Act shall be made available only from funds appropriated for the Department of Commerce and the Department of the Interior for fiscal year 1985. For fiscal year 1986, there are authorized such sums as may be necessary or appropriate to carry out the provisions of this Act.

16 USC 1851 note.
Report.

SEC. 8. SECRETARIAL STUDY.

Within six months of the date of enactment of this Act, the Secretaries shall review the existing Plan and shall report to the Commission, the Chairman of the House Committee on Merchant Marine and Fisheries, the Chairman of the Senate Committee on Commerce, Science and Transportation and the Chairman of the Senate Committee on Environment and Public Works on the adequacy of the Plan to achieve the purposes of this Act. Such report shall include recommendations for additional measures that may need to be taken and include recommendations concerning specific State actions regarding the management and conservation of striped bass.

16 USC 1851 note.

SEC. 9. EFFECTIVE PERIOD.

Sections 1 through 8 shall take effect upon enactment of this Act and shall cease to have force and effect 18 months after the date of enactment of this Act.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is amended by amending subsection (d) by striking out "and

September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(b) There are authorized to be appropriated to the Department of Commerce, $200,000 for each of fiscal years 1986 and 1987, and the amount that is appropriated under this authority for each such year shall be apportioned equally by the Secretary between the States of Maryland and Virginia for use by each of them for the propagation, in existing hatchery facilities of that State, of striped bass for the replenishment of the Chesapeake Bay stock: (1) if that State, for each such fiscal year, expends an equal amount of State moneys for the propagation of such stock in its hatchery facilities; and (2) if the Secretary considers that that State is in full compliance with the Plan.

Appropriation authorization.

(c) Section 207 of the Act entitled "An Act to provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and for other purposes" (Public Law 97-137) is amended to read as follows:

95 Stat. 1712.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. The Secretary of the Army is authorized to carry out his responsibilities under this title, at an estimated cost of $1,040,000. Any sums appropriated under this title shall remain available until expended.".

(d) The amendment made by subsection (c) shall take effect October 1, 1986.

Effective date.

Approved October 31, 1984.

LEGISLATIVE HISTORY—H.R. 5492:

HOUSE REPORTS: No. 98-1029 and Pt. 2 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 4, considered and passed House.
Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment.