

Public Law 100-589
100th Congress

An Act

Nov. 3, 1988
[H.R. 4124]

To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

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

16 USC 1851
note.

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, and 1991,".

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note.

SEC. 2. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "1988." and inserting in lieu thereof "1991.".

SEC. 3. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "the fiscal year ending September 30, 1980," and all that follows through "September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1988, 1989, 1990, and 1991".

SEC. 4. COMMISSION FUNCTIONS.

Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by inserting "and at any other time it deems necessary," immediately after "thereafter,".

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SEC. 5. STUDY OF STRIPED BASS IN ALBEMARLE SOUND AND ROANOKE RIVER BASIN.

(a) FINDINGS.—The Congress finds that:

(1) The anadromous stock of striped bass in the Albemarle Sound-Roanoke River Basin area of North Carolina sustained important commercial and recreational fisheries as recently as the 1960's and 1970's.

(2) This stock has been declining for some time and is severely depressed at present, and may soon reach a level from which recovery will be exceptionally difficult.

(3) The reasons for this decline are thought to include fishing; other human activities and environmental factors, such as unsuitable water flow before, during, and after critical spawning periods; degradation of water quality by pollutants; the impact of eutrophication on the food chain, and the impact of changing land use activities.

(4) Current Federal and interstate efforts to conserve the Atlantic striped bass, while effective in identifying factors contributing to the decline of other important Atlantic coastal migratory stocks of striped bass and steps that will be effective in reversing that decline, have not made a major contribution to

the protection and restoration of the Albemarle Sound-Roanoke River stock of striped bass.

(5) Because the striped bass and the aquatic environment of the Albemarle Sound-Roanoke River basin presently are being significantly affected by combined but not fully understood causes, a study should be undertaken to obtain additional biological information to understand the significance of fishing, water flows, and other factors in the decline of the striped bass populations in the Albemarle Sound-Roanoke River basin and, if feasible, develop an effective course of action for restoring these important stocks of striped bass.

(b) Study.—

(1) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall—

(A) immediately undertake a biological study of the striped bass fishery resources and habitats of the Albemarle Sound-Roanoke River basin area;

(B) develop short-term and long-term recommendations for Federal and State government agencies for restoring and conserving such resources and habitats; and

(C) submit the results of such study and such recommendations to the Congress and to the States of North Carolina and Virginia as soon as practicable, but not later than 36 months after the date of the enactment of this Act.

North Carolina.
Virginia.

(2) CONTENTS OF THE STUDY.—The study conducted under this subsection shall, to the extent existing data are adequate, use such existing data and shall include—

(A) a description of the Albemarle Sound-Roanoke River basin area, and an investigation and analysis of the effects of land and water use practices on the striped bass population and habitats of the area;

(B) an investigation and analysis of the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including the amount and geographical location of migration and spawning habitat;

(C) an investigation and analysis of factors that may affect the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including—

(i) the extent and causes of mortality at successive stages in the life cycle of striped bass, including mortality due to recreational and commercial fishing; and

(ii) the combined effects of pollution and other natural and human alterations of the physical environment, including the effects of water withdrawals, discharges, and flows, on striped bass migration and spawning and on the viability and condition of eggs and larval fish;

(D) an investigation and analysis of the status and effectiveness of current striped bass management measures implemented by State and Federal authorities, including State fishing regulations and Federal fish stocking activities, reservoir management and water flow regulation, and an analysis of whether any additional State or Federal measures would be effective in halting the decline and

initiating the recovery of the Albemarle Sound-Roanoke River stock of striped bass; and

(E) a recommendation of whether conservation of the Albemarle Sound-Roanoke River stocks of striped bass could be improved by management of these stocks under the provisions of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass and the Atlantic Striped Bass Conservation Act.

(c) PARTICIPATION BY STATE AGENCIES.—

(1) The Director of the North Carolina Division of Marine Fisheries, the Executive Director of the North Carolina Wildlife Resources Commission, the Secretary of the Virginia Department of Natural Resources, and the District Engineer for the Wilmington District of the United States Army Corps of Engineers shall be invited to have their agencies participate in conducting the study and developing recommendations pursuant to subsection (b).

(2) To facilitate participation by the agencies referred to in paragraph (1), should they decide to participate, a Memorandum of Understanding will be executed with such officials setting forth the respective responsibilities of the entities involved in conducting the study and developing those recommendations.

(d) CONSULTATION.—In carrying out the study under subsection (b), the Atlantic States Marine Fisheries Commission, other Federal agencies, the Albemarle-Pamlico Estuarine Study, Dominion Resources, Inc./Virginia Power/North Carolina Power, affected local governments in North Carolina and Virginia, appropriate commercial and recreational fishing interests, and other interests shall be consulted, to the maximum extent practicable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of \$1,000,000 to carry out the requirements of this section. These appropriations will remain available until expended.

(f) STATE AUTHORITY.—Nothing in this section shall be construed as authorizing any State to manage fisheries within the jurisdiction of another State.

(g) RESTRICTION ON USE OF OTHER FUNDS.—Amounts appropriated pursuant to the authorization contained in section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) shall not be used to carry out this section.

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SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(2) achieve conservation and management goals for the Atlantic striped bass resource.

(b) **CONSULTATION; PERIODIC REVIEW OF REGULATIONS.**—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

State and
local
governments.

(c) **FISHERY MANAGEMENT PLAN ON STRIPED BASS.**—

(1) The appropriate Regional Fishery Management Councils may prepare a fishery management plan on Atlantic striped bass, which if approved and implemented by the Secretary shall supersede any regulations promulgated under subsection (a). Such plan shall—

(A) meet the requirements of sections 301 and 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 and 1853);

(B) apply to all fishing for Atlantic striped bass within the exclusive economic zone; and

(C) ensure the effectiveness of the Plan of the Atlantic States Marine Fisheries Commission defined under section 3(7) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note).

(2) The Secretary shall review such fishery management plan pursuant to section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) and shall approve the plan if it meets the requirements of paragraph (1) and other provisions of this section. The Secretary shall implement the plan by promulgating regulations in accordance with section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855). No regulation promulgated under subsection (a) shall have force and effect during any period in which regulations implementing such plan are in effect.

(d) **APPLICABILITY OF MAGNUSON ACT PROVISIONS.**—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) or (c) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) **DEFINITION.**—As used in this section, the term “exclusive economic zone” has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).

(f) **EFFECTIVE PERIOD.**—Subsections (a) through (e) of this section shall cease to have force and effect at the close of September 30, 1991.

(g) **CONFORMING AMENDMENTS.**—

(1) Paragraph (1) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

“(1) The term ‘Magnuson Act’ means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).”.

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note.

(2) Section 5 of such Act is amended by striking "Act of 1976" each place it appears and inserting in lieu thereof "Magnuson Act".

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4124 (S. 2384):

HOUSE REPORTS: No. 100-766 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 100-558 accompanying S. 2384 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 26, considered and passed House.

Oct. 14, considered and passed Senate, amended, in lieu of S. 2384.

Oct. 19, House concurred in Senate amendment.

