

ATLANTIC STRIPED BASS CONSERVATION ACT  
AMENDMENTS OF 1997

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JULY 8, 1997.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. YOUNG, from the Committee on Resources,  
submitted the following

REPORT

[To accompany H.R. 1658]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1658) to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Atlantic Striped Bass Conservation Act Amendments of 1997”.

**SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC STRIPED BASS CONSERVATION ACT.**

The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

**“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) No single government entity has full management authority throughout the range of the Atlantic striped bass.

“(3) The population of Atlantic striped bass—

“(A) has been subject to large fluctuations due to natural causes, fishing pressure, environmental pollution, loss and alteration of habitat, inad-

equacy of fisheries conservation and management practices, and other causes; and

“(B) risks potential depletion in the future without effective monitoring and conservation and management measures.

“(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.

“As used in this Act—

“(1) the term ‘Magnuson Act’ means the Magnuson-Stevens Fishery Conservation and Management Act (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)(i).

“(3) The term ‘coastal waters’ means—

“(A) for each coastal State referred to in paragraph (4)(A)—

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

“(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

“(B) for the District of Columbia, those waters within its jurisdiction; and

“(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

“(4) The term ‘coastal State’ means—

“(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

“(B) the District of Columbia; and

“(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.

“(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.

“(6) The term ‘exclusive economic zone’ has the meaning given such term in section 3(6) of the Magnuson Act (16 U.S.C. 1802(6)).

“(7) 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.

“(8) The term ‘moratorium area’ means the coastal waters with respect to which a declaration under section 5(a) applies.

“(9) The term ‘moratorium period’ means the period beginning on the day on which moratorium is declared under section 5(a) regarding a coastal State and ending on the day on which the Commission notifies the Secretaries that that State has taken appropriate remedial action with respect to those matters that were the case of the moratorium being declared.

“(10) The term ‘Plan’ means a plan for managing Atlantic striped bass, or an amendment to such plan, that is prepared and adopted by the Commission.

“(11) The term ‘Secretary’ means the Secretary of Commerce or a designee of the Secretary of the Secretary of Commerce.

“(12) The term ‘Secretaries’ means the Secretary of Commerce and the Secretary of the Interior or their designees.

**“SEC. 4. MONITORING OF IMPLEMENTATION AND ENFORCEMENT BY COASTAL STATES.**

“(a) DETERMINATION.—During December of each fiscal year, and at any other time it deems necessary the Commission shall determine—

“(1) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

“(2) whether the enforcement of the Plan by each coastal State is satisfactory.

“(b) SATISFACTORY STATE ENFORCEMENT.—For purposes of subsection (a)(2), enforcement by a coastal State shall 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 the coastal waters of the State is being, or will likely be, substantially and adversely affected.

“(c) NOTIFICATION OF SECRETARIES.—The Commission shall immediately notify the Secretaries of each negative determination made by it under subsection (a).

**“SEC. 5. MORATORIUM.**

“(a) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under section 4(c) of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

“(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 subsection (a) 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) CIVIL PENALTIES.—

“(1) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (b) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

“(2) CIVIL FORFEITURES.—

“(A) IN GENERAL.—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 as the result of, the commission of any act that is unlawful under subsection (b) shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

“(B) DISPOSAL OF FISH.—Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

“(d) ENFORCEMENT.—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (a) that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). 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 State in carrying out that enforcement.

“(e) REGULATIONS.—The Secretary may issue regulations to implement this section.

**“SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPULATIONS.**

“(a) IN GENERAL.—For the purposes of carrying out this Act, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following:

“(1) Annual stock assessments, using fishery-dependent and fishery-independent data, for the purposes of extending the long-term population record generated by the annual striped bass study conducted by the Secretaries before 1994 and understanding the population dynamics of Atlantic striped bass.

“(2) Investigations of the causes of fluctuations in Atlantic striped bass populations.

“(3) Investigations of the effects of water quality, land use, and other environmental factors on the recruitment, spawning potential, mortality, and abundance of Atlantic striped bass populations, including the Delaware River population.

“(4) Investigations of—

“(A) the interactions between Atlantic striped bass and other fish, including bluefish, menhaden, mackerel, and other forage fish or possible competitors, stock assessments of these species, to the extent appropriate; and

“(B) the effects of interspecies predation and competition on the recruitment, spawning potential mortality, and abundance of Atlantic striped bass.

“(b) REPORTS.—The Secretaries shall make biennial reports to the Congress and to the Commission concerning the progress and findings of studies conducted under subsection (a) and shall make those reports public. Such reports shall, to the extent appropriate, contain recommendations of actions which could be taken to encourage the sustainable management of Atlantic striped bass.

**“SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.**

“(a) AUTHORIZATION.—For each of fiscal years 1998, 1999, and 2000, there are authorized to be appropriated to carry out this Act—

“(1) \$800,000 to the Secretary of Commerce; and

“(2) \$250,000 to the Secretary of the Interior.

“(b) COOPERATIVE AGREEMENTS.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission or with States, for the purpose of using amounts appropriated pursuant to this section to provide financial assistance for carrying out the purposes of this Act.

**“SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MANAGEMENT PLANS AND AMENDMENTS.**

“(a) STANDARDS AND PROCEDURES.—In order to ensure the opportunity for public participation in the preparation of management plans and amendments to management plans for Atlantic striped bass, the Commission shall prepare such plans and amendments in accordance with the standards and procedures established under section 805(a)(2) of the Atlantic Coastal Fisheries Cooperative Management Act.

“(b) APPLICATION.—Subsection (a) shall apply to management plans and amendments adopted by the Commission after the 6-month period beginning on the date of enactment of the Atlantic Striped Bass Conservation Act Amendments of 1997.

**“SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.**

“(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines are—

“(1) consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

“(2) compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

“(3) sufficient to assure the long-term conservation of Atlantic striped bass populations.

“(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.

“(c) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson 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) of this section as if such regulations or plan were issued under the Magnuson Act.”

**SEC. 3. REPEALS.**

(a) ANADROMOUS FISH CONSERVATION ACT.—Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is repealed.

(b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—Section 5 of the Act entitled “An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes”, approved November

3, 1988 (16 U.S.C. 1851 note; 102 Stat. 2984), relating to studies of the Albermarle Sound-Roanoke River Basin striped bass stock, is repealed.

(c) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—Section 6 of the Act entitled “An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes”, approved November 3, 1988 (102 Stat. 2986; 16 U.S.C. 1851 note) is repealed.

#### PURPOSE OF THE BILL

The purpose of H.R. 1658 is to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

#### BACKGROUND AND NEED FOR LEGISLATION

Atlantic striped bass (or “rockfish” in the Chesapeake Bay) are an important commercial and recreational fish found along the U.S. East Coast from Maine to South Carolina. They are anadromous, living their adult lives in the ocean but returning to estuaries and rivers to spawn each spring. Adult striped bass migrate seasonally up and down the East Coast, wintering in the waters off the Carolinas and ranging as far north as Maine in the summer. They usually remain inshore in State waters and rarely venture into Federal waters (beginning three miles offshore). Hence, the Atlantic striped bass fishery is subject to the regulation of many States.

Recreational fishermen consider striped bass one of the premier saltwater game fish along the East Coast. There is a commercial fishery for striped bass, but the majority of fish are caught by recreational anglers, who support a coast-wide industry of charter boats, bait and tackle shops, and related businesses.

When Europeans first colonized America, striped bass were so common that it was said that one could walk across the Delaware River on the backs of stripers. Since that time, the striped bass population has fluctuated radically between abundance and scarcity. In the early 1970s, striped bass were as abundant as they had ever been and supported a large commercial fishery. By the late 1970s, however, heavy fishing pressure on the species, degradation of water quality in estuaries, and other poorly understood factors all coincided, and a severe population crash ensued. Commercial landings plummeted from 14.7 million pounds in 1973 to 2.9 million pounds in 1984, and the species nearly disappeared as a game fish. In 1979, Congress recognized a need to address this problem, and authorized the Emergency Striped Bass Study as part of the Anadromous Fish Conservation Act. This study, carried out jointly by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), addressed the issues of water pollution, climate change, predation and competition, and fishing mortality in a search for the cause of the striped bass decline. However, the primary conclusion of the study was that, regardless of the cause, major reductions in fishing mortality were required if the species was to recover.

In 1981, the Atlantic States Marine Fisheries Commission (ASMFC) prepared the first coast-wide management plan for Atlantic striped bass. To ensure that the States would comply with the plan, Congress passed the Atlantic Striped Bass Conservation Act of 1984 (ASBCA). The ASBCA created a means for enforcing the interstate management plan. Under the ASBCA, any State that

failed to comply with the plan would incur a Federal moratorium on fishing for striped bass within its waters. With this enforcement authority in place, the States complied with the strict harvest limits set by the ASMFC, and the striped bass population began to recover.

Amendments to the ASBCA enacted in 1988 authorized NMFS to regulate the Atlantic striped bass fishery in Federal waters from three to 200 miles offshore to support the coastal fishery management plan. In 1990, to ensure the effectiveness of the strict catch limits in State waters, NMFS declared a moratorium on fishing for striped bass in Federal waters. This moratorium remains in effect.

In addition to the enforcement provisions, the ASBCA authorized a continuing annual study and population assessment of striped bass stocks, also conducted jointly by NMFS and USFWS, to succeed the Emergency Striped Bass Study. Under these two study authorizations, NMFS and USFWS performed annual stock assessments from 1979 to 1994. These stock assessments provided fishery-independent population data that proved to be an important management tool for the ASMFC. The ASBCA was reauthorized in 1986 and again in 1991. In 1994, the authorization for the study expired, and funding ceased.

The final Striped Bass Study in 1994 showed that most population indices had returned to pre-decline levels, and ASMFC declared the species to be fully restored. In 1995, they adopted Amendment 5 to the Striped Bass Management Plan, which called for a gradual increase in fishing mortality over several years. Since that time, ASMFC has gradually increased the allowable catch for both recreational and commercial fishermen. In short, the striped bass restoration program has been a dramatic success. Striped bass are once again abundant in bays and rivers all along the East Coast.

In 1990, Congress enacted the Atlantic Coastal Fisheries Cooperative Management Act. This Act, modeled after the ASBCA, extended the moratorium authority in the ASBCA to apply to other East Coast fisheries that are managed under ASMFC management plans.

Since 1994, there have been several attempts to reauthorize the ASBCA. In the 104th Congress, the House passed two separate authorization bills, H.R. 1139 and H.R. 4139, but the Senate did not act on either one. Thus, despite efforts over the past two years to reinstitute the Striped Bass Study and continue the remarkably successful restoration program, the funding authorization has not been extended.

At present, the striped bass population appears to be healthy. However, the lack of a centralized striped bass study has reduced the information available to the ASMFC as it plans future management actions. The Committee notes that the causes of the huge population fluctuations of the last two centuries are not well understood. Thus, the near-record abundance of striped bass at present is no assurance that another population crash will not occur in the future. The Committee feels that the only way to ensure that striped bass remain abundant in the future is to continue regular and comprehensive population assessments and studies so the ASMFC has the best possible data on which to base its manage-

ment policies. H.R. 1658 reinstates the Striped Bass Study and ensures that the best possible information is available when future management policies are decided.

In addition, the present abundance of striped bass appears to be coincident with significant population changes in other species. For example, at an April 21, 1997, hearing before the Subcommittee on Fisheries Conservation, Wildlife, and Oceans on the subject of the relationship between striped bass, bluefish, and forage fish, some fishermen and scientists reported declines in the availability of bluefish in coastal waters, and theorized that the abundant striped bass, which compete with bluefish for a common food supply, may be reducing the bluefish population. This opens the possibility that the management of other species may affect striped bass populations.

#### COMMITTEE ACTION

H.R. 1658 was introduced on May 16, 1997, by Congressman Jim Saxton (R-NJ). It was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife, and Oceans.

On April 21, 1997, the Subcommittee held a hearing on a related matter, the interactions between striped bass, bluefish, and forage fish. Witnesses at this hearing included Mr. Richard Schaefer, Chief, Office of Intergovernmental and Recreational Fisheries, NMFS; Mr. Robert Shinn, Commissioner, New Jersey Department of Environmental Protection; Mr. Jack Dunnigan, Director, Atlantic States Marine Fisheries Commission; Dr. Ken Able, Director, Rutgers University Marine Field Station; Mr. Tom Fote, Legislative Chairman, Jersey Coast Anglers' Association; Mr. Jim Donofrio, Executive Director, Recreational Fishing Alliance; and Mr. Charles Bergmann of Lund's Fisheries.

On May 22, 1997, the Subcommittee met to mark up H.R. 1658. There were no amendments, and the Subcommittee ordered the bill favorably reported to the Full Committee by voice vote.

On June 25, 1997, the full Committee on Resources met to consider H.R. 1658. An amendment in the nature of a substitute to make the findings section reflect the current state of the striped bass fisheries, to allow the designees of the Secretaries of Commerce and Interior to take actions under the ASBCA, to provide authorization of appropriations to the Secretary of the Interior, and to make technical changes was offered by Congressman Saxton, and adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

The title of this bill is "The Atlantic Striped Bass Conservation Act Amendments of 1997."

SECTION 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC  
STRIPED BASS CONSERVATION ACT

This section amends the Atlantic Striped Bass Conservation Act of 1984 (ASBCA) by substituting a revised version. H.R. 1658 differs from the existing ASBCA in that it: (a) authorizes funding to carry out the ASBCA for Fiscal Years 1998, 1999, and 2000; (b) clarifies and amends some sections of the ASBCA to increase consistency with the Atlantic States Marine Fisheries Cooperative Management Act; and (c) consolidates and modifies existing authorizations of scientific studies to remove duplicative law and address current issues in the striped bass fishery.

The specific differences between the existing ASBCA and H.R. 1658 are as follows:

*Section 2. Findings and Purposes.* In current law, Section 2, paragraph (3) refers to the large decline in striped bass populations that led to enactment of the original ASBCA. The striped bass population has now recovered, and the findings are modified here to reflect that the striped bass population is no longer severely reduced. H.R. 1658 notes generally that striped bass have historically been subject to large population swings, and may be at risk in the future without effective monitoring and management. In addition, H.R. 1658 clarifies other findings.

*Section 3. Definitions.* In current law, the definition of “Plan” references a fishery management plan which has been superseded by more recent amendments. H.R. 1658 clarifies this definition. Definitions of “moratorium area,” “moratorium period,” and “exclusive economic zone” are moved to this section from other parts of the ASBCA for clarity. In addition, the definitions of “Secretary” and “Secretaries” are modified to make clear that the Secretaries of Commerce and Interior are authorized to delegate their responsibilities under the ASBCA to other agency officials. The Committee assumes that this change will reduce administrative barriers to inter-agency cooperation on the Striped Bass Study.

*Section 4. Commission Functions; Monitoring of Implementation and Enforcement by Coastal States.* Section 4(b) in current law requires the Secretaries of Commerce and Interior to declare a moratorium on fishing for Atlantic striped bass within the waters of a State that they find to be out of compliance with the fishery management plan. This authority is moved to Section 5(a) for clarity.

*Section 5. Moratorium.* Section 5(a) in current law, containing definitions of “moratorium area” and “moratorium period,” is moved to Section 3 (Definitions) for clarity. Section 4(b) in current law (described above) is redesignated as Section 5(a) for clarity.

Subsections (c), (d), and (e) in current law, which deal with enforcement of moratoria declared by the Secretaries of Commerce and Interior, are replaced in H.R. 1658 by corresponding language from the Atlantic States Marine Fisheries Cooperative Management Act, for purposes of consistency between the two Acts. This does not result in any substantive changes.

*Section 6. Continuing Studies of Striped Bass Populations.* In current law, studies of striped bass populations are authorized under three different Acts. This section unifies these into one study authorization. It modifies the study objectives to reflect current is-

sues in the striped bass fishery, specifically the interrelationship between striped bass, bluefish, forage fish, and other possible competitors, and the effect of interspecies predation and competition on the abundance of striped bass and bluefish. In addition, it requires the Secretary of Commerce to issue reports on the results of these studies biennially, instead of annually as in current law.

*Section 7. Authorization of Appropriations; Cooperative Agreements.* This section authorizes appropriations of \$800,000 to the Secretary of Commerce, and \$250,000 to the Secretary of the Interior, for each of Fiscal Years 1998, 1999, and 2000.

These authorization levels are consistent with past authorization and appropriations levels. The existing ASBCA authorized "such sums as are necessary or appropriate" through Fiscal Year 1994, and the Anadromous Fish Conservation Act, which contains one of the study authorizations that would be consolidated into this bill, authorized \$1,000,000 annually through Fiscal Year 1994. Between Fiscal Years 1980 and 1994, Striped Bass Study appropriations have ranged between \$300,000 and \$1.55 million, averaging \$860,000 annually. In Fiscal Year 1997, Congress appropriated \$785,000 for combined striped bass and bluefish studies.

By authorizing separate appropriations to the Secretaries of Commerce and Interior, the Committee intends to make clear that funds appropriated to one agency will not be transferred to the other.

*Section 8. Public Participation in Preparation of Management Plans and Amendments.* This section replaces Section 8 in current law, which contains a one-time reporting requirement that was fulfilled in 1985. It adds a new requirement for public participation in the development of striped bass management plans. This change would make the ASBCA consistent with the Atlantic States Marine Fisheries Cooperative Management Act.

*Section 9. Protection of Striped Bass in the Exclusive Economic Zone.* This section directs the Secretary of Commerce to regulate fishing for striped bass in the Exclusive Economic Zone (EEZ). This authority was enacted by Public Law 100-589, the 1988 reauthorization of the ASBCA, but was not codified as part of that Act. This section so incorporates it, with three changes. First, the definition of "Exclusive Economic Zone" is moved to Section 3 (Definitions). Second, according to current law, regulations for striped bass fishing in the EEZ must be "necessary and appropriate to ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal state." In H.R. 1658, this is amended to read "compatible with the plan or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal state." The Committee's intent in making this change is to make the ASBCA consistent with the Atlantic States Marine Fisheries Cooperative Management Act, so that the Secretary of Commerce is not held to different standards in regulating different species. The Committee does not intend by this change to disapprove current regulations in the EEZ, or to suggest a change. The Committee believes that the present Federal moratorium in the EEZ is consistent with the prudent management of striped bass. Finally, the Committee adds a requirement that regulations in the EEZ be sufficient for the long-term conservation

of Atlantic striped bass. Again, the Committee believes that the existing moratorium in the EEZ is sufficient to provide for the long-term conservation of Atlantic striped bass.

#### SECTION 3. REPEALS

H.R. 1658 repeals a section of the Anadromous Fish Conservation Act which authorizes studies of striped bass populations. This authority would be consolidated into Section 6 of the ASBCA. It also repeals a provision of Public Law 100-589, the 1988 reauthorization of the ASBCA, which authorized the Secretary of Commerce to regulate striped bass in the EEZ, and moves this language to Section 9 of the ASBCA, as discussed above. In addition, this section repeals the authorization of a one-time study which has been completed.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### FEDERAL ADVISORY COMMITTEE STATEMENT

Although mentioned in H.R. 1658, the Atlantic States Marine Fisheries Commission is not authorized in this legislation. Rather, the Commission has been established under an interstate compact consented to and approved by Congress in Public Law 77-539 and Public Law 81-721.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1658.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1658. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1658 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. Enactment of H.R. 1658 would increase revenues to the Federal Government by increasing civil penalties for fishing in state waters during a Feder-

ally-imposed moratorium, but these revenues would not be significant.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1658.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1658 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 7, 1997.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1658, the Atlantic Striped Bass Conservation Act Amendments of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gary Brown (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 1658—Atlantic Striped Bass Conservation Act Amendments of 1997*

H.R. 1658 would amend the Atlantic Striped Bass Conservation Act (the Striped Bass Act) to authorize appropriations of about \$1 million annual through 2000 for the management and conservation of striped bass, including ongoing population studies. The Bill also would increase penalties for fishing for striped bass in state waters (zero to three miles offshore) during a federal moratorium.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would increase federal spending by \$1 million in 1998 and by about \$3 million over the 1998–2000 period. The legislation could affect governmental receipts by increasing a civil penalty for fishing in state waters during a federally imposed moratorium; therefore, pay-as-you-go procedures would apply. However, CBO estimates that any new receipts would total less than \$500,000 a year. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would not impose any cost on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1658 is shown in the following table.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority <sup>1</sup> .....	1	0	0	0	0	0
Estimated outlays .....	1	0	0	0	0	0
Proposed changes:						
Authorization level .....	0	1	1	1	0	0
Estimated outlays .....	0	1	1	1	0	0
Spending under H.R. 1658:						
Authorization level <sup>1</sup> .....	1	1	1	1	0	0
Estimated outlays .....	1	1	1	1	0	0

<sup>1</sup>The 1997 level is the amount appropriated for that year.

The costs of this legislation fall within budget function 300 (natural resources).

Basis of estimate: For purposes of this estimate, CBO assumes that all amounts authorized by H.R. 1658 would be appropriated for each fiscal year and that outlays would follow historical spending patterns for the authorized programs.

H.R. 1658 would increase from \$1,000 per violation to \$100,000 the penalty for fishing for striped bass in state waters when a federal moratorium is in effect. CBO expects that any collections from this penalty would total less than \$500,000 a year because it is very unlikely that a federal moratorium would ever be imposed. (Since the authority was first provided in 1984, a federal moratorium on fishing for striped bass in state waters has been imposed only once, for a six-day period in 1990 in New Jersey.) The bill would maintain the current system of penalties for violating federal regulations governing fishing in federal waters.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The bill's provision increasing penalties for striped bass fishing in state waters during a moratorium could affect receipts, but CBO estimates that the amount of any new revenues would not be significant.

Estimated impact on State, local, and tribal governments: H.R. 1658 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The bill would benefit the Atlantic State Marine Fisheries Commission by providing access to federal funds that the bill authorizes to be appropriated (\$1.05 million per year for fiscal years 1998–2000). The commission could receive some of these funds under cooperative agreements with federal agencies.

Estimated impact on the private sector: The bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Gary Brown; impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 1658 contains no unfunded mandates.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**ATLANTIC STRIPED BASS CONSERVATION ACT****[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.**

**[**As used in this Act—

**[(1)** The term “Magnuson Act” means the Magnuson Fishery Conservation and Management Act (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)(i).

**[(3)** The term “coastal waters” means—

**[(A)** for each coastal State referred to in paragraph (4)(A)—

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



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.

[(2) The Commission shall immediately notify the Secretaries of each negative determination made by it under this subsection.

[(b) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

#### **[SEC. 5. MORATORIUM.**

[(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(b) applies.

[(2) The term “moratorium period” means the period beginning on the day on which moratorium is declared under section 4(b) regarding a coastal State and ending on the day on which the Commission notifies the Secretaries 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(b) 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 Secretaries, 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 Secretaries by written notice. In determining the amount of such penalty, the Secretaries 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 Magnuson Act (16 U.S.C. 1858 (b)–(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpoenas) 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 Magnuson Act (16 U.S.C. 1806 (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.—(1) The Secretaries shall enforce a moratorium declared under section 4(b). The Secretaries 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.

[(2) ENFORCEMENT AUTHORITY.—A person authorized by the Secretaries may take any action to enforce a moratorium declared under section 4(b) that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act may take to enforce that Act.

[(3) REGULATIONS.—The Secretaries may issue regulations to implement this subsection.

#### **[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.)

#### **[SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.**

[(a) AUTHORIZATION.—For each fiscal years 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, and 1994, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.

[(b) COOPERATIVE AGREEMENTS.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission for the purpose of using amounts appropriated pursu-

ant to this section to provide financial assistance to the Commission for carrying out its functions under this Act.

**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.]

**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) *No single government entity has full management authority throughout the range of the Atlantic striped bass.*

(3) *The population of Atlantic striped bass—*

(A) *has been subject to large fluctuations due to natural causes, fishing pressure, environmental pollution, loss and alteration of habitat, inadequacy of fisheries conservation and management practices, and other causes; and*

(B) *risks potential depletion in the future without effective monitoring and conservation and management measures.*

(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.**

*As used in this Act—*

(1) *the term “Magnuson Act” means the Magnuson-Stevens Fishery Conservation and Management Act (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)(i).*

(3) *The term “coastal waters” means—*

(A) *for each coastal State referred to in paragraph*

(4)(A)—

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

(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

(B) for the District of Columbia, those waters within its jurisdiction; and

(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

(4) The term "coastal State" means—

(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

(B) the District of Columbia; and

(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.

(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.

#### **SEC. 5. MORATORIUM.**

(a) *SECRETARIAL ACTION AFTER NOTIFICATION.*—Upon receiving notice from the Commission under section 4(c) of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

(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 subsection (a) 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) *CIVIL PENALTIES.*—

(1) *CIVIL PENALTY.*—Any person who commits any act that is unlawful under subsection (b) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

(2) *CIVIL FORFEITURES.*—

(A) *IN GENERAL.*—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 as the result of, the commission of any act that is unlawful under subsection (b) shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(B) *DISPOSAL OF FISH.*—Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

(d) *ENFORCEMENT.*—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (a) that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). 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 State in carrying out that enforcement.

(e) *REGULATIONS.*—The Secretary may issue regulations to implement this section.

#### **SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPULATIONS.**

(a) *IN GENERAL.*—For the purposes of carrying out this Act, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following:

(1) Annual stock assessments, using fishery-dependent and fishery-independent data, for the purposes of extending the long-term population record generated by the annual striped bass study conducted by the Secretaries before 1994 and understanding the population dynamics of Atlantic striped bass.

(2) Investigations of the causes of fluctuations in Atlantic striped bass populations.

(3) Investigations of the effects of water quality, land use, and other environmental factors on the recruitment, spawning potential, mortality, and abundance of Atlantic striped bass populations, including the Delaware River population.

(4) Investigations of—

(A) the interactions between Atlantic striped bass and other fish, including bluefish, menhaden, mackerel, and other forage fish or possible competitors, stock assessments of these species, to the extent appropriate; and

(B) the effects of interspecies predation and competition on the recruitment, spawning potential mortality, and abundance of Atlantic striped bass.

(b) *REPORTS.*—The Secretaries shall make biennial reports to the Congress and to the Commission concerning the progress and findings of studies conducted under subsection (a) and shall make those reports public. Such reports shall, to the extent appropriate, contain recommendations of actions which could be taken to encourage the sustainable management of Atlantic striped bass.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.**

(a) *AUTHORIZATION.*—For each of fiscal years 1998, 1999, and 2000, there are authorized to be appropriated to carry out this Act—

(1) \$800,000 to the Secretary of Commerce; and

(2) \$250,000 to the Secretary of the Interior.

(b) *COOPERATIVE AGREEMENTS.*—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission or with States, for the purpose of using amounts appropriated pursuant to this section to provide financial assistance for carrying out the purposes of this Act.

**SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MANAGEMENT PLANS AND AMENDMENTS.**

(a) *STANDARDS AND PROCEDURES.*—In order to ensure the opportunity for public participation in the preparation of management plans and amendments to management plans for Atlantic striped bass, the Commission shall prepare such plans and amendments in accordance with the standards and procedures established under section 805(a)(2) of the Atlantic Coastal Fisheries Cooperative Management Act.

(b) *APPLICATION.*—Subsection (a) shall apply to management plans and amendments adopted by the Commission after the 6-month period beginning on the date of enactment of the Atlantic Striped Bass Conservation Act Amendments of 1997.

**SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.**

(a) *REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.*—The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines are—

(1) consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

(2) compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(3) sufficient to assure the long-term conservation of Atlantic striped bass populations.

(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.

(c) *APPLICABILITY OF MAGNUSON ACT PROVISIONS.*—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson 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) of this section as if such regulations or plan were issued under the Magnuson Act.*

\* \* \* \* \*

**SECTION 7 OF THE ANADROMOUS FISH CONSERVATION ACT**

**[SEC. 7. (a) CONDUCT AND SCOPE OF STUDIES.—**The Secretary shall cooperate with States and other non-Federal interests in conducting scientific studies of the anadromous stocks of Atlantic striped bass. These studies shall include, but not be limited to—

**[(1)** estimates of recruitment, spawning potential, mortality rates, stock composition of coastal fisheries, and other population parameters;

**[(2)** investigations of factors affecting abundance of striped bass, including analyses of the extent and causes of mortality at successive life stages; and

**[(3)** monitoring population abundance and age and sex composition of striped bass stocks on fishery-dependent and fishery-independent data.

**[(b)** The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

**[(c)** For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

**[(d)** There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed \$1,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass.]

**THE ACT OF NOVEMBER 3, 1988**

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

\* \* \* \* \*

**[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.

【(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.]

**[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.]

[(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) 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)).]

[(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.).”.]

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