

103D CONGRESS  
1ST SESSION

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**H. R. 2134**

**AN ACT**

To improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes.

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## AN ACT

To improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Atlantic Coastal Fish-  
5        eries Cooperative Management Act of 1993”.

1 **SEC. 2. STATE-FEDERAL COOPERATION IN ATLANTIC**  
2 **COASTAL FISHERIES MANAGEMENT.**

3 (a) FEDERAL SUPPORT FOR STATE COASTAL FISH-  
4 ERIES PROGRAMS.—The Secretaries shall develop and im-  
5 plement a program to support the fisheries management  
6 programs of the Commission. The program shall include  
7 elements to support and enhance State cooperation in—

- 8 (1) collection, management, and analysis of  
9 fisheries data;  
10 (2) law enforcement;  
11 (3) habitat conservation;  
12 (4) fisheries research, including biological and  
13 socioeconomic research; and  
14 (5) fishery management planning.

15 (b) FEDERAL REGULATIONS PERTAINING TO AN AT-  
16 LANTIC OCEAN FISHERY COVERED BY AN INTERSTATE  
17 FISHERY MANAGEMENT PLAN.—

18 (1) IN GENERAL.—The Secretary, after con-  
19 sultation with the Councils having jurisdiction over  
20 fisheries to which an interstate fishery management  
21 plan applies, may prescribe regulations to govern  
22 fishing in the exclusive economic zone that are nec-  
23 essary to support the effective implementation of the  
24 interstate fishery management plan adopted for a  
25 fishery for which no Federal fishery management  
26 plan is in effect. These regulations may include

1 measures recommended by the Commission that are  
2 necessary to support the provisions of the interstate  
3 fishery management plan for that fishery.

4 (2) SUPERSEDING REGULATIONS.—Regulations  
5 issued by the Secretary to implement a Federal fish-  
6 ery management plan for a fishery shall supersede  
7 regulations issued by the Secretary under this sec-  
8 tion for that fishery.

9 (3) ENFORCEMENT.—The provisions of sections  
10 307, 308, 309, 310, and 311 of the Magnuson Fish-  
11 ery Conservation and Management Act (16 U.S.C.  
12 1857, 1858, 1859, 1860, and 1861) regarding pro-  
13 hibited acts, civil penalties, criminal offenses, civil  
14 forfeitures, and enforcement shall apply with respect  
15 to regulations prescribed under this section.

16 **SEC. 3. ADOPTION AND IMPLEMENTATION OF INTERSTATE**  
17 **FISHERY MANAGEMENT PLANS.**

18 (a) ADOPTION OF PLANS.—

19 (1) IN GENERAL.—The Commission shall pre-  
20 pare and adopt fishery management plans or amend-  
21 ments to fishery management plans in accordance  
22 with this section to provide for the conservation and  
23 management of coastal fishery resources.

24 (2) CONSULTATION.—In preparing a fishery  
25 management plan or amendment, the Commission

1 shall consult with the appropriate Councils to deter-  
2 mine ways Federal fishery management plans and  
3 interstate fishery management plans may com-  
4 plement each other.

5 (3) CONTENTS.—Each fishery management  
6 plan or amendment prepared under this subsection  
7 shall—

8 (A) contain information regarding the sta-  
9 tus of the coastal fishery resources and fisheries  
10 covered by the plan or amendment;

11 (B) identify each State that is required to  
12 implement and enforce the plan or amendment;

13 (C) specify actions to be taken by States to  
14 implement and comply with the plan or amend-  
15 ment; and

16 (D) recommend actions for the Secretary  
17 to take in the exclusive economic zone to con-  
18 serve and manage the fishery resources and  
19 fisheries covered by the plan or amendment.

20 (4) TIME FRAME FOR IMPLEMENTATION AND  
21 ENFORCEMENT BY STATES.—

22 (A) IN GENERAL.—Except as provided in  
23 subparagraph (B), a State that is identified in  
24 an interstate fishery management plan pursu-  
25 ant to paragraph (3)(B) shall implement and

1 enforce the plan within the time established in  
2 the plan.

3 (B) EXISTING PLANS.—Not later than 90  
4 days after the date of the enactment of this  
5 Act, the Commission shall develop a schedule  
6 for States to implement and enforce of inter-  
7 state fishery management plans adopted by the  
8 Commission before the date of the enactment of  
9 this Act. The schedule shall require each State  
10 with a declared interest in a plan to implement  
11 and enforce that plan within 1 year after the  
12 date of the enactment of this Act.

13 (5) ADOPTION OF STANDARDS AND PROCE-  
14 DURES FOR THE PREPARATION OF INTERSTATE  
15 FISHERY MANAGEMENT PLANS.—Within 1 year after  
16 the date of enactment of this Act, the Commission  
17 shall establish standards and procedures to govern  
18 the preparation of interstate fishery management  
19 plans under this Act, including standards and proce-  
20 dures to ensure that—

21 (A) such plans promote the conservation of  
22 fish stocks throughout their ranges and are  
23 based on the best scientific information avail-  
24 able, and

1 (B) the Commission provides adequate op-  
2 portunity for public participation in the plan  
3 preparation process.”.

4 (b) COMMISSION MONITORING OF STATE IMPLEMEN-  
5 TATION AND ENFORCEMENT.—Within 1 year after the  
6 date of the enactment of this Act and at least annually  
7 thereafter, the Commission shall—

8 (1) review each interstate fishery management  
9 plan and determine whether each State which has  
10 declared an interest in the plan, or that is required  
11 under the plan to implement and enforce the plan,  
12 has implemented and enforced the plan; and

13 (2) submit a report on the results of that re-  
14 view to the Secretaries.

15 **SEC. 4. STATE NONCOMPLIANCE WITH INTERSTATE FISH-**  
16 **ERY MANAGEMENT PLANS.**

17 (a) DETERMINATION.—The Commission shall deter-  
18 mine that a State is not in compliance with an interstate  
19 fishery management plan if it finds that the State has not  
20 implemented and enforced the plan within the period es-  
21 tablished under section 3(a)(4).

22 (b) NOTIFICATION.—If the Commission determines  
23 under subsection (a) that a State is not in compliance with  
24 an interstate fishery management plan, the Commission  
25 shall notify the Secretaries of that determination within

1 10 working days. The notification shall include the reasons  
2 for making the determination and specify an explicit list  
3 of actions that the affected State must take to comply with  
4 the interstate fishery management plan. The Commission  
5 shall provide a copy of the notification to the State.

6 (c) MONITORING; WITHDRAWAL OF DETERMINA-  
7 TION.—After making a determination under subsection  
8 (a) regarding a State, the Commission shall continue to  
9 monitor implementation and enforcement of the plan by  
10 the State. On finding that a State has taken all actions  
11 specified in the notification issued under subsection (b),  
12 the Commission shall promptly notify the Secretaries that  
13 the State is in compliance.

14 **SEC. 5. SECRETARIAL ACTION.**

15 (a) SECRETARIAL REVIEW OF COMMISSION DETER-  
16 MINATION OF NONCOMPLIANCE.—Within 30 days after  
17 receiving a notification regarding a State from the Com-  
18 mission under section 4(b), the Secretary, in consultation  
19 with the Secretary of the Interior, shall review the Com-  
20 mission's determination of noncompliance and determine  
21 whether—

22 (1) the State has failed to implement and en-  
23 force the interstate fishery management plan in  
24 question;

1           (2) the measures which the State has failed to  
2           implement and enforce are necessary to conserve and  
3           manage the fishery in question; and

4           (3) in the case of an interstate fishery manage-  
5           ment plan adopted after January 1, 1995, the plan  
6           in question was prepared under the standards and  
7           procedures required to be established by the Com-  
8           mission under section 3(a)(5).

9           (b) COMMENTS.—In making a determination under  
10          subsection (a), the Secretary shall—

11           (1) give careful consideration to the comments  
12           of the State that the Commission has determined  
13           under section 4(a) is not in compliance with an  
14           interstate fishery management plan, and provide  
15           that State, upon request, the opportunity to meet  
16           with and present its comments directly to the Sec-  
17           retary; and

18           (2) solicit, review, and consider the comments  
19           of the Commission and the appropriate councils.

20           (c) DECLARATION OF MORATORIUM.—On determin-  
21          ing under subsection (a) that a State has failed to imple-  
22          ment and enforce an interstate fishery management plan,  
23          the Secretary shall declare a moratorium on fishing for  
24          the species covered by the plan within the waters of that  
25          State. The Secretary shall establish the effective date of

1 the moratorium to commence at any time within 6 months  
2 following the declaration.

3 (d) SUSPENSION OF MORATORIUM.—On notification  
4 by the Commission under section 4(c) that a State is in  
5 compliance with an interstate fishery management plan,  
6 the Secretary shall terminate the moratorium declared  
7 under subsection (c) affecting fish species covered by that  
8 plan.

9 (e) REGULATIONS.—

10 (1) IN GENERAL.—The Secretary shall pre-  
11 scribe regulations necessary to implement this Act.

12 (2) CONTENT.—These regulations—

13 (A) may provide for the possession and use  
14 of fish which have been produced in an aqua-  
15 culture operation, subject to applicable State  
16 regulations; and

17 (B) shall allow for the retention of fish  
18 that are subject to a moratorium declared  
19 under subsection (c) and unavoidably taken as  
20 incidental catch in fisheries directed toward  
21 menhaden, if—

22 (i) discarding the retained fish is im-  
23 practicable;

1                   (ii) the retained fish do not constitute  
2                   a significant portion of the catch of the  
3                   vessel; and

4                   (iii) the retention of the fish will not,  
5                   in the judgment of the Secretary, adversely  
6                   affect the conservation of the species of  
7                   fish retained.

8           (f) PROHIBITED ACTS DURING MORATORIUM.—Dur-  
9   ing a moratorium a person may not—

10           (1) engage in fishing for a species of fish sub-  
11           ject to a moratorium within waters of the State sub-  
12           ject to the moratorium;

13           (2) land, attempt to land, or possess fish that  
14           are caught, taken, or harvested in violation of the  
15           moratorium, this Act, or any regulation promulgated  
16           under this Act;

17           (3) fail to return to the water immediately, with  
18           a minimum of injury, any fish subject to a morato-  
19           rium taken in waters of a State under a moratorium  
20           incidental to fishing for species other than those to  
21           which the moratorium applies, except as provided by  
22           regulations prescribed under subsection (e);

23           (4) land, within a State that is subject to a  
24           moratorium, any fish subject to a moratorium, re-  
25           gardless of where it was caught;

1           (5) refuse to permit an authorized officer to  
2 board a fishing vessel to conduct a search or inspec-  
3 tion in connection with the enforcement of this Act;

4           (6) forcibly assault, resist, oppose, impede, in-  
5 timidate, or interfere with an authorized officer at-  
6 tempting to conduct a search or inspection under  
7 this Act;

8           (7) resist a lawful arrest for an act prohibited  
9 by this section;

10          (8) ship, transport, offer for sale, sell, purchase,  
11 import, or have custody, control, or possession of,  
12 fish taken or possessed in violation of this Act; or

13          (9) interfere with, delay, or prevent, by any  
14 means, the apprehension or arrest of a person,  
15 knowing that person has committed any act prohib-  
16 ited by this section.

17 (g) PENALTIES.—

18          (1) CIVIL PENALTY.—A person violating sub-  
19 section (f) of this section shall be liable to the  
20 United States for a civil penalty as provided by sec-  
21 tion 308 of the Magnuson Fishery Conservation and  
22 Management Act (16 U.S.C. 1858). Subsections (b)  
23 through (e) of section 308 of the Magnuson Fishery  
24 Conservation and Management Act apply to persons  
25 assessed a penalty under this paragraph.

1           (2) CRIMINAL PENALTIES.—A person violating  
2 subsection (f)(5), (6), (7), or (9) is guilty of an of-  
3 fense punishable under subsections (a)(1) and (b) of  
4 section 309 of the Magnuson Fishery Conservation  
5 and Management Act (16 U.S.C. 1859).

6           (h) CIVIL FORFEITURES.—

7           (1) FORFEITURE.—A vessel (including its gear,  
8 equipment, appurtenances, stores, and cargo) used  
9 in connection with an act unlawful under subsection  
10 (f), and any fish (or the fair market value thereof)  
11 taken or retained, in any manner, in connection  
12 with, or the result of, the commission of an act pro-  
13 hibited under subsection (f), shall be subject to for-  
14 feiture to the United States as provided in section  
15 310 of the Magnuson Fishery Conservation and  
16 Management Act (16 U.S.C. 1860).

17           (2) DISPOSAL OF FISH.—Any fish seized pursu-  
18 ant to this Act may be disposed of under an order  
19 of a court of competent jurisdiction or, if perishable,  
20 in a manner provided by regulation prescribed by  
21 the Secretary.

22           (i) ENFORCEMENT.—A moratorium declared under  
23 subsection (c) shall be enforced by the Secretaries and the  
24 Secretary of the Department in which the Coast Guard  
25 is operating, as provided in section 311 of the Magnuson

1 Fishery Conservation and Management Act (16 U.S.C.  
2 1861 et seq.). The Secretaries may, by agreement, on a  
3 reimbursable basis or otherwise, use the personnel, serv-  
4 ices, equipment (including aircraft and vessels), and facili-  
5 ties of any other Federal department or agency and of  
6 any agency of a State in carrying out that enforcement.

7 **SEC. 6. FINANCIAL ASSISTANCE.**

8 The Secretaries may provide financial assistance to  
9 the Commission and to the States to carry out their re-  
10 spective responsibilities under this Act, including—

11 (1) the preparation, implementation, and en-  
12 forcement of interstate fishery management plans;  
13 and

14 (2) State activities that are specifically required  
15 in interstate fishery management plans.

16 **SEC. 7. DEFINITIONS.**

17 For the purposes of this Act, the term—

18 (1) “coastal fishery resource” means any spe-  
19 cies of fish that move among, or are broadly distrib-  
20 uted across—

21 (A) waters under the jurisdiction of 2 or  
22 more States that border the Atlantic Ocean; or

23 (B) waters under the jurisdiction of any  
24 State that borders the Atlantic Ocean and wa-  
25 ters of the exclusive economic zone;

1           (2) “Commission” means the Atlantic States  
2 Marine Fisheries Commission constituted under the  
3 interstate compact consented to and approved by the  
4 Congress in the Acts of May 4, 1942 (56 Stat. 267),  
5 and August 19, 1950 (64 Stat. 467);

6           (3) “Councils” means the Regional Fishery  
7 Management Councils established under section 302  
8 of the Magnuson Fishery Conservation and Manage-  
9 ment Act (16 U.S.C. 1852) with jurisdiction over  
10 fisheries in the Atlantic Ocean;

11           (4) “exclusive economic zone” means that por-  
12 tion in the Atlantic Ocean of the exclusive economic  
13 zone established by Presidential Proclamation Num-  
14 ber 5030, dated March 10, 1983;

15           (5) “Federal Fishery management plan” means  
16 a fishery management plan prepared by a Council or  
17 the Secretary under the Magnuson Fishery Con-  
18 servation and Management Act (16 U.S.C. 1801 et  
19 seq.);

20           (6) “fish” means finfish, mollusks, crustaceans,  
21 and all other forms of marine animal life other than  
22 marine mammals and birds;

23           (7) “fishery” has the meaning given that term  
24 in section 3 of the Magnuson Fishery Conservation  
25 and Management Act (16 U.S.C. 1802);

1 (8) “fishing” has the meaning given that term  
2 in section 3 of the Magnuson Fishery Conservation  
3 and Management Act (16 U.S.C. 1802);

4 (9) “implement and enforce” means the enact-  
5 ment or adoption laws, regulations, or rules as re-  
6 quired to—

7 (A) comply with the provisions of an inter-  
8 state fishery management plan; and

9 (B) assure compliance with such laws, reg-  
10 ulations, or rules by persons participating in a  
11 fishery that is subject to such plans;

12 (10) “interstate fishery management plan”  
13 means—

14 (A) a fishery management plan or amend-  
15 ment adopted by the Commission under section  
16 3; or

17 (B) a fishery management plan or amend-  
18 ment for managing a coastal fishery resource  
19 adopted by the Commission before the date of  
20 the enactment of this Act;

21 (11) “Secretaries” means the Secretary of  
22 Commerce and the Secretary of the Interior;

23 (12) “Secretary” means the Secretary of Com-  
24 merce; and

1           (13) “State” means each of Maine, New Hamp-  
2           shire, Massachusetts, Rhode Island, Connecticut,  
3           New York, New Jersey, Pennsylvania, Delaware,  
4           Maryland, Virginia, North Carolina, South Carolina,  
5           Georgia, Florida, the District of Columbia, and the  
6           Potomac River Fisheries Commission.

7 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

8           There are authorized to be appropriated to the Sec-  
9           retaries for the purposes of carrying out the provisions of  
10          this Act \$2,000,000 for each of the fiscal years 1994,  
11          1995, and 1996.

            Passed the House of Representatives August 2,  
            1993.

            Attest:

*Clerk.*

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