

House Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

March 14, 2016

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x58331)

Mark-up: H.R. 3070 (Rep. Lee Zeldin), To clarify that for purposes of all Federal laws governing marine fisheries management, the landward boundary of the exclusive economic zone between areas south of Montauk, New York, and Point Judith, Rhode Island, and for other purposes.
March 15-16, 2016; 1324 Longworth HOB

H.R. 3070 (Rep. Lee Zeldin, R-NY), “EEZ Clarification Act”

Bill Summary:

H.R. 3070, as introduced, proposes a small adjustment to the landward boundary of the Exclusive Economic Zone (EEZ)—which is currently 3 to 200 miles from shore—to resolve what some view as a regulatory confusion issue that is a result of the unique shoreline between Long Island, New York, and Rhode Island. An amendment in the nature of a substitute will be offered in markup to narrow the scope of the bill to address concerns regarding unintended impacts on other federally-permitted fishing activities.

Cosponsors:

Representative Paul Gosar (R-AZ)

Background:

Each state in the Atlantic region manages its own fisheries in state waters (0-3 miles from shore) or, in some cases, collectively through the Atlantic States Marine Fisheries Commission (ASMFC). The National Oceanic and Atmospheric Administration (NOAA) manages fisheries in federal waters (3-200 miles from shore) through the applicable fishery management council (in this case, the Mid-Atlantic Fishery Management Council). According to NOAA, mid-Atlantic commercial fishermen grossed \$458 million in landings revenue in 2013.¹ Key species for both commercial and recreational anglers in the area are striped bass and summer flounder.²

The Atlantic striped bass is a migratory species that poses unique management challenges as it routinely crosses state boundaries and swims up rivers to spawn in the spring.³ In an effort

¹ [National Oceanic and Atmospheric Administration: Fisheries Economics of the United States 2013, October 2015.](#)

² [Id at 2](#)

³ <http://www.asmfc.org/species/atlantic-striped-bass>

to establish consistent and coordinated management of the migratory species among states, the ASMFC Striped Bass Management Board manages the species in state waters.⁴ State fishery managers from each participating Atlantic coastal state from Maine to Florida comprise the ASFMC.⁵ For striped bass, the states agree on and set a management goal for the entire state water fishery which usually consists of a percentage increase or decrease in harvest over the previous year.⁶

Once the management goal has been agreed to by the ASMFC, individual states can set their own management plans in a process called “conservation equivalency.” If the ASMFC technical committee finds that an individual state’s plan meets the parameters of the overall management goal already agreed to by the states, that individual state’s plan will go back to a full vote by the ASMFC.⁷ Conversely, if a specific state is found by the other participating states to be out of compliance with the plan approved by the ASMFC, the states can elect, by unanimous consent, to notify the U.S. Secretary of Commerce who is authorized to order the out-of-compliance state’s waters be shut down to striped bass fishing.⁸

NOAA manages Atlantic striped bass in federal waters. However, commercial and recreational harvest of striped bass in federal waters is prohibited, in part, under Executive Order 13449.⁹ While the stock has rebounded from the 1980’s (from 5 million in 1982 to 56 million in 2007, according to NOAA),¹⁰ NOAA has not used its discretion under the Executive Order to lift this moratorium despite a 2003 recommendation by the ASMFC that the moratorium be lifted.¹¹

Block Island Sound is a strip of federal water between Montauk, New York, and Block Island, Rhode Island.¹² One fisherman recently testified before the House Natural Resources Committee that this “transit zone” has created the loss of over 60 percent of New York and Rhode Island’s historical striped bass geographic areas and that sport fishing for striped bass should at least be allowed in the transit zone.¹³ Others have urged stipulations to fishing if such activities are allowed in the same area.¹⁴ Some have testified this small strip of federal water creates regulatory confusion for fishermen, sometimes resulting in a hefty fine for

⁴ [Atlantic States Marine Fisheries Commission: Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, October 2014.](#)

⁵ <http://www.asafc.org/about-us/program-overview>

⁶ [Atlantic States Marine Fisheries Commission: Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, October 2014.](#)

⁷ <http://www.asafc.org/species/atlantic-striped-bass>

⁸ [Public Law 98-613: the Atlantic Striped Bass Conservation Act, October 31, 1984.](#)

⁹ [Executive Order 13449, October 20, 2007](#)

¹⁰ [Submitted Testimony of Mr. Paul Rago, Chief of the Population Dynamics Branch for the Northeast Fisheries Science Center \(NOAA\) to the House Committee on Natural Resources 114th Cong. Oversight Hearing in Long Island, New York. December 7, 2015.](#)

¹¹ [Atlantic States Marine Fisheries Commission: Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, February 2003.](#)

¹² [Submitted testimony of Mr. Paul Forsberg, President of Viking Fishing Fleet, to the House Committee on Natural Resources, 112th Cong., Legislative Hearing on H.R. 3906, H.R. 6007, H.R. 6096, July 19, 2012.](#)

¹³ [Submitted testimony of Captain Joe McBride, Legislative Representative of the Montauk Boatmen and Captains Association, to the House Committee on Natural Resources 114th Cong. Oversight Hearing in Long Island, New York. December 7, 2015.](#)

¹⁴ [Submitted testimony of Jim Donofrio, Executive Director of the Recreational Fishing Alliance, to the House Committee on Natural Resources 114th Cong. Oversight Hearing in Long Island, New York. December 7, 2015.](#)

possession/fishing of a striped bass in federal waters that was caught in neighboring state waters, with the primary reason being a lack of line demarcation.¹⁵

H.R. 3070, as introduced, aims to resolve this unique situation by adjusting and extending the landward boundary of the EEZ in this small strip of water in Block Island Sound. This will not only eliminate regulatory confusion for anglers trying to abide by state and federal laws, but it will also open up a small portion of water to the states to manage – restoring local fishermen’s access to a prized commercial and recreational stock in an area that many feel should be in state control. Congress and the President recently moved the EEZ boundaries from three to nine miles for Louisiana, Alabama and Mississippi in the Consolidated Appropriations Act of 2016 for red snapper management.¹⁶

During the February 2, 2016 Water, Power and Oceans Subcommittee’s hearing on H.R. 3070, concerns were raised about potential impacts that the bill could have on other federally-permitted fishing activities, specifically lobstermen that have existing permits in federal waters. An amendment will be offered to address this and other similar concerns.

Major Provisions/Analysis of H.R. 3070, as introduced:

Section 2 of H.R. 3070 adjusts the landward boundary of the EEZ between Montauk, New York, and Point Judith, Rhode Island, to make it a continuous line.

Cost:

The Congressional Budget Office has not completed a cost estimate of H.R. 3070.

Administration Position:

An Administration witness testified that “if H.R. 3070 was to be enacted, subsequent efforts will be required by NMFS, the Commission, and Councils to ensure the harvest in this area is equitably divided among the adjacent state’s recreational and commercial fishermen and adequately accounted in both recreational and commercial quotas.”¹⁷

Anticipated Amendments:

An amendment in the nature of a substitute will be offered to authorize the U.S. Secretary of Commerce, in consultation with the ASMFC, to allow and regulate recreational striped bass fishing in the Block Island Transit Zone. The amendment will also include a savings clause to ensure that the bill will not have impacts on federal permits in such waters.

¹⁵ [Submitted testimony of Mr. Paul Forsberg, President of Viking Fishing Fleet, to House Committee on Natural Resources, 112th Cong., Legislative Hearing on H.R. 3906, H.R. 6007, H.R. 6096, July 19, 2012.](#)

¹⁶ [Public Law 114-113, December 18, 2015.](#)

¹⁷ Testimony of Mr. Daniel Morris, Deputy Regional Administrator, National Marine Fisheries Service, to the House Water, Power and Oceans Subcommittee Legislative Hearing on H.R. 3070, February 2, 2016, at 2.