

Subcommittee on Water, Power and Oceans
John Fleming, Chairman
Hearing Memorandum

To: House Subcommittee on Water, Power and Oceans Members

From: Water, Power and Oceans Subcommittee Republican Staff (x58331)

Subject: Legislative Hearing on H.R. 3070 (Rep. Lee Zeldin, R-NY), 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.
“EEZ Clarification Act”
January 26, 2016, 2:00 p.m. 1334 HR Longworth HOB

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

Hearing Overview:

On January 26, 2016 at 2:00 p.m. in 1334 Longworth, the House Water, Power and Oceans Subcommittee will hold a legislative hearing on H.R. 3070 (Zeldin, R-NY), legislation making an adjustment to a small portion of the state / federal water boundaries between Montauk, New York and Point Judith, Rhode Island. The Subcommittee will hear from two panels consisting of House Members and stakeholders and will include one additional bill (H.R. 4245).

Bill Summary:

H.R. 3070 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. The bill would result in approximately 150 square miles¹ of ocean that would be transferred to the states of New York and Rhode Island for fisheries management.

Invited Witnesses (listed in alphabetical order):

Captain Joe McBride
Montauk Boatmen & Captains Association
East Hampton, New York

Captain John McMurray
One More Cast Charters
Oceanside, New York

¹ [Submitted testimony of Mr. Jim Donofrio, Executive Director of the Recreational Fishing Alliance, to the House Committee on Natural Resources, 114th Cong., Oversight Hearing in Long Island, December 7, 2015.](#)

Mr. Daniel Morris
Deputy Regional Administrator
Greater Atlantic Region
National Marine Fisheries Service
Gloucester, Massachusetts

Background:

Current Management

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 2013.² Key species for both commercial and recreational anglers are striped bass and summer flounder.³

The New York State Department of Environmental Conservation (DEC) generally manages the state's marine waters and NOAA manages federal waters.⁴ The DEC has the authority to set fishing seasons and size and retention limits and issue marine fishing licenses and permits for both commercial and recreational fisheries within state waters,⁵ allowing commercial and recreational anglers to fish for striped bass and summer flounder within state waters. The unique characteristics of Long Island are ideal for saltwater fishing as it is situated in an area where both northern and southern fish stocks aggregate.⁶ According to NOAA, in 2013 the New York commercial fishing industry supported almost **50,000 jobs** and more than **\$1.4 billion** in income, while the recreational industry supported an additional 3,835 jobs and generated more than \$185 million in income.⁷

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.⁸ In an effort to establish consistent and coordinated management of the migratory species among states, the ASMFC Striped Bass Management Board manages the species in state waters.⁹ State fishery managers from each participating Atlantic coastal state from Maine to Florida comprise the ASFMC.¹⁰ 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

² [National Oceanic and Atmospheric Administration: Fisheries Economics of the United States 2013, October 2015.](#)

³ [Id at 2](#)

⁴ <http://www.dec.ny.gov/outdoor/7755.html>

⁵ [Id at 4](#)

⁶ <http://www.dec.ny.gov/outdoor/7755.html>

⁷ [Id at 2](#)

⁸ <http://www.asmfc.org/species/atlantic-striped-bass>

⁹ [Atlantic States Marine Fisheries Commission: Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, October 2014.](#)

¹⁰ <http://www.asmfc.org/about-us/program-overview>

previous year.¹¹ 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.¹² 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.¹³

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 13449.¹⁴ While the stock has rebounded from the 1980’s (from 5 million in 1982 to 56 million in 2007, according to NOAA)¹⁵, 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.¹⁶

Issues Related to Block Island Sound

Block Island Sound is a strip of federal water between Montauk, New York, and Block Island, Rhode Island (see Map 1 below).¹⁷ 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.¹⁸ Others have urged stipulations to fishing if such activities are allowed in the same area.¹⁹ Some have testified this small strip of federal water creates regulatory confusion for fishermen, sometimes resulting in a hefty fine for 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.²⁰ Others recently stated that possession is “allowed around certain areas of Block Island, RI, for vessels in transit that are not fishing.”²¹

¹¹ [Id at 9](#)

¹² [Id at 8](#)

¹³ [Public Law 98-613: the Atlantic Striped Bass Conservation Act, October 31, 1984.](#)

¹⁴ [Executive Order 13449, October 20, 2007](#)

¹⁵ [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.](#)

¹⁶ [Atlantic States Marine Fisheries Commission: Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass, February 2003.](#)

¹⁷ [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.](#)

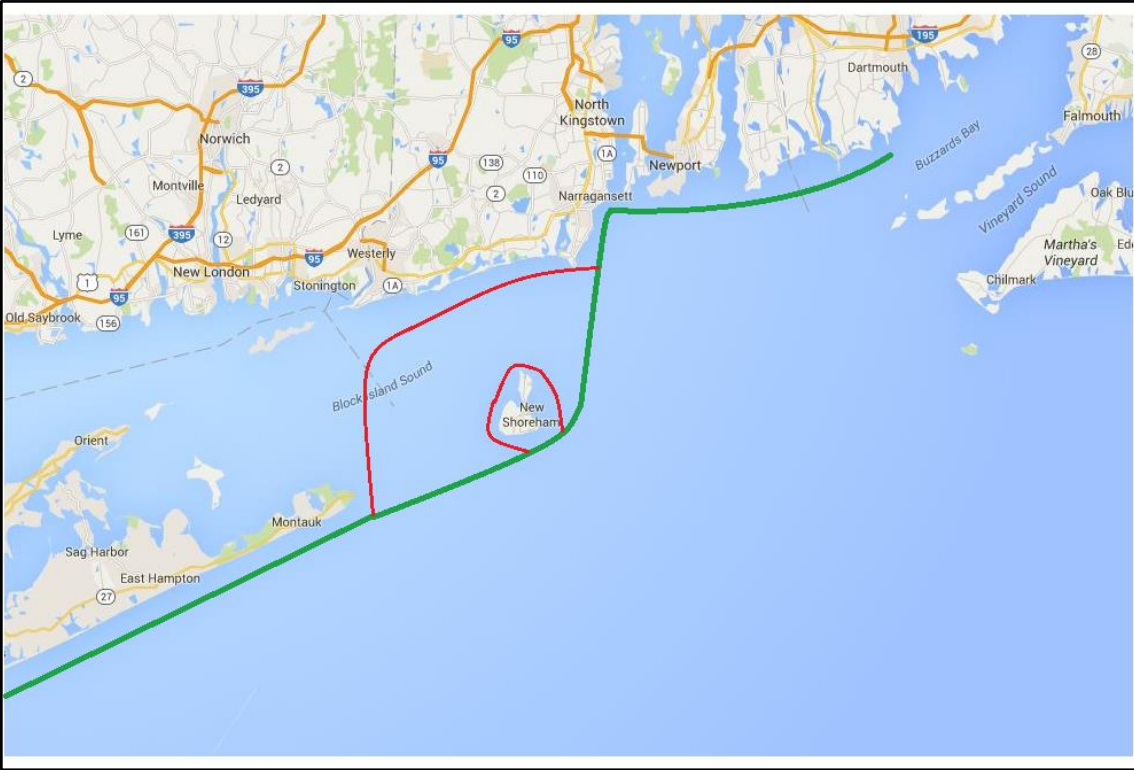
¹⁸ [Testimony of Captain Joe McBride, Legislative Representative of the Montauk Boatmen and Captains Association, to the House Committee on Natural Resources 114th Cong. Oversight Hearing in Long Island, New York, December 7, 2015.](#)

¹⁹ [Testimony of Jim Donoforio, 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.](#)

²⁰ [Id at 17](#)

²¹ [Id at 15](#)

Witnesses, including Captain McBride, will testify on these issues in this hearing.



Map 1: Proposed EEZ boundary adjustments under H.R. 3070.

Green line: Adjusted EEZ boundaries under the bill

Red line: Existing EEZ boundaries

H.R. 3070 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.

Furthermore, to ensure that there aren’t any unintended consequences on the stock, H.R. 3070 requires that the Secretary of Commerce report to Congress on the boundary adjustment within three years of enactment. 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.²²

Major Provisions/Analysis of H.R. 3070:

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. The new EEZ boundary

²² [Public Law 114-113. December 18, 2015.](#)

would stretch from three miles south of the southernmost point of Montauk to a point three miles south of Block Island, Rhode Island. That point would connect to a point 3 miles south of the southernmost point of Point Judith, Rhode Island. The water shore-side of the new boundary would be considered state waters and all marine resources there within would be managed by the applicable State or the ASMFC where appropriate.

Section 3 requires that the Secretary of Commerce report to Congress on the impact of this boundary change within three years of enactment of the Act.

Cost:

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

Administration Position:

Unknown.