

ATLANTIC STRIPED BASS

HEARING
BEFORE THE
SUBCOMMITTEE ON FISHERIES,
WILDLIFE AND OCEANS
OF THE
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS
FIRST SESSION
ON

H.R. 2655

**A BILL TO AMEND THE ATLANTIC STRIPED BASS
CONSERVATION ACT TO AUTHORIZE THE MID-AT-
LANTIC FISHERY MANAGEMENT COUNCIL TO PRE-
PARE A FISHERY MANAGEMENT PLAN FOR ATLAN-
TIC STRIPED BASS UNDER THE MAGNUSON FISHERY
CONSERVATION AND MANAGEMENT ACT**

DECEMBER 12, 1995—WASHINGTON, DC

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ATLANTIC STRIPED BASS

TUESDAY, DECEMBER 12, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES,

Washington, DC.

The subcommittee met, pursuant to call, at 10:02 a.m., in room 1324, Longworth House Office Building, Hon. Jim Saxton (chairman of the subcommittee) presiding.

STATEMENT OF HON. JIM SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS

Mr. SAXTON. If I could have everyone's attention please, we are going to begin the hearing. As some of you may be aware, at 11 o'clock, the Prime Minister of Israel, Shimon Peres, will address a joint session of Congress. And in order for us to be there in a timely manner, we are going to have to recess at about 10:40. We will be back here within a few minutes after the Prime Minister concludes his speech. So we apologize for that.

We didn't anticipate that that was going to happen when we scheduled this for 10 o'clock, but it is one of the things that happens around here from time to time; that is, things happen in an unanticipated fashion.

In any event, we will begin the hearing, and let me just say the Subcommittee on Fisheries, Wildlife and Oceans will meet today to discuss H.R. 2655, the Atlantic Striped Bass Preservation Act of 1995, a bill I introduced which will extend for at least five years the current moratorium on fishing for Atlantic Coast striped bass in Federal waters off New Jersey and other Atlantic Coast states. And I might add that this is a moratorium not just for commercial fishing in the EEZ, but for sportsfishing as well.

After meeting with the New Jersey Alliance to Save Fisheries, I am convinced that we need more information before the National Marine Fisheries Service lifts the moratorium on striped bass fishing in Federal waters off the coast. Recreational fishermen up and down the Atlantic Coast, as well as other fishermen, have put up with very strict limits on striped bass fishing over the last 10 years.

These severe restrictions would not have been necessary if reasonable but effective limits had been set in the 1970's. Before easing current restrictions, we must be sure that we do not again let overfishing decimate the striped bass population.

NMFS, the National Marine Fisheries Service, has proposed lifting the moratorium on fishing for striped bass in Federal waters off the Atlantic Coast. This bill requires NMFS to continue the current moratorium on fishing for striped bass in Federal waters for at least five years.

After that, the moratorium could be lifted if a fishery management plan is prepared in compliance with the requirements of the Magnuson Fishery Conservation and Management Act. The current NMFS proposal raises concerns because it may open the door to overfishing.

It may short-circuit the fishery management plan process, thereby drastically limiting the scrutiny which a proposal on these types of important matters merit. I look forward to hearing from our witnesses, and I would at this point recognize Mr. Studds, the ranking member, for any comments he may have.

[H.R. 2655 may be found at end of hearing.]

**STATEMENT OF HON. GERRY STUDDS, A U.S.
REPRESENTATIVE FROM MASSACHUSETTS**

Mr. STUDDS. Thank you, Mr. Chairman. I will be very brief, and I apologize in advance for not being able to stay at some length. As you know, this is a subject of some historical and personal and emotional interest to me and the region that I represent.

Your calling this to my attention made me wonder about two things that I wasn't aware of: first of all that we had a problem. I thought if there was anywhere that we didn't have a problem these days, it was in the striped bass resource, and I don't feel the need to go around looking for additional problems. I don't know about you, but I have a surplus of them at the moment to concern myself about.

And, secondly, I thought these critters had at least one streak of Republicanism in them. That was an antiFederal streak. I thought they confined themselves to state waters for the most part. I realize that occasionally everybody makes a mistake and crosses a boundary, but certainly not knowingly on the part of these creatures. And it is my understanding that a very small percentage of the catch has ever been outside of state waters. These are coastbound creatures for the most part.

So I didn't know [A] we had a problem and [B] that we could have a problem with these guys because I thought they were smart enough to stay out of our waters. It seems to me that the first question we need to address is the first one I raised, that is there a problem that needs our attention here because our attention is divided in umpteen different directions at the moment.

And, secondly, if there is a problem with the proposal of the Feds to lift the moratorium, is it really a threat to the conservation of the stocks here? And if there is, where is the proper response? I myself, of course, am shocked, shocked that anyone in this Congress, of all Congresses, would suggest that anyone other than the states are the repository of all wisdom in these matters. They seem to be in all others, and that if there is a problem, it probably should be addressed in the very carefully crafted and balanced way in which we have addressed this problem for the past decade.

So I am, as I have indicated to you personally, somewhat skeptical that we need to take action such as this, but I certainly am open to learning new things. And I would ask witnesses—at least for those of us who will read your testimony but may not be able to personally hear it—to address the question of whether or not the proposed action by the Department of Commerce poses a threat to the conservation plans and the restoration plans of the stocks.

And if you think that it does, whether this kind of a Federal action is the appropriate one given the traditional balancing of state and Federal responsibilities and the very successful management of these stocks to date. Thank you, Mr. Chairman.

Mr. SAXTON. I thank the gentleman for his comments, and let me just ask if there are other members who may wish to have an opening statement? OK. Thank you very much. I ask unanimous consent that all subcommittee members be permitted to include their opening statements in the record, and I hear no objection.

[Statements of Mr. Young and Mr. Pallone follow:]

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA, AND
CHAIRMAN, COMMITTEE ON RESOURCES

Mr. Chairman, I compliment the Subcommittee Chairman for holding this hearing today and for introducing H.R. 2655, a bill dealing with striped bass fishing in the Exclusive Economic Zone.

Atlantic Coast fishermen saw striped bass virtually disappear in the early 1980's, and for a decade they have been saddled with severe restrictions on the harvest of this valuable species. Those restrictions appear to have paid off, and the fish have staged a dramatic recovery in the past two years.

Nonetheless, I share Chairman Saxton's concerns that it would be a terrible mistake if we were to undermine these successful conservation efforts by allowing overfishing to again threaten this species. Therefore, I believe it is appropriate to closely review the proposed plan of the National Marine Fisheries Service and to determine if these ideas assist or hurt our long-term goal of properly managing Atlantic Coast striped bass stocks.

I look forward to hearing the testimony of our witnesses on this important issue.

STATEMENT OF HON. FRANK PALLONE, JR., A U.S. REPRESENTATIVE FROM NEW
JERSEY

I am pleased, Mr. Chairman, that you've convened this hearing on striped bass management and NMFS proposal to lift the moratorium on harvesting striped bass in the Exclusive Economic Zone.

This is an issue that you and I have been working on since I first came to Congress. In fact, you have and continue to be an original co-sponsor of legislation I've introduced in the last four Congresses to prohibit the commercial harvest of striped bass both in coastal waters and in the Exclusive Economic Zone. I also want to point out that this legislation, H.R. 393, is co-sponsored by my distinguished colleagues of the Subcommittee, Mr. Longley and Mr. Gejdenson.

I appreciate your support, and I am pleased to support you by joining you in sponsoring H.R. 2655, The Atlantic Striped Bass Preservation Act of 1995. This is important legislation that authorizes a five year extension of the current moratorium on the harvest of striped bass within the U.S. Exclusive Economic Zone.

Mr. Chairman, as you and many of our panelists know, I have been a fierce opponent of attempts to reopen Federal and State waters to commercial fishing for striped bass. In addition to introducing H.R. 393, I have provided testimony to Federal officials on several occasions opposing the reopening of the EEZ to striped bass fishing.

While many are optimistic about the recovery of the Atlantic striped bass stock—and I count myself among them—I remain extremely cautious about any rush to reopen the Federal fishery. As my colleagues know, Atlantic striped bass stocks began declining in the 1870s. Commercial harvests of striped bass declined precipitously in the period between 1973 to 1983 from 15 million pounds to 3.5 million pounds.

Yet, despite this history, earlier this year, the Atlantic States Marine Fisheries Commission voted to increase the commercial harvest of Atlantic striped bass to a level close to the level that caused the most severe damage to the stock during the 1970s. NMFS followed with a proposal to reopen the fishery in Federal waters.

Mr. Chairman, as you and I both know, this is not the time to turn back the clock and repeat the mistakes of the past.

The recreational fishing industry, including the charter and party boat industries, have been hard hit by the decline in stocks of fish along the East Coast. They have seen a smaller and smaller slice of the pie as many of the stocks they traditionally harvest have been decimated. These traditional stocks include tuna, summer flounder, bluefish and, perhaps most important, striped bass.

Recreational fishermen, the charter boat industry, the party boat industry, boat manufacturers, and the bait and tackle industry contribute millions of dollars each year to coastal economies. The viability of these industries depends on the health of a few key stocks, especially the Atlantic striped bass.

States realize the importance of striped bass to these industries. In fact, many states have already passed gamefish laws. These states include New Jersey, Connecticut, Pennsylvania, New Hampshire, Maine, South Carolina, and Georgia on the East Coast, Oregon and California on the West Coast, and Florida and Alabama on the Gulf Coast. We need to compliment these conservation measures by keeping the current law. What we don't need is to make it harder for states to enforce gamefish laws by reopening the Federal fishery 3 miles off their coasts.

It's important to point out, too, that consumers of striped bass would be unaffected if the moratorium were lifted. There is currently a large segment of the aquaculture industry raising hybrid striped bass. These captively raised fish could meet the consumer's need for striped bass in the market place. If anything, the aquaculture industry might suffer as a result of a lifting of the moratorium.

Mr. Chairman, I continue to believe that if we really want to protect the stocks, if we really want to preserve the thousands of jobs associated with the recreational fishing industry, we need to pass a game fish bill.

However, I firmly believe that H.R. 2655 is a good first step in our efforts to protect the striped bass, and I intend to work closely with you to move legislation protecting the striped bass.

I intended to work with Chairman Saxton and others to see if this makes sense and possibly find a way to accomplish this.

Mr. SAXTON. Now, I would like to introduce our first witness. Panel one, we have a representative of the Administration, Dr. Richard Schaefer, Director of the Office of Fisheries Conservation and Management of the National Marine Fisheries Service. I would like to remind you, Dr. Schaefer, and others that we conduct our business under the five-minute rule, and that your oral statements will be limited to five minutes to give members plenty of opportunity to ask questions. However, your full statement will be placed in the record. Mr. Schaefer, if you would like to begin?

STATEMENT OF RICHARD SCHAEFER, DIRECTOR, OFFICE OF FISHERIES CONSERVATION AND MANAGEMENT, NATIONAL MARINE FISHERIES SERVICE

Mr. SCHAEFER. Thank you, Mr. Chairman. First, the National Marine Fisheries Service is very appreciative of this opportunity to come before the committee to provide its views on H.R. 2655. The recovery of the Atlantic Coastal striped bass resource to previously high historical levels is one of the true success stories of cooperative fisheries management.

At the outset, let me say to you and other members of the committee and to the public, Mr. Chairman, that I believe the National Marine Fisheries Service has made a significant contribution to accomplishing that objective. And, further, let me also assure you that now that that objective has been attained, the National Marine Fisheries Service would take no action nor propose to take any action that would jeopardize or reverse that stock recovery.

As we are all very much aware, the National Marine Fisheries Service proposed rule to remove the current moratorium on both recreational and commercial fishing for striped bass fishing in the EEZ and replace it with a 28-inch minimum size limit has generated considerable public commentary and stirred much controversy.

We held nine public hearings and received approximately 1,000 written comments on the proposed rule. We are currently in the process of reviewing and considering those comments and, further, are investigating charges of possible jurisdictional "loopholes" in the management regime and enforcement inadequacies and things of that nature.

The genesis of our proposed rule goes back to March of this year when the Atlantic States Marine Fisheries Commission, the planning body responsible for the interstate management of Atlantic Coastal striped bass fisheries, found Atlantic Coastal stocks with few exceptions to be "fully recovered."

Based on that finding, we sought the Commission's advice on whether or not the Federal moratorium in the EEZ should be retained or removed. The Commission clearly stated its support for removal. Therefore, we enter into the rulemaking process.

The Atlantic Striped Bass Conservation Act of 1984, as amended, has, in my opinion, been the key legislative instrument responsible for the recovery of striped bass stocks along the Atlantic Coast thanks to Mr. Studds and people like you, Mr. Chairman.

It not only provides the appropriate planning, institutional, and compliance mechanisms necessary for the states to achieve their collective conservation and management goals and objectives, but it also provides authority for the Secretary of Commerce to promulgate appropriate rules in the EEZ to complement interstate action.

In so doing, the Secretary is required to consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, state, and local government entity. This we have done, and I might add that both the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council have indicated no objection to our proposed rule.

The Atlantic Striped Bass Conservation Act also requires the Secretary to periodically review EEZ regulations for their continued consistency with state regulations that will ensure their effectiveness, achieve their conservation and management goals, and to amend EEZ regulations when necessary and appropriate.

In lieu of the ASMFC's finding that the Atlantic Coastal striped bass stocks are fully recovered, we feel that our proposed rule meets these requirements. Nevertheless, recent events have occurred which give us cause to give even more serious consideration to our proposed action.

At its meeting last week, the Atlantic States Marine Fisheries Commission's Striped Bass Management Board speaking on behalf of the Commission reversed its earlier position and has now requested the Secretary to withhold any further regulatory change in the EEZ until sometime after the current two-year transitional period, which will lead to a maintenance-mode fishery, is completed—that is January 1, 1997—and until a thorough evaluation of certain

jurisdictional and enforcement issues and concerns can be conducted.

Moreover, the Mid-Atlantic Fishery Management Council has requested an additional consultation with us for purposes of reviewing and discussing the public commentary that we have received. We are in the process of scheduling such a meeting with the Mid-Atlantic Council and perhaps also with the New England Council. No final decision will be made until we have thoroughly reviewed and analyzed all of the extensive public comments we have received and many of them detailed, and until we have thoroughly considered all of the updated advice and counsel provided by the Commission and the councils.

While the Atlantic Striped Bass Conservation Act provides separate authority for the Secretary to promulgate Federal rules in the EEZ, the National Marine Fisheries Service considers itself a full and responsible partner with the Commission and with the U.S. Fish and Wildlife Service in the conservation and management of the Atlantic Coastal striped bass resource.

In that regard, it is and always has been our intent and practice to work cooperatively, consistently, and in concert with our partners. And I believe that the record confirms that. Therefore, I can assure you that we are paying particularly close attention to their advice which will weigh heavily in making a final decision on the disposition of the proposed rule. Thank you, Mr. Chairman. I appreciate being here before you, and I will be happy to try to answer any questions you and other committee members have.

[Statement of Mr. Schaefer may be found at end of hearing.]

Mr. SAXTON. Thank you, Mr. Schaefer. Let me just explore with you for a minute the recent reversal on the part of the Atlantic States Marine Fisheries Commission and the information that they may have come across more recently that has caused them to request a delay in the implementation of new regulations. Can you review with us that information and what has prompted their reversal of position?

Mr. SCHAEFER. Mr. Chairman, I have the motion in front of me which the Commission adopted last week, and if I may, let me just read it, "That the Striped Bass Management Board recommend that the National Marine Fisheries Service maintain the moratorium until at least the Board adopts the full fishery rate of F fishing mortality rate which would be equivalent to maintaining maximum sustainable yield. Further, that the Board will develop specific jurisdictional and enforcement recommendations."

Now, my conclusion from this is that, as I indicated in my comments, we'd asked the Commission early on whether or not it thought we should remove the moratorium or retain it. And the simple response was remove it. Now, apparently upon further consideration and thought, there are some issues that have come up that the Commission feels need further inspection, if you will; certain enforcement concerns as stated in the motion; certain jurisdictional concerns, and I assume that would be "loopholes" that are perceived by some; and until the full fishery rate of FMSY, which would be the maintenance mode fishery, occurs. So I just think that those are the reasons that the Commission has asked us to hold off for a while.

Mr. SAXTON. Does it cause you any concern at all to look at the history of the striped bass population and note that during the latter part of the 1950's the population was increasing at a fairly stable rate of increase, and that then during the '60's it declined and, of course, during the '80's and the first half of the decade of the '90's there has been an increase?

There appears some evidence that there could be a cyclical process that the population of striped bass may go through and that we are today at an increased level of population which may or may not be a naturally sustainable level.

Mr. SCHAEFER. My personal opinion, Mr. Chairman, and I think that of the Service is that, frankly, prior to the Atlantic Striped Bass Conservation Act there really was no coordinated management, nor were there any forcing mechanisms to make people behave, if you will, in a responsible fashion. That Act, in my opinion, as I indicated before, has been the primary reason that we now have a well-managed fishery.

We have restrained fishing mortality. It has been done collectively by the states through the Commission. The plan is effective in terms of maintaining a ceiling on that fishing mortality rate. I think, frankly, we are experiencing good management which is the primary cause for the recovery and maintenance of the current stock.

Now, I am not saying that it is not possible for the stock to experience further future declines. That is entirely possible for environmental and other reasons. But the fact of the matter is with this adaptive management strategy that the Commission has undertaken, it is flexible.

It can respond to such declines at an early date and increase the clamps, if you will—turn the screws down on fishing mortality so that we don't have a repeat of what happened in the '50's and '60's as you say. I just think we are experiencing very good management.

Mr. SAXTON. Does it cause you any concern at all that an additional component which would provide pressure to the species would be put in place by virtue of a change in regulations to permit a new fishing activity, i.e., commercial fishing, in the EEZ? Does that cause you any concern at all?

Mr. SCHAEFER. As I have said in my written testimony, Mr. Chairman, the Technical Committee—the Scientific Committee of the Commission that looks at striped bass—has told us that any of the fishing mortality that occurs in the EEZ is almost immeasurable in terms of its effect on the overall stock.

And given the controls in place, the state landing laws on both commercial and recreational fishermen, our feeling at the outset of going forward with this proposed rule was that this would add no additional fishing mortality whatsoever to the harvest. And we felt that that was a responsible action at the time.

Mr. SAXTON. Let me just ask one final question which is more parochial. I understand that there has been significant progress in Delaware Bay with regard to restoration of the stock; however, that the restoration process in Delaware Bay has not grown or progressed to the point where we would call it recovered. Is that correct? And can you comment on that issue generally?

Mr. SCHAEFER. Well, we agree, and the Commission obviously agrees, that the Delaware stock is not fully recovered. That is correct. But in terms of looking at the tagging data that we have access to, of a total of over 7,000 striped bass tagged in the Delaware River and in the estuary, only two returns have come from the EEZ off of Virginia and North Carolina.

I didn't calculate the percentage here, but it must be like a hundredth of a percent or something of that nature—infinitesimally small. Our view is that given data like that, and there may be other data, we don't think that our proposal would really impact in any way on the recovery of the Delaware River stock.

Mr. SAXTON. But you do agree that the Delaware River stock has not recovered to the point where we would call it recovered?

Mr. SCHAEFER. I agree. Yes.

Mr. SAXTON. OK. Thank you. Mr. Studds.

Mr. STUDDS. Just very quickly if I may. The current moratorium in the EEZ was imposed in what year?

Mr. SCHAEFER. 1990.

Mr. STUDDS. 1990. In the years immediately prior to that when there were some landings, do we have any idea roughly what percentage of total landings were from the zone?

Mr. SCHAEFER. Yes. On the average, around seven percent. The highest that was ever attained that I recall was up around 14 percent. I think that was in the late '70's sometime, and it has been as low as one percent or even less than that. So the average has been five to seven percent.

Mr. STUDDS. OK. If you were to go ahead and lift the moratorium, am I not correct that the current state landing laws and limits would still pertain so theoretically there would be no overall increase in the landings?

Mr. SCHAEFER. That is correct, Mr. Studds.

Mr. STUDDS. And do you now plan or at least you suggested you might—given the request from the Commission that you defer for at least another year the lifting, do you plan to do that?

Mr. SCHAEFER. No. I think we are just going to look at all the data we have, all the comments which we have not gotten through yet. There are 1,000 of them and some very detailed. We want to look at all the commentary. We now have the Commission's position, a reversal of what they agreed with earlier. We want to go back and talk with the councils, New England and Mid-Atlantic. After we have all that data in front of us and all that input, then we will make a decision, Mr. Studds.

Mr. STUDDS. And which particular fiscal year might that be?

Mr. SCHAEFER. Hopefully very soon, Mr. Studds.

Mr. STUDDS. I mean are we talking about weeks or months or—

Mr. SCHAEFER. I would think sometime right after the first of the year. That is my judgment.

Mr. STUDDS. OK. Thank you. Thank you, Mr. Chairman.

Mr. SAXTON. Thank you. Mr. Jones. We have been joined by the gentleman from Maine, Mr. Longley

Mr. JONES. I will pass, thank you.

Mr. SAXTON. OK. Mr. Schaefer, thank you very much for being with us this morning. We appreciate it, and we look forward to working with you on this issue as we progress through the process.

Mr. SCHAEFER. Thank you, Mr. Chairman.

Mr. SAXTON. Thank you, sir. OK. If I may, Mr. Schaefer, the record will remain open for 30 days for any other members who may have questions which will be submitted in writing. Thank you, again.

Mr. SCHAEFER. Thank you, Mr. Chairman.

Mr. SAXTON. Let me introduce our second panel. First, I would like to welcome the Mayor of Seaside Park, New Jersey, John A. Peterson, Jr., who is a long-time friend of the striped bass and advocate of our recovery planning. And we also have Mr. Robert T. Healey, President of the New Jersey Boat Builders Association; and Mr. James Donofrio, Executive Director of the New Jersey Alliance to Save Fisheries; Mr. Tom Fote representing the Jersey Coast Anglers Association; and Mr. James Lovgren, a commercial fisherman out of Pt. Pleasant, New Jersey.

I would like to once again just say to the witnesses that we are operating under a five-minute rule so when you see the orange light come on, if you would begin to conclude your testimony and conclude your thoughts when you see the red light come on.

I would like to welcome all of you here. This is very informal. Once we have concluded your statements, we will undoubtedly have some questions to pose to you. I would like to recognize Mayor Peterson at this time.

**STATEMENT OF THE HONORABLE JOHN A. PETERSON, JR.,
MAYOR, SEASIDE PARK, NEW JERSEY**

Mr. PETERSON. Thank you very much, Congressman Saxton. On behalf of the members of the Borough of Seaside Park's Town Council, our residents, and many tourists from all over not only our state but the entire country, and all the businesses in our community, I wish to thank you and the members of your committee for allowing me to present testimony today on this issue concerning striped bass which is a vital concern to our economy and the tourism industry of all New Jersey, if not the entire East Coast.

Parenthetically, I must also note my appreciation for all the hard work and efforts from your office and other members of your subcommittee on behalf of related issues with regard to the Magnuson Act, the Clean Water Act, the Endangered Species Act, and the Coastal Zone Management Act.

Our shore economy, my own community, and the future of New Jersey's second largest industry, which is tourism in general, are intrinsically related to the preservation of a clean, natural environment with a flourishing stock of marine and other species.

On the specific issue before the subcommittee today, I wish to offer my full support for H.R. 2655 which would extend the five-year current moratorium on striped bass fishing in the EEZ and which would also require the implementation of a fishery management plan before said moratorium would be lifted.

As per my testimony already given before the National Marine Fisheries Service, I would be in opposition to any plan to reopen the EEZ at a time when the species is just beginning to rebound

from the devastating days when various factors led to a near depletion of this species from the entire East Coast.

I join with the various recreational fishing groups, particularly in New Jersey and from my own area, the constituents and tourists who are dismayed over the seeming swiftness of the National Marine Fisheries Service's proposal, as well as the lack of full environmental impact studies for a comprehensive fishery management plan for this species.

As noted previously, the tourism industry itself is the second largest industry in the State of New Jersey, as you are well aware, and in further relating the economic impact of tourism to striped bass fishing—recreational fishing, I would emphasize that the total ripple economic effect of all recreational surf fishing and particularly striped bass fishing boosts sales of fishing equipment, bait, clothing, gasoline, vehicles, boats, motel rooms, food, beach fees, and other expenditures which have a far greater economic benefit to New Jersey's economy than has been traditionally recognized.

As striped bass fishing occurs primarily during the spring and fall seasons, the benefit to the New Jersey shore economy occurs at a critical time after summer residents have left the area. As such, in my own town of Seaside Park, which is representative of other similarly situated communities up and down the Jersey shore, the many bait and tackle shops, sporting good stores, small restaurants, luncheonettes, real estate rental and sale businesses are entirely dependent upon recreational fishing and especially the most popular surf fishing for striped bass.

I would also note that striped bass itself has become over the years more than just a fish itself but has become part of the tradition, if not the history, and it represents a cultural and historic recreational tradition that is important to our citizens and our economy. It would be absolutely premature to place fishing of striped bass at this time when the pressure and the fish itself has just begun to make a comeback to open up fishing for the species in the EEZ.

I would relate in closing that I can't help but note that in certain political arenas most certainly with respect to the environment in general there is public suspicion of government regulations and management plans that perhaps has pushed the pendulum of public opinion and government too far.

In showing most exemplary leadership on various ocean environmental issues, as I noted previously and specifically with regard to the striped bass and recreational fishing, I would ask the subcommittee to note that the striped bass has been a regulated species since the first settlement of the New World.

As noted by the United States Fish and Wildlife Service, the Massachusetts Bay Colony prohibited the use of striped bass as a fertilizer for corn and squash plantings by our earliest settlers, and in 1669 Plymouth Colony ordered that revenues from the fishery for striped bass be used to construct the first public schoolhouse in North America.

I would ask the subcommittee and the Congress to recognize the reasonableness of existing regulations on the striped bass so that we may preserve and protect recreational salt water sportsfishing for this species and, ironically, future commercial fishing as well

for generations to come. I thank you and the members of your committee for allowing me the opportunity and the honor to come here today to speak before you.

[Statement of Mr. Peterson may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mayor. As we all know, there are certain economic benefits to having a healthy striped bass population. Of course, one of the interests that has a substantial stake in this is the boat building industry. The boat building industry is represented today by Mr. Robert Healey. Mr. Healey, we would look forward to hearing from you at this time.

STATEMENT OF ROBERT T. HEALEY, PRESIDENT, NEW JERSEY BOAT BUILDERS ASSOCIATION

Mr. HEALEY. Thank you, Congressman Saxton and members of the committee, for allowing me to appear here today. I and my brother Bill have the Viking Yacht Company. We have been building boats on the Jersey shore for the past 35 years, and significantly enough we are located on the Bass River. And I also represent—I am President of the New Jersey Boat Builders which comprise 15 builders of large boats in New Jersey and some 5,000 employees in all.

I am also the Chairman of the New Jersey Alliance to Save the Fisheries, and we represent some 800,000 recreational fishermen and some 20,000 people in the marine industry, as well as conservation groups in the State of New Jersey.

We are in full support of H.R. 2655. Congressman Saxton and other members of the committee, I am sure you are aware of the history of the luxury tax and the burden it imposed upon the boating industry. We have seen, you know, and since that took place and the repeal, we were devastated. Our company alone had 1,500 people working for us. We went to 60, and after the tax was repealed, we came right back, and we are back to 600 people, and we are doing over \$50 million.

And we in the boating industry, not only in New Jersey, but around the whole United States, as a result of the luxury tax have become more active in measures like the one before this committee today.

We have a great sensitivity here, and we see the beginnings of what took place with the luxury tax. On the luxury tax, it was the opinion of Congress at that time that they were going to tax the rich. When, in fact, what happened, the rich stopped buying boats, and thousands upon thousands of boat builders throughout the United States lost their job. And we were devastated, and we are now limping back from that devastation.

We see the same roots here today in the whole fishery crisis. There is, and we must recognize, a crisis not only in the United States, around the world because of the overharvesting by the commercial fishing industry of fish. And what is taking place is that there just aren't enough fish in the ocean, and that is what is really taking place. And we are devastating our fishing stock, and what happened on the striped bass is a typical example.

And what has happened is the reason it is coming back is because of the moratorium, and what upset us in New Jersey was when the National Marine Fisheries came out with a regulation

and said that they were going to open it again to commercial fishing which would put us right back where we were, as Congressman Saxton discussed, some years ago when we almost devastated the complete striped bass population.

We sit on the Bass River, and there weren't any striped bass in the Bass River for a number of years. And I am sure Congressman Saxton knows that because he is from the area. And so what I am saying to you is that we see right now a decline in boat building as a result of the fishery crisis.

We in our company alone estimate that we have had over the past several years a 10 percent drop in fishing boats, and that is what we build. We build sportfishing boats for around the world. And our boats average \$1 million apiece.

And like in the luxury tax, people say, "Oh, well, that is the rich, and this is their recreational hobby—fishing." Well, I can tell you for every boat we lose because there aren't any fish out there—and I can tell you, people don't buy \$1 million fish boats if there aren't any fish—and for every boat we lose, five people lose their job for a year—five people. And we estimate we lost 10 boats last year, and that is 50 people.

Now, take that around the country. Take it around the country to all the boat builders. There are thousands of jobs involved here, and we are scared to death in the marine industry and in the boat building industry we are seeing the beginning of another luxury tax with the fish prices. And the National Marine Fisheries Service, they tell us the scientific people say there will be no imposition here by opening the EEZ to commercial fishing.

Well, I can tell you they haven't had a successful plan at the National Marine Fisheries Service, and the only successful plan they had is striped bass where they had a moratorium. And what we are afraid of they are going to open up again after they have—they review their items—they came out and said they were going to open it, and we stopped them with 2,000 people in New Jersey at their hearings. And we need this legislation to safeguard because they don't have a track record to safeguard it, nor do they have the enforcement to safeguard it. Thank you.

[Statement of Mr. Healey may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Healey. We are going to proceed with one additional witness before we break. Mr. Donofrio, we would like to hear from you at this time. Mr. Donofrio is with the New Jersey Alliance to Save Fisheries. Sir, if you would proceed.

STATEMENT OF JAMES DONOFRIO, EXECUTIVE DIRECTOR, NEW JERSEY ALLIANCE TO SAVE FISHERIES

Mr. DONOFRIO. Good morning, Mr. Saxton and distinguished members of the committee. Thank you for the opportunity of coming here today on behalf of Mr. Saxton's bill, H.R. 2655, the Atlantic Striped Bass Preservation Act of 1995.

The striped bass fishery from Maine to North Carolina generates \$270 million in revenues annually to coastal communities in these states. Recreational angler participation in the striped bass fishery alone from the aforementioned states is over 466,000 individual anglers.

These numbers are from a 1991 National Survey of Fishing, Hunting, and Wildlife Associated Recreation provided by the U.S. Department of Interior and Department of Commerce. We feel these numbers are low now because there is an increase in angler participation in this recovering fishery.

As indicated above, the striped bass fishery is one of the most economically important species to this very large recreational industry and its many constituents who participate in the sport of fishing for striped bass.

This fishery nearly collapsed in the early '80's, and since that time state and Federal agencies have taken steps to conserve the resource. A virtual shutdown of both the recreational and commercial harvests of striped bass was initiated with very stringent limits on recreational catches and netting almost entirely banned in some areas for a period of time.

Some of the other factors that were mentioned were also acid rain and pollution, and I find this argument not to be true. It is remarkable that in such a short time with netting being stopped that these fish have come back. And I don't believe that the pesticides that are being used on the farms in the Chesapeake and the acid rain problem has been cleared up in five years. So that argument as far as I am concerned doesn't hold any water here.

But in 1988, a moratorium on striped bass harvests in the Exclusive Economic Zone was put into effect. The National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission recognized at the time of closure there were conflicting jurisdictional problems and a lack of enforcement.

None of these jurisdictional and enforcement problems had been worked out during the moratorium period. Putting these previous problems to rest during the moratorium only places them back in our laps and once again could aid in destroying a fishery that is recovering from previous problems.

These jurisdictional and enforcement problems must be solved prior to any reopening of the EEZ. It has been debated whether the striped bass fishery is fully or partially recovered. This debate is not relevant with the absence of an effective fishery plan.

Fishery managers will have no problem meeting their projected quotas on paper, and all fishery managers agree that an effective fishery management plan has to have sound enforcement as one of the key components. And this component is definitely lacking specifically in North Carolina. Therefore, any accounting of the harvests will always be a counterfeit number, and I ask if NMFS and the ASMFC are going to take full responsibility if this fishery collapses once again.

North Carolina has over 4,000 miles of ocean and estuarine shoreline. There were 21,941 commercial fin fish licenses sold in 1994. Routine patrols include waters, fish houses, wholesale-retail establishments. In addition, operations are conducted throughout the state to guard against the sale of illegal seafood products.

Colonel James F. Swain heads the North Carolina Marine Patrol. Included with this written testimony are the log sheets of the North Carolina Marine Patrol officers. From this information, one can clearly determine that there is enormous lack of enforcement. NMFS has two full time fishery enforcement agents in North Caro-

lina. These agents are located in opposite ends of the coast, as indicated by the attached information that was sent to our office by NMFS.

Why the big emphasis in North Carolina? Migrating striped bass, specifically larger, sexually-mature females, winter over in North Carolina waters that are part of the EEZ. This breeding stock, which affects the entire Northeast striped bass population, is at risk and very vulnerable. An improperly implemented fishery plan or any fishery plan that has key components missing should never be orchestrated.

Considering the aforementioned information provided, we ask that the committee proceed wholeheartedly with Congressman Saxton's bill, H.R. 2655. This bill will clearly allow the agency, the ASMFC, the Mid-Atlantic Fishery Council, and the states to develop an effective fishery plan. While this plan is being developed, the moratorium on harvest will be extended for five years. And during this time, only positive circumstances should develop regarding this most valuable fishery resource.

And I want to make some additional comments, that I do disagree with Mr. Schaefer, and I don't really believe this is a management success story as much as implementing strict restrictions and tight restrictions on the netting of the bass in the commercial harvests. And I think that is the real success story there.

And management, as I saw it at the meeting on December 7 in Braintree, Massachusetts, is clearly confused. If the ASMFC, the Atlantic States Marine Fisheries Commission, recommends in March to reopen this fishery to NMFS, now on December 7 after hearing and listening to many testimonies by people specifically in New Jersey and other states where NMFS held hearings, they have decided unanimously to go against the reopening. So this tells me that management is confused, and Mr. Saxton is right on the money here when he says it is going to take five years to straighten this mess out. Thank you.

Mr. SAXTON. Well, thank you very much; I appreciate your very straightforward and articulate testimony. As I mentioned at the outset of the hearing, we are going out of necessity to take a break now to hear the Prime Minister's address to the House and the Senate. And I would guess that we will be able to reconvene at about quarter of 12, so if you would all be available then, we will assume our present positions and proceed at that time. Thank you.

[Recess.]

Mr. SAXTON. If we may, we are going to reconvene. We are expecting several more members. However, they are hopefully on their way. But we will take up where we broke and ask Mr. Fote if he would be kind enough to share his thoughts with us at this time. And, once again, may I remind everyone that there is a loosely controlled five minute time limit, and please be prepared to conclude your thoughts when you see the red light go on. And if you pull the microphone relatively close to you, it will make it easier for all of us to hear. Go ahead, Mr. Fote.

STATEMENT OF TOM FOTE, JERSEY COAST ANGLERS ASSOCIATION

Mr. FOTE. Yes. They wanted me to move the microphone back before, because I was talking too loud. Thank you, Chairman James Saxton, for introducing H.R. 2655. This bill is important for all the states throughout the migratory range of striped bass. I would also like to thank Congressman Frank Pallone and Congressman Longley for co-sponsoring the bill.

My name is Tom Fote. I am one of the three Commissioners representing New Jersey on the Atlantic States Marine Fisheries Commission. I am also Legislative Chairman of Jersey Coast Anglers Association which represents 80 fishing clubs in New Jersey and surrounding states. I am testifying wearing both hats because both New Jersey's delegation to the Atlantic States Marine Fisheries Commission and the membership of JCAA are in total agreement to opposing the reopening of the EEZ.

ASMFC member states proved they could work together to rebuild the depleted striped bass stocks under the cooperative process established by the Striped Bass Conservation Act. They developed and instituted regulations that could monitor and enforce within state waters. Enforcement in state waters has been strong and sustained with many violations written, in stark contrast to the total lack of enforcement in the waters of the EEZ.

There has been a moratorium on the harvest of striped bass in the EEZ for more than five years. And during that period, the National Marine Fisheries Service has only written one summons for illegal possession of striped bass in Federal waters. I have not heard of a single instance of a boat being checked in the EEZ off New Jersey for the possession of striped bass. Yet, we know striped bass fishing occurs in the EEZ every year.

Striped bass has always been an inshore fishery with the overwhelming majority of the catch, both commercial and recreational, coming from within state waters. Historically, the harvest was 90 percent recreational and 10 percent commercial outside of the Chesapeake Bay.

The traditional recreational fishery was accomplished from the beach or in estuarine waters where the average user was a blue collar or low income family member who could participate in the fishery with small expenditure and money and manage to put a high protein food source on the table as a result of their fishing efforts.

The commercial fishery was comprised of small, independent watermen working with small boats and using hook and line, gill nets, and pound nets. This was never a big boat offshore fishery. By reopening the EEZ, the pressure to expand the recovering striped bass fishery into the offshore waters using nontraditional gear will be extreme, with an even greater bycatch problem as a result.

Keep in mind that the least damaging methods of commercially harvesting striped bass are hook and line, tended gill nets, and pound nets. Once the fishery is open offshore, other gear types that generate large volumes of bycatch and discards will move into the fishery. This will open the door to vastly increased nonharvest mor-

tality and will have an extremely negative impact on the spawning stock biomass and on the traditional user groups.

After the protection of a public resource, marine fisheries, there is an added duty of being sure the public is not consuming fish that are contaminated with dangerous pollutants. It is our responsibility as managers to remember that all striped bass are not considered safe to eat in large quantities, and fish from certain waters are considered unsafe to consume at all. We must not back away from the unpleasant task of making this an important part of the marine management plan.

The recreational anglers consume the greatest volume of striped bass and should be given the greatest opportunity to retain fish that are safe to eat. The management plan for striped bass forces anglers to only harvest larger fish, the very fish that can be carrying the highest volume of dangerous pollutants.

One of the goals in this recovery has to be in reduced recreational size limits as the fishery recovers so anglers can at least eat the least contaminated striped bass. Areas with the highest levels of common contamination are presently closed completely to the commercial harvest of striped bass or regulated by fish size.

If the EEZ is reopened, there is no control to guarantee that contaminated fish who migrate through the EEZ are not going to be consumed. Remember that pregnant women and young children are not advised to consume any amount of striped bass whatsoever from specific waters.

The Federal Government must mount a comprehensive study of PCB contamination in Federal waters just as the Federal Government requires the states to ensure public safety. The Federal Government cannot exempt itself from the very regulations imposed on the states from protecting the public's resource.

In conclusion, as has been said many times by many people, "If it ain't broke, don't fix it." At present, there is no problem filling any state's allowable quota of striped bass from within state waters. There is absolutely no justified reason to reopen the EEZ to striped bass harvest with the resulting problems to the fishery and with the public health risk it will generate.

H.R. 2655 in its five-year extension of the moratorium in Federal waters will provide the time necessary to explore the problems and find suitable solutions. Thank you for allowing me to testify before this committee. I always enjoy coming back.

[Statement of Mr. Fote may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Fote. We are now going to hear from Jim Lovgren who is a commercial fisherman from the Pt. Pleasant area of New Jersey, of course.

**STATEMENT OF JAMES LOVGREN, COMMERCIAL FISHERMAN,
PT. PLEASANT, NEW JERSEY**

Mr. LOVGREN. Right. Thank you, Mr. Saxton, and thank you for having me here today. Coming from New Jersey and attending all three National Marine Fisheries Service public hearings concerning the EEZ reopening, I can tell you New Jersey's recreational industry is up in arms. I can also tell you that 75 percent of those sports who testified didn't have a clue about what the proposed National Marine Fisheries Service regulations actually meant.

The first Toms River hearing that was canceled due to inadequate preparation was a scene out of the deep South in the 1920's. All that was missing was the white hoods, and before you knew it, commercial fishermen would have been hanging dead from the end of fishing poles. If this country is going to go back to mob rule, then apparently striped bass is where we will start.

A New Jersey Department of Agriculture study released this year on the commercial and recreational industry's effect on the state's economy reached these conclusions using 1993 figures: value of commercial fish landings, \$100 million; economic value added results in a total of \$600 million generated by the commercial industry and its support industries; economic value added to the recreational industry is \$762 million. These numbers prove that even though more people participate in the recreational industry, they are equally important financially.

Employment figures show 9,100 people directly employed by the commercial industry full time and 21,840 by adding its support industries. 9,700 full-time employees depend on the recreational industry for their jobs. That means that more than twice as many people rely on the commercial industry for full-time employment than they do on the recreational industry. I think these official New Jersey statistics prove the always overlooked aspect of the true value of commercial fisheries to New Jersey.

I have been asked why are New Jersey commercial fishermen so interested in striped bass. After all, it has been declared a game fish. It is illegal to sell them in the state. The answer is twofold. First is regulatory discards; the throwing away of dead legal size fish in the name of conservation.

The second is because this past summer the recreational industry declared war on the commercial industry. They initiated a highly publicized net ban campaign and decided New Jersey would be targeted as the first state. They have since declared striped bass as the first battle.

No one in the commercial industry wants a war with anybody. We want to be able to continue to supply the public with a nutritious food product relying on properly managed and sustainable fisheries and a clean environment. Now, I am not a big fan of fisheries management, but there is certainly enough of it around to reach some reasonable conclusions.

Each coastal state has their own fisheries scientists and management system. The ASMFC is a Federal Commission that attempts to regulate coastal migratory species within three miles of the U.S. coast. The National Marine Fisheries Service manages all fisheries in Federal waters from three miles out to 200. A lot of public money is spent paying these scientists and managers to manage fisheries. They are doing their jobs. They say, and the commercial industry agrees, that the striped bass stocks are recovered.

I should not be here today. I should be out fishing trying to provide for my family. You should not be here today. This country has a million more serious problems to address than having to waste time because the recreational industry doesn't like the conclusions reached by three different layers of government scientists and fisheries managers. Did anybody say budget?

As written, the commercial industry opposes H.R. 2655. We feel that the stocks are recovered enough to allow a limited amount of harvest that would actually occur under the National Marine Fisheries Service proposal. Striped bass are the most tightly regulated fin fish on the East Coast, and each state has a predetermined poundage quota that cannot legally be overrun. So whether a bass is caught in state or Federal waters, the total amount of bass actually landed will remain the same.

The Mid-Atlantic Fisheries Management Council should not have to develop a fishery management plan for striped bass as required. The ASMFC already has an effective plan in place that is one of the very few plans that have effectively restored a depleted fishery to past levels.

To require them to develop a striped bass plan is not only duplicative, it is a waste of very valuable time and resources that should be spent managing other species of fish that need our immediate attention. This requirement is nothing more than a delaying tactic contrived by the recreational industry so that they can continue to hog the striped bass fishery.

New Jersey's commercial industry will support H.R. 2655 provided it is amended to provide a 500 pound possession limit. A 500 pound limit will do a number of things, the biggest one is that it will address the regulatory discard problem in Federal waters.

As the striped bass population has increased, the amount of bass being caught incidentally in other fisheries has also increased. Many of these fish are dead and presently have to be thrown back to be eaten by crabs instead of feeding humans and contributing to our economy.

A 500 pound possession limit will not allow commercial boats to catch a large amount of fish off of one state and unload them in another. It would not be financially rewarding enough to do so. Traditional small commercial fishing operators would not have to worry about strange fishing boats from other states unloading 20,000 pounds of stripers that would come out of their quota. Anglers would not have to worry so much about commercial fishermen slaughtering stripers off the Virginia and North Carolina coasts during the winter migration.

A study done by the State of Connecticut convincingly proved that the depletion of the shad population in the Connecticut River was caused overwhelmingly by predation of striped bass and not by overharvesting by commercial netters as it was assumed. This predation will continue in other rivers and other states until other fish species are depleted and then the bass will turn to predation of their own young, possibly causing their own stocks to collapse again.

Now is a critical time for fisheries, fisheries managers, and the fish themselves. With some species of fish at historic low levels, we must all be careful that we do the right thing with our fishery resources. And strange as it sounds, too many striped bass might be more of a problem than too few. Schools of 30-pound stripers can decimate other fish populations just as easy as loss of habitat or overfishing.

There is a delicate balance here, and we would be well advised to take all things into consideration with regard to what is a sus-

tainable population of striped bass. Thank you very much. Sorry I had to read that so fast.

[Statement of Mr. Lovgren may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Lovgren. Let me pose a question if I may to each of the panelists who might want to take a crack at answering it. One of the issues in question here is the wintering habits of striped bass and the potential danger that it may pose obviously in the commercial take offshore during the winter months. Mr. Donofrio, why don't we start with you. And can you give us your impression of that situation and the dangers that it could pose if we get into this thing in the wrong way?

Mr. DONOFRIO. Thank you, Mr. Saxton. Yes. My biggest concern here, and I think the concern of our industry, is wintering sexually mature female striped bass—we refer to them as cow bass—are in the EEZ at this time of year from December, January, February, and then March 1 they proceed up into the estuaries to spawn.

Prior to this spawning, we are concerned that there will be an overharvest of these sexually mature female bass due to the lack of the enforcement. And the enforcement problem is a big issue here because on paper the plan could probably be met, 386,000 pounds in North Carolina, and you are going to see that. But is it going to be 386,000, or is it going to be 800,000? We don't know that.

And with all the comments heard from the different commissioners and different groups along the coast in the last few months, we come to the conclusion that there is a lack of these mature bass in any numbers. And whatever numbers that are prevalent off the coast of North Carolina should be protected, and we should move with caution, which your bill allows us to do, while we assess these stocks.

And I would think that Mr. Gilchrest's state, which has a viable inshore commercial fishery, would have voted against the EEZ re-opening, but they had, in fact, voted for it—an extended moratorium because they realize that they want to protect these breeding fish also which go into their estuary system and propagate their fishery. So I think even the commercial fishermen in some of these states are moving with caution.

We don't see that much here. It is more of an adversarial role in New Jersey where I don't understand why our commercial fishermen are getting involved in this process here because it is a gamefish in our state, and they can't sell them. So the bycatch issue for them is a nonissue. They can't sell them. They can't transport them in New Jersey. But some of the other states that have a commercial fishery want these breeding stocks protected, and that is our concern. Thank you, Mr. Saxton.

Mr. SAXTON. Thank you. Mr. Fote, did you attend the Atlantic States Marine Fisheries Association meeting recently?

Mr. FOTE. Yes. As usual, I attended all their meetings that I can, and I was up four days in Boston at the last meeting. And it was interesting.

Mr. SAXTON. Well, let me pose the question before you answer.

Mr. FOTE. OK.

Mr. SAXTON. They went into the meeting, and I had the impression that they were going to recommend to NMFS that the regula-

tions move forward. Apparently, that was incorrect, and at the meeting they expressed great reservation or reservation about proceeding with regulations to create a commercial fishery in the immediate future. Do you know what that change in mind-set was based on, what their motive was for changing their mind?

Mr. FOTE. Yes. I think what happened here was fisheries managers sitting around a table said, "Well, it sounds like a good idea. It is a recovered fishery. Let us open it up." And then they went back, and they talked to the people in the states. I mean, Larry Sims, from Mr. Gilchrest's district, and I sat and talked about it. And New Jersey has become a commercial-recreational thing, but it is not that type of fight in other states. Larry didn't support it opening because basically he wanted to protect the stocks.

We also worried—the Fish and Wildlife Service put out a point in fact—that wintering grounds in North Carolina is not only Chesapeake Bay stock, it is the Roanoke stock, the Albemarle Sound stock. It is also the Hudson River and the Delaware all mixed together there. The Albemarle and the Roanoke are in bad shape. The Delaware River is not fully recovered.

If you basically hammer those fish real hard, when they are schooled up that tight—I mean, in the old days, recreational fishermen used to be able to gig them and basically get them. When they are that tight you could damage three other stocks.

The Commission looked at that fact. It also looked at the testimony of Mr. Holgarth. Dr. Holgarth pointed out that a lot of loopholes have been uncovered while they went through this process. There are certain issues that haven't been addressed that need to be addressed.

And then I pointed out the PCB problem. One of my duties as a commissioner is to point that out. I mean, I want to know whether the EEZ has safe fish so I don't have to put the same advisory as I do in state waters out to the EEZ. We have to know that. And we didn't want to contaminate the commercial fishery up and down the coast. I think they took all those things into consideration.

Mr. SAXTON. Thank you very much. Mr. Lovgren, help me out with regard to this enforcement issue. I believe you favor a partial relaxation or reregulation on commercial fisheries so that a bycatch would be permitted, and I believe the bycatch would be up to, is it 500 pounds a trip or 500 pounds a year?

Mr. LOVGREN. No. The idea would be a 500 pound possession limit. If a boat is in Federal waters, he would be allowed to possess 500 pounds. That would be enforceable by the Coast Guard.

Mr. SAXTON. Well, help me with this enforcement issue because it is a question that not only concerns us with regard to enforcement on the striped bass issue but enforcement on a lot of general issues. And can you represent that commercial fishermen are concerned enough about enforcement generally that they generally comply, sometimes comply, always comply? What is an honest assessment of the rate of complying with regulations such as one that would be promulgated subsequent to your concept of the new reg?

Mr. LOVGREN. Well, I can tell you in New Jersey there it might have been different a few years ago. It was different a few years ago there when a few boats got caught and they are facing \$25,000 and \$50,000 fines. The rate of compliance is very high at this point.

That is a lot of money. It can put you right out of business there, and the Coast Guard has been a very visible presence for the last five months off of New Jersey. We have seen three, four boats out in our fishing areas right in the mud hole for three and four months at a time. That is a day.

Mr. SAXTON. Thank you. My time has expired so let me turn to the gentleman from North Carolina at this point for any questions that he may have.

Mr. JONES. Mr. Chairman, thank you. I do have a couple of questions. Mr. Donofrio, and I apologize if I pronounce the name incorrectly, would you please tell me how the New Jersey Alliance to Save the Fisheries is funded? What is the makeup of your group? Who are your key financial supporters? Is it 501[c] or—

Mr. DONOFRIO. We are currently filing for that right now, a 501[3][c] and a 501[3][c][4]. And we are in the process of that. And right now I am being staffed at the Viking Yacht Company in New Gretna, New Jersey.

Mr. JONES. Can you give me just the number of members in this group—membership—100, 200 people?

Mr. DONOFRIO. OK. Well, we have the support right now of the Jersey Coast Angler Clubs which numbers somewhere—the estimates are 35 to 80,000 members through clubs. With that, Ben Glassine, who is the President of the Federation of Sportsmen, had called me and faxed me and told me that the Federation of Sportsmen in New Jersey, who was over 200,000 people, give us total support on this issue with the striped bass. And they see a need for us to be together on lots of issues like this.

Mr. JONES. To your knowledge, do you have any commercial fishermen that are active in your group, New Jersey Alliance to Save Fisheries?

Mr. DONOFRIO. I would say that we have some commercial fishermen that support our position here as a management issue. This to us is a management issue. It is not a commercial versus recreational issue.

Mr. JONES. Well, let me ask you. I have a copy of your group's handout with three major points that must be met before the moratorium is lifted, supposedly. If these three major points were met would you be willing then to see the moratorium lifted?

Mr. DONOFRIO. You mean in our—

Mr. JONES. Yes. It is a position paper.

Mr. DONOFRIO. Our position paper?

Mr. JONES. Right.

Mr. DONOFRIO. Can you give me some time to get it out here? OK. Do you want to go over the points?

Mr. JONES. Yes.

Mr. DONOFRIO. I don't have it right in front of me.

Mr. JONES. If these three points were met that you would like to see—you had three concerns, and these concerns were met, would you be willing then to see the moratorium lifted?

Mr. DONOFRIO. I think those are the points that we are all addressing, and Mr. Saxton's bill is talking with a timeframe. That is the timeframe needed to address those points. Yes, sir.

Mr. JONES. And let me ask you one other question. I had a real concern with a statement you made, and, quite frankly, Mr. Chair-

man, I don't know why we need the National Marine Fisheries Service to do all this work at the taxpayers' expense if we are going to have an outside group come in.

The statement you made—and I don't want to misquote you, but I think I wrote it down—was that you wanted to hold off on lifting this moratorium until we can make an assessment on the stocks, that your group makes an assessment—assesses the stocks. And then you would agree or disagree with what a Federal group wants to recommend. Did I understand you correctly?

Mr. DONOFRIO. We met with Dick Schaefer. I believe it was on November 3, and we asked Mr. Schaefer and the NMFS people if we could look at their biology—their assessments. And we asked if we could have our people, scientific community—privately we would contract them to look over the data because we just, frankly, sometimes don't believe what is going on here with some of the plans.

If you look, there is a NMFS survey. I just received that in an ASA meeting a week ago, and it shows most of the fishery stocks are overexploited. These are fishery stocks that are run by NMFS plans so it tells me that maybe we have got to look at this data a little carefully and have some outside academic people look at it. And this was our reason for doing that.

Mr. JONES. Thank you. Mr. Healey, let me ask you a question. I represent the coast of North Carolina. We have a lot of boat manufacturers that I have a good relationship with. We have numerous commercial fishermen, and one of the problems I have seen since I have been here for 11 months, is that there seems not to be a balance between the industry and commercial fishermen.

And I don't want to characterize what you said because we broke to go hear the Prime Minister of Israel speak, but I thought I heard you say of your concern about the time that the Congress passed the luxury tax and how many people you had to lay off work.

In my state, this continuation of this moratorium will have a negative effect on the small commercial fishermen. Do you have any concern not about the North Carolina commercial fishermen, but the New Jersey commercial fisherman that might be losing his job?

Mr. HEALEY. Well, let me say this to you. I have a concern about everybody's job, and I learned that from the luxury tax. But one of my concerns about the commercial fishermen in North Carolina and the commercial fishermen in New Jersey is, unfortunately, they are pushed so hard to catch anything out there they can get to pay their people and pay for their boats. And I have compassion for that.

But one of the things that concerns me with the commercial fishermen and the small commercial fishermen and large commercial fishermen is they are ready to exhaust the breeding stock or anything to live day to day, and that is totally not acceptable because as far as I am concerned, they cannot afford to take a long-term look at it, and to me that is very disturbing.

And I really think the basis of our problem is there aren't enough fish out there. But at the same time you can't exhaust the breeding stock. Now, we are talking about these cow fish in North Carolina in your state. And if we allow the commercial fishermen in North

Carolina to harvest these cow fish, we are depleting the very basis of this fishery, and that is my concern.

Mr. JONES. Mr. Chairman, I have one other quick statement and then one question. I disagree respectfully with your assessment of the lack of concern by the commercial fishermen. I just want to state that for the record. I would like to ask the gentleman from New Jersey who is a commercial fisherman, and I don't want to mispronounce your name, so if you would say it for me please—

Mr. LOVGREN. Lovgren—Jim Lovgren.

Mr. JONES. If you would please respond to Mr. Healey's statements about the lack of concern by commercial fishermen in New Jersey as well as North Carolina which I totally disagree with.

Mr. LOVGREN. Well, I have to agree with you there. I think that is a terrible statement especially coming from a man who has been willing to ban net fishing in our state waters there. That to me shows that his jobs to him are worth more money than my job is to my people.

Now, I do concern myself with the fisheries. I have been concerned with yours, and I will tell you most of the fishermen I know are very concerned about next year's stock and the year after. It is a very tough living. It has gotten tougher as the years go by. We do care about next year's fish, and we care about the coming generations of fishermen. And we don't see them coming up anymore because the industry is so tough.

Mr. HEALEY. Well, I would like to respond to that, and I would like to tell you that for every job out there in commercial fishing, and I understand their problem, we have 100 jobs at stake. We have 100, 200, 300 jobs at stake in our industry.

And unless this committee and this Congress gets an enforceable management plan, and I radically disagree with him that they are all in compliance in New Jersey—I radically disagree with that—unless we get the time to get a good management plan, we are going to lose jobs—his jobs and we are going to lose our jobs. And that is why we need this bill, Congressman.

Mr. SAXTON. Thank you, Mr. Jones. The gentleman from Maryland, Mr. Gilchrest, has joined us, and I reminded him how much I enjoy stopping on my way home as I drive up Route 95 in Havre de Grace to chow down on rockfish from time to time. So we recognize that there is a partnership here in management between commercial and recreational fishermen at least in the Chesapeake Bay. Mr. Gilchrest.

Mr. GILCHREST. I thank the Chairman. That is a beautiful little town where the Susquehanna River meets the Chesapeake Bay. We call it Havre de Grace. Some other members of this illustrious body call it Have-A-Disgrace, but I am sure Jim would never refer to it that way. And it is a beautiful little town.

You have mentioned Larry Sims a number of times, and the Chesapeake Bay—the stock of rockfish or striped bass has been declared for the most part fully recovered. And we have a pretty viable, productive commercial fishing industry on the Chesapeake Bay and which I would like to ensure its sustainability for years to come.

I also recognize the value of recreational fishing to the economy and to the enjoyment and to the tourism industry and to the qual-

ity of life. And I think the two, recreational fishing and commercial fishing, can be merged with an understanding that unless there are fish, then you would have neither one.

And Larry Sims is a good friend of mine, and we, quite honestly, would like to see no fishing in the Atlantic Ocean so that they could all come up the Chesapeake Bay, and our commercial watermen, as we call them, would have plenty of stock. So I am sort of at a disadvantage here.

We would just like to put a hold on long lines, on nets, on everything out there in the Atlantic Ocean except for the few fishermen along Ocean City. We could tell them to come up the Chesapeake Bay. So I am sort of one of those not-so-neutral parties here. I would like to see a ban on recreational fishing of rockfish in the Atlantic Ocean; I mean, just so you have some understanding where I am coming from.

But I guess my question is, and I would like each person to just take a second to respond—I guess to a large extent what we are talking about is the sustainability of this particular species of fish, whether it is recreational fishermen or commercial fishermen.

We want to make sure, as the commercial fisherman here has stated, that he wants to make sure that future generations can catch striped bass, and that all of us would like to see everybody in compliance and reasonable regulations to ensure that people can continue to the degree that is possible today their particular careers in this life.

And I say that because fundamentally there are fewer fish now than quite possibly there has been for thousands of years. And there is more people with much better equipment catching those fewer fish. We all would like to see—I know the gentleman from New Jersey and the gentleman from North Carolina and everyone sitting in here, especially the commercial people, would like to see this activity managed in such a way to sustain the stock and sustain those people who make their living from it.

So what I would like to—I am going to sort of ask a little different question because this has to do with is NMFS right? Is the Atlantic Fisheries Management Council right? Is the Mid-Atlantic Fisheries Council right? Is the recreational evaluation of the stock assessment correct? Are the commercial watermen correct when they say that there is plenty of striped bass out there?

What is the best way to assess or to collect the data to determine the stock assessment? I know we need science injected in this. We need people that are out there on the water giving their perspectives. So to me this sort of boils down to how many fish are out there? How can we tell how many fish are out there? And who should get the allotment?

So what is the best way, in your opinion—this will be my only question—on collecting data to determine the stock assessment? And I would like to work my way from your right to left.

Mr. PETERSON. Thank you, Congressman. Not totally avoiding the question, but my thoughts and comments are geared somewhat toward the larger picture as well as the strictly counting of the stock and the species. I think somewhere in the equation we have to have the National Marine Fisheries Service as well as the Congress recognize as they have in other areas of the law a cost benefit

analysis that would incorporate the value, say, of jobs in tourism, jobs on the coast, recreational fishing, the bait and tackle shops, the small businesses, the motor, the fuel, the hotel rooms, all that—

Mr. GILCHREST. Excuse me. Would you say, and if I could just—I know it is the yellow light—are you saying that the allowable catch should be modified by economic considerations?

Mr. PETERSON. To an extent I would ask that that also be incorporated in a scientific conclusion because the economic factors do come into play and I think should be looked at in the overall picture. I have attempted to relate in my written testimony some anecdotal information, and as inferred by your question, I don't cite a lot of science. And I would fully support the Congress or as we have heard here today some volunteer groups if there is sufficient funding.

Whether it is like Garret Hardin's Tragedy of the Commons, we are looking at a limited resource. And it is how to have a fair and reasonable allotment to assure its future for future generations. I would definitely support such a proposal.

Mr. GILCHREST. Mr. Healey.

Mr. HEALEY. Well, to try to answer your question directly, what we have seen is that the National Marine Fisheries Service has been doing the monitoring and doing the calculations, and they have not been successful. The only success story they will tell you they have, and they tell you about all their scientific accuracy, they failed in every fishery except the striped bass where there has been a moratorium.

Mr. GILCHREST. Could you give an example where they have failed?

Mr. HEALEY. Well, I had a meeting with Dick Schaefer, and Dick Schaefer said, "This is our only success story."

Mr. GILCHREST. The striped bass?

Mr. HEALEY. Striped bass.

Mr. GILCHREST. Would you say that NMFS failed because the science was inadequate, or they failed because the science was modified because of social or economic considerations? Therefore, the sustainable yield was modified?

Mr. HEALEY. Well, I am not sure of the reason, but the only thing I could say, we asked them on the striped bass issue to give us their information, what they were basing their positions on so we could hire our own sources to evaluate that information. And I think that is one of the methods and ways to approach this, and we are willing and have the resources to do that.

The New Jersey Alliance to Save the Fisheries is made up of some 800,000 that we represent—we don't have members, we represent—and we are just getting—we have only been in operation three months—in 800,000 recreational fishermen. There are 20,000 people in the marine industry, and there are conservation groups that are coming on board and supporting us all the time. So we are ready to put together the resources to analyze this.

But what I really think is important about this legislation is that the accuracy of the information is one thing, and a major factor, which the United States Coast Guard and NMFS themselves have

met, is they do not have the funding or the enforcement capability to enforce what they do enact.

Now, what I am saying to you, to measure this and to put together the components of a good fishery management plan is going to take some time because what has happened, the history of NMFS is that they have not been successful by their own admissions.

So what we have to do, and Congressman Saxton's bill gives us that time for the private sector and the public sector to NMFS to put these things together, we are now going to have a meeting with the Coast Guard and get an outline from them on what their enforcement problems are. And in North Carolina, for example, Congressman, there are only two people that NMFS have to cover the whole coast of North Carolina on enforcement which is an impossible task.

Mr. GILCHREST. I know the issue is much more complicated than what I have stated, but I have a red light. And if I could just get—see, I am not talking about enforcement. The data collection is just one of my—

Mr. HEALEY. Well, right to that, we would like to have the opportunity to review their data and address the accuracy of it.

Mr. SAXTON. We are going to move on. Mr. Jones and I both have an additional question or two and maybe Mr. Gilchrest does as well. So with your indulgence, we will go one more round here of five minutes each if you all have time.

Let me begin by asking just one question. I will ask each of you to respond to it. My understanding is that the NMFS regulations or proposed regulations that are set up would permit commercial take in the EEZ and would set a size limit of 28 inches. And my understanding is further that the regulators try to limit the total take to somewhere between 20 and 25 percent, and there is debate over whether it ought to be 20 percent or 25 percent—and that each state has a responsibility for doing its share to conserve within the parameters of that total take limit.

Therefore, it seems to me that if there is going to be—several people have said this is not a commercial-recreational issue. But it seems to me if there is a total take limit of 25 percent let us say and the states are responsible for providing a system within which that works, then it seems to me if there is a commercial take there have to be different regs provided by each state to make sure that we stay within the total take limit.

Give me your read on that. Is that a fair assessment? And, if so, what do you think the ramifications are for recreational fishermen and for commercial fishermen? Mr. Peterson, would you like to start?

Mr. PETERSON. That seems like a fair assessment, Congressman, and perhaps in looking at the overall picture, I am very supportive of the bill and the moratorium proposed simply for the fact that perhaps further dialog could reach a consensus. And it could not develop into what has been termed more of an adversarial commercial versus recreational situation at least in New Jersey, and that perhaps my overall, as noted in my comments, if we are going to err, let us err on the side of caution. And I do support the morato-

rium, and again I have cited some anecdotal information. But I think it may be fair to relate it.

I had the privilege of going to school in Congressman Jones's state. And in spite of memorable fishing experiences, that I loved them and still to this day in North Carolina, I always look forward to returning to nearby Island Beach State Park in New Jersey where we have the Annual Striped Bass Governor's Cup Fishing Tournament.

And with its determination that the fish has been recovered, in spite of that, in last year's tournament alone there was only one keeper fish taken. So there is something out there that the fishermen—if we had an opportunity to gather this data, I think we could perhaps learn and use the science as well.

Mr. SAXTON. Thank you. Mr. Healey.

Mr. HEALEY. Well, I think, Congressman Saxton, we are getting back to the question of integrating the states on some uniform program. For example, you can't land any striped bass in New Jersey, you know, where you can land them in other states. Now, it all comes back to the management.

It all comes back to an integrated plan where you take the various laws and regulations in the state in relation to the EEZ and to the Federal regulations and integrate that in a plan and also provide the appropriate enforcement. And that is why I think this bill is so important. It is going to give us the time to put together all these factors. As I said to you before, we are going to take a very active role, the Alliance to Save the Fisheries. We are not just a pack of people going to come up here and criticize.

Mr. SAXTON. Thank you. Mr. Donofrio.

Mr. DONOFRIO. Thank you, Mr. Saxton. I would like to say this. I am not a biologist, and that is not my background at all. But from what I have seen with the assessments, we have had a meeting with the ASA and certain conservation groups on December 1. And we have interviewed different leaders, and there is a portion of the large mature bass missing from the population. Whether this stock is recovered or not, as I stated before, to me is not even a debatable issue here.

In the absence of a management plan that is effective, it doesn't matter whether the fish are literally jumping into the cockpits of boats because a plan has to have all components that are working. And we have some interjurisdictional problems here as was brought up by Mr. Saxton.

And we have some enforcement glitches that have to be looked at, and, in fact, New Jersey only has eight conservation officers and two NMFS agents on duty full time; North Carolina also with two, and I believe there are 38 full time in North Carolina waters.

So we have a lack of enforcement in most of the coastal states. Maryland ideally has one of the best and most effective plans working through the whole system. As the Atlantic States Marine Fisheries Commission during the conference the other day in Braintree, the commissioner up there went through all the different glitches with Mr. Holgarth. And Maryland was pretty much under control.

But we have big problems here, and I think the timeframe that Mr. Saxton's bill is setting up here is what is going to be needed to look at these issues. And that is my concern here, that we are

going to jump into this. NMFS is shooting from the hip. And clearly the confusion from the Commission saying let us open it to let us not open it tells me that there are some really serious things we need to look at here, and this is going to take time.

That is the clincher here, that the Commission said let us open it, and now they say let us close it December 7. And that to me just backs up Mr. Saxton's bill here 100 percent. Thank you.

Mr. SAXTON. Thank you. Thank you very much. Mr. Fote.

Mr. FOTE. Yes. Looking at the interstate commerce and the way the laws are written, it really becomes very problematic how we are going to solve some of these problems. Some of the states when they testified before the Commission basically said they couldn't enforce their laws, and they don't know if this would open it up, would it basically be able to bypass the laws in their states.

I think one of the real concerns about NMFS data and when you look at it is they are always managing for F max, fishery maximum sustainable yield. And I think that is what has got us in all the problems. Congressman Gilchrest asked what species are in trouble. Well, the problem is trying to find ones that are not.

If you look at bluefin tuna, if you look at scup, you look at whiting, you look at cod, you look at hake, you look at yellowtail, they are all overfished. They are all going down the tubes. And NMFS has not done an effective management job in bringing any of those stocks back. It is when they took control, that the states really took an active interest in how it was going to be done and spent a lot of money. I mean, striped bass management did not come cheap. And the states are still spending a lot of money to keep it in effect.

We are working to effectively manage it in state waters. By opening up the EEZ, you create a whole bunch of other problems—mortality rate, can you estimate the bycatch mortality? No. I mean, Mr. Lovgren pointed out the fact that, "Well, we only want 500 pounds as a bycatch." Well, if you remember what happened in our state we had a bycatch provision, and the plan was passed in 1939 for a directed fishery.

And Axel Carlson and his brothers put nets down at the Toms River and netted tens of thousands of pounds of striped bass and shipped them out while he was supposedly fishing for shad and river herring. In the two years, they never caught one shad or river herring, but they caught a lot of striped bass. That is when New Jersey decided that when you allow a loophole, the loophole is always expanded. That is a problem. I mean, I don't know how you address that.

Mr. SAXTON. Thank you. Thank you, Mr. Fote. Mr. Lovgren.

Mr. LOVGREN. Yes. To talk about fisheries management from 50 years ago to the present day, I think it has come a long way. The last 20 years since the Magnuson Act has been put in place, management has—basically it is a growing thing there. We are learning by the process. There aren't too many successes, but I can point out surf clams as a very successful program. The striped bass are back. Fluke are coming back. That is a definite there.

What I am seeing myself, just recently porgies. We are seeing more porgies than we have seen in 10 years. I won't say 10 years but five or six—sea bass—a lot of small sea bass, a good run of weakfish—12- 13- inch weakfish. These are one-year-old fish. Now,

that is telling me that some stocks are coming back. Statistically, this isn't going to show up for a number of years.

And to address Congressman Gilchrest's question about management and what would be a way to address this, the one thing the National Marine Fisheries Service is ignoring and that is their best data that is anecdotal information to them—the commercial and recreational fishermen's experience. We are out there on the water almost every day.

If you can pick out honest—and there are honest fishermen out there that you can rely on for accurate data and you could pinpoint one or two of them in each state, these people will give you reliable information that is more than anecdotal. It is a fact. And this should be used. This should be incorporated into the Magnuson Act, that anecdotal information should carry a lot more weight than it does presently.

Our industry is not in favor, OK, of opening the EEZ to wholehearted, let us go get them striped fish, and we are not in favor of that. We are in favor of eliminating regulatory discards. It can be done. That is not a problem. It can be done. The Coast Guard could enforce it in Federal waters. That is where it matters, OK.

If there is going to be cheating in the state, that cheating is going to go on whether that fish was caught in state or Federal waters. That cheating is there, and that is a problem for state enforcement. And they mentioned two enforcement agents in North Carolina. That is two Federal enforcement agents. We probably only got two in New Jersey. How many state enforcement agents do they have—marine police and so forth? They are the guys that are enforcing those state laws.

Mr. SAXTON. Thank you very much. Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman. Just one question for Mr. Healey, and I finally got a chance to read your letter that you gave to the committee. I want to read this to you. "It is important to the boating industry that the EEZ remain closed to the commercial fishing of striped bass. Quite obviously, striped bass in the EEZ must be caught by recreational fishermen from boats and not from the beach." My question is why is it OK for recreational fishermen to catch fish in the EEZ and not commercial fishermen, and how is this better for conservation?

Mr. HEALEY. If you are going to allow the longlining, the paranetting, and the scooping up of all these fish by commercial fishermen, there aren't going to be any fish to catch, Congressman Jones. We all know the major problem with striped bass was that when they put—before the moratorium we didn't have any striped bass.

I am on the Bass River, Mr. Jones, and as our friend Mr. Lovgren tells, I can tell you we had plenty of striped bass. We didn't have any until the moratorium came back. And the only difference that I can see, and I am not a scientist, is we had a moratorium on the commercial fishing of striped bass, and that brought the species back.

Mr. JONES. Well, just my observation. I believe if we were discussing a bill to ban commercial fishermen, you two gentlemen from New Jersey—I am not talking about the mayor—would probably be very supportive of that. Thank you.

Mr. SAXTON. Mr. Gilchrest.

Mr. GILCHREST. Just a quick follow-up on my original question, and I guess I am going to ask are there any scientists on the panel? OK. Mr. Fote, you mentioned the failure of NMFS on a number of occasions. My perspective and I am really interested in your answer because my perspective is to a large extent it was the failure of NMFS was enhanced by many of the management councils' plans which didn't include all the data that NMFS gave them.

Now, if I am wrong on that, I would really like to know. So if I am wrong on that, I would like to—this is the EEZ fishery management councils—what they have done in New England, the Mid-Atlantic states, the Gulf of Mexico, and all the eight management councils which basically receive their data from NMFS. It is filtered through a scientific statistical committee. Then it is given to an advisory board, and then it is modified based on a lot of economic conditions.

So is it wholly NMFS's fault? Is it partially the management council's assessment of the data? And if it is a combination of the two, what should replace or partially replace NMFS in collecting the data?

Mr. FOTE. I don't agree with you that they manipulate the data. The data is data. When it is reviewed by the SAW which is the stock assessment workshop.

Mr. GILCHREST. No. I am not saying they manipulate the data, but they sometimes ignore the data.

Mr. FOTE. They ignore the data. That happens. When you get a council that votes on it, and that is when it comes up to the job of the Secretary of Commerce to basically make sure that the data is being followed and basically that is what his decisions are.

So when it comes down to the total review of the process, it goes up to the Secretary. And basically he has to make decision on the information he has in the data, whether he accepts the council's assessment, National Marine Fisheries assessment, and what the data says.

Now, what I find is, and I guess it is both the recreational and the commercial community, both put pressure enough that sometimes when it gets up that high decisions aren't made on data. It is made on politics. I mean, it is a shame that that is how the system runs.

Also, NMFS has—beside data, like bluefin tuna wasn't a problem until they brought the purse seines around from the West Coast. Then basically that became a problem. Other species have not been—until they reintroduce new gear to a fishery, that does cause a problem. And we fund the studies that basically do that, and it puts traditional fishermen out of business, both commercial and recreational.

NMFS has a hard time implementing its tough rules. I always said that when it set up the councils, if I was a politician that is what I would do because basically I could blame them for not doing my job and say, "I was basically given the job," and the National Marine Fisheries Service was given the job of regulating the fisheries.

Now, I have got a buffer zone because I say the councils haven't done their job so I couldn't do my job while it is their overall re-

sponsibility to do their job and follow the data and make sure that when the Secretary signs off on a plan that that plan will do a recovery. That is not what any of these plans have done in the last 10 years or 15 years.

Fluke, as pointed out, is coming back. That is a strong plan involved with the Atlantic States Marine Fisheries Commission so we play an active role in how that fisheries is coming back. It seems that the plans that NMFS has done up by itself, and I disagree with Mr. Lovgren about scup—I mean, when we used to fish for porgies as kids, we used to find porgies all over the place.

We can't find them at all anymore. I mean, they are gone from the bays and estuaries. We haven't seen them rebuilt. Whiting collapsed dramatically in the last couple of years. The party boats and charter boats, the recreational fishermen that fish, and Mr. Lovgren have all been having a hard time filling up their boxes with whiting over the last three years. I have been yelling at the Rhode Island fishing boats. I mean, it is a real problem. It is a tough decision.

You are actually going to hurt livings of both the commercial and the recreational sector. You have got to make a tough choice, and when it comes down to you picking up the phone and screaming, "What is going to affect North Carolina?" or Congressman Saxton picking it up and, "How is it going to affect New Jersey and how is it going to hurt their fishermen?" they kind of back off, and that is a problem. And if we had a perfect world, they wouldn't do it.

And as to scientists, I am not a scientist, but I spent enough years now listening at meetings where I picked up a lot. I almost sound like a bureaucrat which becomes a real problem.

Mr. GILCHREST. Thank you very much.

Mr. SAXTON. Let me just ask Mr. Lovgren one final question. If I have this information right, in 1994, the price per pound from the vessel for dogfish was 14 cents. Does that sound about right?

Mr. LOVGREN. Yes. I would say that is very close there. The gill net vessels get two or three cents, maybe four cents more a pound. But the 14 cents sounds about correct. We are getting 19 or 20 right now, and sometimes the fish will bring in 25 to 30 cents.

Mr. SAXTON. OK. But we are close. Now, I am also told that in 1994 the average price per pound for striped bass was \$1.64. And I guess my question is doesn't that promote a big bycatch?

Mr. LOVGREN. Of striped bass with the dogfish?

Mr. SAXTON. Yes.

Mr. LOVGREN. Well, if they could do it, it might. Now, possibly off of North Carolina they could. I don't know how far in the dogfish get in North Carolina. I am not familiar with the fishery down there, OK. I can tell you that I know the price of striped bass is down to about \$1.25 a pound now. The markets are reacting to the fact that there is erratic supply, and when that happens, they find other things to fill, and that is—

Mr. SAXTON. OK. Well, thank you. I just wanted to get that one last question in for you because we are going to have to dismiss this panel and go on to the next panel because we are rapidly running out of time.

But the point here is that where it is profitable, if there is an opportunity for a profit to be made and that much of a difference

in the price of what fish we are going to fish on and try to catch and land and bring to shore for profit, it seems to me pretty obvious that there is going to be a great incentive to go after the stripers.

I would like to thank this panel very much for your indulgence. You have been here for a long time now. We started at 10 o'clock. It is now 1 o'clock, and we are going to have to move on to the next panel. So thank you very much for being here with us. We appreciate it. That is just a sign that we are going into session, and that is exactly why we need to move on. So I thank you very much.

And while you are leaving, I would like to introduce the third and final panel. We have Mr. Jack Dunnigan who is Executive Director of the Atlantic States Marine Fisheries Commission; Mr. Robert Peele, Deputy Director of the North Carolina Fisheries Association; and also Mr. Bill Wright, Government Relations Representative from the National Fisheries Institute. Gentlemen, thank you very much for being with us. We appreciate it. We are anxious to hear your testimony, to get your view and your perception of this issue. And so we will begin with Mr. Dunnigan.

**STATEMENT OF JOHN H. DUNNIGAN, EXECUTIVE DIRECTOR,
ATLANTIC STATES MARINE FISHERIES COMMISSION**

Mr. DUNNIGAN. Thank you very much, Mr. Chairman. I am Jack Dunnigan, Executive Director of the Atlantic States Marine Fisheries Commission, and it is a pleasure to be back before the committee today to talk about striped bass. This is really the hallmark program that most people consider when they think of the Atlantic States Marine Fisheries Commission.

Mr. Chairman, I would like to thank you especially for the scheduling of this hearing. Originally, you wanted to do this last week, and by delaying it, you gave our Striped Bass Management Board an opportunity to look at the public record with the National Marine Fisheries Service concerning its proposal to lift the moratorium on fishing in the EEZ. And so we now have the consideration of the Board to share with you.

We also strongly appreciate the leadership of the Congress on striped bass issues going back many, many years and for the recognition of the predominant role that is played by the states in the conservation of this resource.

Also with me today, Mr. Chairman, in the audience is Mr. Mark Gibson from the State of Rhode Island. Mr. Gibson is the Chairman of the Striped Bass Stock Assessment Subcommittee for the Commission and is very much involved in putting together the science and the stock assessments that support the fishery managers.

Given the time, Mr. Chairman, I would ask at this point that my full statement be inserted in the record, and I will just hit a couple of highlights that may be of interest given the discussion that has gone on so far this morning.

As was said earlier, the Atlantic States Marine Fisheries Commission's Striped Bass Management Board met last week and considered the public comment that had been developed by the National Marine Fisheries Service over the last few months in deciding whether or not to go forward with the proposal to lift the moratorium in the EEZ on fishing for striped bass.

Originally, the Commission's Striped Bass Management Board had supported this idea, and as Mr. Fote characterized earlier, it was from a sense of recognizing the recovery that had occurred in the fishery and recognizing too that government shouldn't be regulating where it didn't need to in order to meet its objectives.

It seemed to make sense since we were opening fisheries in state waters to have the same thing happen in Federal waters. It essentially occurred to the Board when they first considered it that there just wasn't much need any longer for this regulation.

When the Board met last week, it reconsidered that, and although I wasn't there on that day, I think that there were three major factors that weighed in the minds of our Board members. First, it became very obvious from the public comment that the large predominance of the public didn't want this action to be taken.

We in the states—we everywhere in government but especially we in the Commission—have been encouraged over the last couple of years by this committee and others to work hard to listen to the public. And I think that our directors in looking at the record that had been developed by the National Marine Fisheries Service noted that the predominant public concern here was that this action not be taken.

Secondly, during the public comment, an issue arose that we had not anticipated, and that was the question about possible loopholes in the regulation. There is a concern today among our directors about whether or not there exists sufficient authority in the states and in the National Marine Fisheries Service to effectively enforce the commercial harvest caps that are contained in the Commission's fishery management plan. And this is how that could develop.

There are a number of states that don't have commercial fisheries, and as a result, they don't have quotas or caps under our fishery management plan. However, those states may allow the landing of fish harvested legally in other jurisdiction. And so the question was if a fish was landed in another jurisdiction and brought into one of these states, how would that fish be counted against somebody's commercial allocation?

The issue was, can we maintain a cap on the fishing mortality which is critical to the continuing success of the fishery management program? And looking at the information that had been developed as a part of the public hearing, I think a number of our directors questioned whether or not we knew enough at this time to do that.

This is a very sensitive issue for state fishery managers right now because of some litigation that has been developed relative to state and Federal jurisdiction under the Magnuson Act, and whether or not states have authority to implement their laws for fish that are harvested in the EEZ. Now, perhaps in the Atlantic Striped Bass Act that would be a different situation, but it wasn't clear enough for our commissioners to be comfortable enough at this time.

The third major issue that affected them I think was the need to be cautious. The Commission adopted Amendment Five to its fishery management plan last spring. In doing so, we have a target

fishing mortality rate that will allow the harvest of maximum sustainable yield.

But because we are still in the process of coming out of a very long period of decline in this fishery, our commissioners decided to approach that goal in steps. And so right now we haven't gone in our management program completely to the fully restored fishing level, and that is really only out of an abundance of caution and prudence in the wise management of marine fishery resources.

So for those reasons, Mr. Chairman, the Board changed its mind and took a different position and is recommending now that the National Marine Fisheries Service maintain the moratorium in Federal waters.

If I can just touch one last point and that is specifically on the bill before you today. Mr. Chairman, nevertheless, the Commission believes that H.R. 2655 is not necessary. The Congress, the states, the Federal agencies, the industry have all invested heavily in the last couple of years in a fishery management process. We think that the striped bass situation has shown that that process works.

For those who didn't like what the National Marine Fisheries Service proposed, we think that our Board's action last week shows that the process works. We just think that at this time it is not necessary for the Congress to step in on a particular issue in a specific fishery and mandate that an individual action be taken. And for those reasons, we just don't think that H.R. 2655 is needed at this time. Thank you, Mr. Chairman, and I would be pleased to answer any questions the committee may have.

[Statement of Mr. Dunnigan may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Dunnigan, and we certainly will get to some questions. We appreciate particularly your clarification of the basis of your decision of a week ago. And thank you for that testimony. Before we introduce Mr. Peele, if I may ask Mr. Jones if he would like to introduce Mr. Peele inasmuch as both are from the Tarheel State.

Mr. JONES. Mr. Chairman, thank you very much. Not only is Mr. Peele from eastern North Carolina, and I have the pleasure of serving his home county in the Third District, but Bob Peele is a graduate of NC State University. And I think because of graduating from NC State University, my father, former U.S. House of Representatives Chairman of the Merchant Marine and Fisheries Committee, didn't draft Bob but hired him right out of NC State.

And Bob worked a number of years on the staff here in Washington, DC; did a great job for my father; very smart young man. And after my father's death in 1992, he continued to work with former Congressman Martin Lancaster so I am very pleased to welcome Bob back to Washington, DC, and to appear before this committee. And I thank you for that courtesy, Mr. Chairman.

Mr. SAXTON. Thank you very much. Mr. Peele.

STATEMENT OF ROBERT PEELE, DEPUTY DIRECTOR, NORTH CAROLINA FISHERIES ASSOCIATION

Mr. PEELE. Thank you, Mr. Chairman, for the chance to be here today. It is a special pleasure for me to be here before my Congressman testifying. Walter is doing a good job for us up here, and I know, Walter, that your father would not only get a kick out of

seeing you sitting up there as a member of Congress, but would really be confused by seeing me down here testifying.

Getting right to this, I am going to summarize just a couple of points in my statement. One thing that I think seems to be continually lost in this debate is that striped bass are part of a nationally owned public trust resource. Every U.S. citizen owns a piece of the striped bass pie, and for the great majority, the commercial fishing industry is their only access to an important resource of which they own.

The latest ASMFC calculations put the commercial portion of the striped bass harvests along the Atlantic Coast at about 21 percent. That is a very small portion when considering that the vast majority of Americans choose to pay to have their seafood caught and delivered to restaurants and retailers where they can access them.

Of the last 20 years, there has been a growing trend to ignore the rights of the nonfishing public to their share of the public resource. The North Carolina Fisheries Association is concerned that H.R. 2655, in effect, would continue to limit access to a public trust resource by the commercial fishing industry which, in this case, is just the delivery system for the American consumer.

Mr. Chairman, the North Carolina Fisheries Association appreciates what you have done for the industry over the past, but I am afraid that we cannot support H.R. 2655. We feel the bottom line on this issue is that there is no biological need for the continuation of the EEZ moratorium.

The ASMFC and NMFS recognize that the stocks are recovered along the Atlantic Coast. Now, I have to admit that my statement was written and submitted last week before the vote by the ASMFC Management Board in support of continuing the moratorium. Even the Roanoke stocks which are not deemed fully recovered are showing signs of improvement.

The point is that everyone seems to agree that Atlantic Coast striped bass stocks, except those of the Roanoke, have fully rebounded. As a member of Congress stated back in 1991, and I quote, "A decade ago, the striped bass appeared to be doomed. But through the sacrifices of commercial and recreational fishermen and the work of enlightened state governments and ASMFC, the striper has slowly but surely worked its way back. Our goal is to make certain that progress continues."

Mr. Chairman, Congressman Studds was absolutely correct in 1991. The striper was recovering. Now, over four years later, the road to recovery for Atlantic striped bass is complete. After several years of sacrifices, now is the time to offer some relief to the commercial fishing industry, not further restrictions.

And, lastly, and I think this is probably the most important point from the North Carolina Fisheries Association, if the moratorium is continued in light of the recovery of the striped bass stocks and at the sole request of recreational fishing industry groups, then the commercial industry will lose all faith in the current fishery management system.

For a variety of species, commercial fishermen follow the mandates and FMPs and quota allocations. They may not agree with many of the mandates, but they begrudgingly follow them in the hope that if they make sacrifices and follow FMP guidelines, the

current management system will allow them to fish at better levels once stocks recover.

This is in a sense an unwritten agreement between fishermen and regulators. Our concern is that H.R. 2655 ignores the acts of good faith and sacrifices of the commercial fishing industry and the best scientific data available that proves striped bass stocks have recovered.

To continue the moratorium will breach the faith commercial fishermen have in the management premise that compliance and sacrifices today will lead to better fishing in the future. In light of the recovery, now is the time to allow fishing for striped bass in the EEZ, not further prohibit it. Thank you, Mr. Chairman.

[Statement of Mr. Peele may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Peele. And we will move on to Mr. Wright please.

STATEMENT OF BILL WRIGHT, GOVERNMENT RELATIONS REPRESENTATIVE, NATIONAL FISHERIES INSTITUTE

Mr. WRIGHT. Thank you, Mr. Chairman and members of the subcommittee. My name is Bill Wright. I work for the National Fisheries Institute. Part of my past I spent several years working on the Merchant Marine and Fisheries Committee dealing with fisheries issues and watched the issue of the Atlantic striped bass move forward through Congress and make some great forward accomplishments on that.

Mr. Weddig, our executive vice-president, who was originally scheduled to testify, was unable to attend. There are some merging issues going on right now with mercury and seafood that has pulled him away at this time for that, and he apologizes for not being here.

And that leads into one of the key points that I wanted to highlight in our testimony. One of the things I think that is most important is that we have good science and adequate science, and it involves all parties who are affected by management of fishery stocks.

And as the National Marine Fisheries Service has said previously, we are seeing a remarkable recovery of the striped bass. And it is through those cooperative efforts of the National Marine Fisheries Service, the Atlantic States Marine Fisheries Commission, the member states, commercial fishing industry, and the recreational fishing industry that has met those goals. We still have a way to go and to continue to improve those stocks and everything.

However, we have a process that is moving forward on this. That process is management through the Commission and through the Atlantic Striped Bass Conservation Act. We have a process to where the National Marine Fisheries Service looks at opening up the Federal waters again since they have had the moratorium since 1990. That process is now moving forward as we all know.

H.R. 2655, in our views as NFI, is inappropriate at this time. The reason why we feel it is inappropriate is that it does change that management process. It takes the authority and returns it back to the Mid-Atlantic Council and tells them that they may pre-

pare a plan. And the concern is they may prepare a plan basically after a five-year moratorium.

Today, we are looking at that Mid-Atlantic Council with a very heavy workload, with other fisheries amendments that they are preparing, our new fishery management plans that they are having to deal with. The concern that we have is that are they going to develop a plan in adequate time, or is it going to be put aside on the back burner until the five years are up and then start looking at that plan? At that point in time, we may be well beyond the point of opening up the EEZ.

The question also is is it duplicating effort? We feel that it does duplicate effort with times of limited resources and tight budgets. We have got a plan in place, the proposed rule by the National Marine Fisheries Service looks and addresses. It had four options.

The one option they recommended was trying to keep everything intact with what the state waters have to abide by. There are some adjustments that need to be made. The most important thing is that they have had a public process. As they have mentioned, there have been nine hearings and over 1,000 comments. That is key to that management process of moving forward.

One point about opening up the EEZ that has been raised today, and I will reiterate that, is that it will provide a chance to improve the data collection. We do have bycatch of striped bass in the EEZ that has to be returned to the sea. In most cases, these fish are dead. No one is counting that. Unfortunately, the Commission has to base that on some scientific models and make assessments on that and estimates.

The key thing that we believe is that if the EEZ is opened up and this bycatch is counted through the final rule, through implementing that requirement, we could get much more accurate assessment of that bycatch.

The moratorium we believe is not needed. It is going to take some time to manage and put together the plan of opening up the Federal waters especially with the Commission's new agreement that they want to wait till fishing mortality equals MSY.

Finally and fundamentally, there is a concern that NFI has that there is an expanding effort on the anticommercial campaign by various groups, and we feel that that effort to address this issue on striped bass is not the best route to take. We welcome them to come work with the commercial industry and sit down and find the best way to improve the stocks, improve the science, and move forward on that effort so everybody can benefit from that.

And as Mr. Peele mentioned, 85 to 90 percent of American consumers depend upon commercial fishing to supply fish to the retail stores and the restaurants for them to enjoy. We should make sure that that access continues. And, finally, I just wanted to thank you for the opportunity to testify here and welcome any questions.

[Statement of Mr. Weddig may be found at end of hearing.]

Mr. SAXTON. Thank you very much. I have three questions for Mr. Dunnigan, and I am going to try to ask them concisely, and if you would try to answer them just as concisely. Then we will let Mr. Peele and Mr. Wright respond as well. In your oral testimony, you said that reason three for the Commission's position is that you felt that you should error on the side of caution.

And in your written testimony, you say that under Amendment Five the fishery is being reopened in stages and is currently under an interim target fishing mortality rate. The final target is a fishing mortality rate that will allow the harvest of full maximum sustainable yield and is currently scheduled to be implemented in 1997. I take it from those two statements that you believe that any decision currently on this issue in the EEZ is premature. Is that correct?

Mr. DUNNIGAN. Mr. Chairman, that is what our Management Board decided last week—was to recommend to the National Marine Fisheries Service that they hold onto the moratorium until the Commission makes the decision to move the fishery to the full target fishing mortality rate.

Mr. SAXTON. Thank you. Number 2, on a little different subject, this committee and other committees in the Congress have spent a lot of time along with private organizations trying to enhance the environmental quality of spawning grounds, if you will. Do you believe that there has been a significant improvement in spawning conditions, and, if so, has that added greatly or at all to the increase in the fish population?

Mr. DUNNIGAN. Mr. Chairman, all of the indications we have are that throughout the spawning estuarine ranges of this species, there has been some improvement in the overall habitat quality that affects striped bass, shad, river herring, a whole range of estuarine-dependent species.

We don't really have the kind of information that we would need to make the kind of quantitative statement that we all might like to have about how much has the environment changed and how much does it contribute relative to fishing mortality.

The continuing concern of fishery managers, however, is to focus on that which we can really try to control realistically, and that is how many fish that people take from those stocks. And where we find success is when we can effectively control fishing mortality.

Mr. SAXTON. Thank you. And, finally, do you think it would be a good idea to have a fishery management plan on striped bass that applies just to the EEZ, separate and apart from the management plans that apply to state waters currently? And, if so, who should develop that management plan?

Mr. DUNNIGAN. Well, Mr. Chairman, I am a nonvoting member of the Mid-Atlantic Fishery Management Council. I am very reluctant right now to say that the council has the time and the resources to embark on a major new effort like that.

And I think by and large if you look at what the states are doing cooperatively through the Commission, you would probably conclude that a separate Federal effort right now to determine striped bass management policy is unnecessary.

The large majority of these fish are harvested in state waters. The Commission has done an awful lot over the last 15 years working with the Federal agencies to make this program work. I think it is important that we all work together on a single program.

That is what we are doing right now, and I just really don't see what would be gained by having a separate management effort come out of the Federal Fishery Management Council system. That

being said, of course, I would defer to my fellow council members if that was the priority they set.

Mr. SAXTON. Thank you. Mr. Peele and Mr. Wright, would you like to respond to any of the three questions?

Mr. WRIGHT. OK. Your first question talked about the reason for erring on caution, and I think that it is wise always to err on caution. I think the Commission is doing that. I mean, as you can see, the states have quotas and caps and everything to err on caution. And they are being very careful of slowly reaching up to where fishing mortality reaches MSY which is the optimal yield or the goal. The second question—

Mr. SAXTON. May I just interrupt?

Mr. WRIGHT. Sure.

Mr. SAXTON. You are agreeing then—your organization agrees with the recommendation of the Commission?

Mr. WRIGHT. Our organization—we believe that it is good and good sound management that you watch and develop a plan of phasing back in a fishery. Yes. However, looking at specifically what the Commission has recommended, we have not detailed an analysis of it or looked at it for a specific answer. We can provide that for you if you want.

But, like I said, we believe that as you are building it back up to MSY, yes, you can address those issues of making sure that it is not being overfished again. And I think the Magnuson Act even with the bill that is moving through Congress today addresses some key issues that would avoid that overfishing like what has occurred in the past. Science has moved forward to help us with that management.

Mr. SAXTON. Thank you very much. Mr. Peele.

Mr. PEELE. Well, I would only say that the North Carolina Fisheries Association is still trying to figure out just what the ASMFC Management Board's vote really means. We were kind of taken aback by it. I mean, I have in my files here press releases from NMFS and from ASMFC hailing the recovery of the striped bass stocks.

And then the vote last week, to be honest with you, has confused the situation quite a bit at least for my Board that has not had a chance to meet and really discuss it since then. So I guess it is safe for me to say that we fully support the opening of the EEZ, but at the same time recognize the need that you need proper management and that sort of thing.

And as far as water quality goes, it is no secret North Carolina has had some major problems with water quality this year. In fact, the Roanoke River striped bass population was subject to a major fish kill. I would only say that the State of North Carolina is getting ready to take some major steps in improving water quality along our coast, and we can only hope that other states will do the same. But it is definitely on the burner in North Carolina this year.

Mr. SAXTON. Thank you very much, sir. Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman. Just a couple of comments and then a question to Mr. Peele. You know, Mr. Chairman, I sit here as a new member of the Congress, and I do have the coastal areas. And one of the previous panelists made the state-

ment about, well, if Congressman Jones calls a certain Federal group and they might make a change or if Congressman Saxton, they might do a few for Mr. Chairman, but they don't do it for me—they don't get it out on the record.

I am sitting here looking at the U.S. State Department of Commerce news release 9/25/94, and it says, "NOAA may allow fishing for striped bass in Federal waters due to significant five-year recovery. Federal waters off the East Coast from Maine to North Carolina will be reopened for fishing for striped bass because of significant recovery of stocks the Commerce Department's National Oceanic and Atmospheric Administration said."

And one more quote. "Because of effective state and Federal programs run cooperatively to protect striped bass, some of the East Coast stocks have undergone a remarkable recovery and have reached levels where fishing can once again be allowed said Roland Schmitten, Director of NOAA." What confuses me is why we take the word of this group when it seems to fit the purpose. Then when it doesn't fit someone's purpose, we make an issue over it.

My concern is, as was stated by Mr. Peele and Mr. Wright, is that we have had good people, both recreational fishermen, as well as commercial fishermen, in North Carolina. And as Mr. Peele said, some commercial fishermen very reluctantly did not want to abide by the moratorium, but they did. And if you go back to the time of the passing of the Atlantic Striped Bass Conservation Act, we are going back to 1984.

So many of these people have been as long as 11 years good stewards of the striped bass stocks, and yet now we have a Federal agency that when I first came here many people on this committee gave a great deal of respect and credibility to the work of NMFS and also NOAA. And now we are in this conversation of if they are not doing a good job as it relates to record-keeping.

So I guess what I want to say to Mr. Peele is I agree with what you and Mr. Wright said. Our people have stayed for 11 and five years abiding by the law of the land except for this moratorium, and now if the—and there will be some recreational fishermen that will be very upset also. It is not just commercial fishermen in our state.

But my point is how in the world will you as an association explain to the commercial fishermen that this bill passed, and therefore we have five more years of moratorium, and it could be five more after that depending on whatever group wants to best serve their own purpose? And I am not talking about you, Mr. Chairman, when I make that statement. I will make that clear.

Mr. PEELE. Well, it would definitely be a very hard sell on our part, and I don't know that we could explain it to our folks unless there is some absolutely pressing biological need. You have to remember that North Carolina fishermen are facing a weakfish closure that is going to hurt them.

Now, this comes along. Our Roanoke stocks of striped bass are not considered recovered, and the guys are throwing back literally hundreds of striped bass and keeping five a day I think is what it was last year. It would be a very hard sell to go back to North Carolina and sell them on five more years of a moratorium based on what is probably very questionable scientific evidence.

Mr. JONES. Thank you, Mr. Chairman.

Mr. SAXTON. I just would like to say before I recognize the gentleman from Maryland that I wish I had all the answers to fish regulation and making sure that fisheries remain healthy and making sure that each group of fishermen has their own wishes realized all the time.

Unfortunately, when it comes to tunafish which we sat in this room in an informal hearing and tried to work out some things earlier this year, which we were fortunately able to do, or when it comes to contaminated bluefish off the Northeast coast, or when it comes to whatever the issue happens to be—on the international basis swordfish—the swordfishery and all of these issues are very, very difficult.

And I guess what we are going to have to do, Walter, is just wade through them one at a time and try to make the best of it. But I appreciate your comments very much. Mr. Gilchrest.

Mr. GILCHREST. Thank you, Mr. Chairman. Mr. Dunnigan, you said that the Atlantic State Marine Fisheries Commission—I am not sure if this is the right word—reversed its decision based on public comment, loopholes in the regulation, and questions about being cautious in implementing the opening or ending the moratorium.

And you also said that at this particular time legislation is not necessary because of the manner in which the Fisheries Commission has worked and can continue to work to ensure the sustainability of the stock. Could you give me an example of one of your fears as far as reversing your position is concerned and loopholes in the opening up of the EEZ—loopholes in the regulations?

Mr. DUNNIGAN. Well, I think the concern that we have, Mr. Chairman, is that anytime you talk about state fishing waters as opposed to Federal fishing waters, there is always a question because of language in the Magnuson Act and language in the Constitution about how far the states can go regulating an activity that occurs outside of that state's boundaries. And that is the kind of loophole that we are concerned about right now.

There is a possibility that has been raised, and we don't understand how all of the individual state laws operate, but there is a possibility that even though a state didn't allow, for example, a commercial fishery, that it would be legal under state law to land fish there that were caught someplace else in the EEZ, for example.

Mr. GILCHREST. You mean someone—right now you can't land striped bass in New Jersey?

Mr. DUNNIGAN. That is correct. You can't sell striped bass in New Jersey.

Mr. GILCHREST. Could a commercial fisherman from New Jersey catch striped bass in the EEZ when the moratorium is lifted?

Mr. DUNNIGAN. Yes, sir.

Mr. GILCHREST. Can they land it in New Jersey?

Mr. DUNNIGAN. No, sir.

Mr. GILCHREST. Could they land it in Maryland?

Mr. DUNNIGAN. Perhaps.

Mr. GILCHREST. Perhaps.

Mr. DUNNIGAN. If they met the requirements of local law, they could land it in Delaware, Maryland, or New York.

Mr. GILCHREST. Well, then would your concern be that a commercial fisherman would be catching in the EEZ and then landing it in Maryland, New York, Virginia, North Carolina? Is that the loophole you are talking about?

Mr. DUNNIGAN. No. The state that most people talk about is Connecticut, and I am reluctant to do that because I am not an expert on Connecticut law. They don't have a commercial fishery so they don't have any quota. But it is legal to land and sell fish in Connecticut that have been legally harvested someplace else.

So the concern is that fishermen would catch striped bass in the EEZ. They would be brought into Connecticut to be sold, and we wouldn't have any way for accounting for that fishing mortality within the system we have already because there is no quota there for that fish to be counted against. And it is that kind of problem that our Board didn't feel we have a good enough handle on yet to allow this activity to continue.

Mr. GILCHREST. You are recommending that the bill not be passed so what would you do then? What would your recommendation be as far as fishing in the EEZ for lifting the moratorium if this bill doesn't pass?

Mr. DUNNIGAN. Our Board's recommendation regardless of whether the bill passes is that the moratorium in the EEZ be maintained at this time. There really are two separate questions here. Whether or not we decide we like the idea of fishing for striped bass and whether or not we like the idea of a moratorium in the EEZ, the point is that our Board believes those decisions ought to be made within the existing management structure that the states and the Congress have established, rather than dealing with them through a separate legislation outside of that process.

Mr. GILCHREST. Mr. Wright, you are apparently against the legislation also. What would your recommendation be absent the legislation but addressing Mr. Dunnigan's concerns about loopholes in the regulation and not being able to keep track of the moratorium on striped bass?

Mr. WRIGHT. As Mr. Dunnigan and I had mentioned earlier, there is a management process currently ongoing. And NMFS has issued a proposed rule. They went out and did all that. They received those comments. They learned of concerns, and that is the valuable process of public comment. Now, they are going back and analyzing all that. I think it would be key.

Typically what happens when you may use the regular fishery management plan and the council has public hearings, and they have an advisory panel and scientific statistical committees and things like that to go back and they put it together, and then the council decides.

I think what may need to occur is that NMFS's next step would be a final rule, and maybe what needs to occur is there is a process to be inserted right in there that brings some core group together that looks over what has been analyzed by the comments, looks at the science and everything, and says, "OK. Can we open up the EEZ, and when is the most appropriate time?" which I think is what the Commission said last week. I disagree that it is a 180 de-

gree reversal. I think what they said is that maybe right now is not the time.

Mr. GILCHREST. Is that core group that you just mentioned I suppose between the Commission and the council to look at the—is there a structure to do that now?

Mr. WRIGHT. I think that NMFS may have the authority to pull together an ad hoc group under their rules to look at it. It is something similar. We did this for one of the Oil Pollution Act regulations—basically like a reg-neg committee—negotiated rulemaking.

Actually that occurred prior to the proposed rule, but could take that same process, work over a short time period of six months or so, gather it, get it together, and be able to help with continued public involvement, devise the proper Federal rulemaking that needs to be implemented and covers those loopholes.

And that could be done within a year's timeframe, and by 1997 when fishing is at MSY we are meeting that goal together with what the Commission is doing in the states and what we could do with the EEZ.

Mr. GILCHREST. Thank you very much. Thank you, Mr. Chairman.

Mr. SAXTON. Thank you, Mr. Gilchrest. I just have one more question, and I would address it to Mr. Dunnigan, and anybody can certainly respond to it. It seems to me that there have been two issues here raised today. One is the so-called Connecticut loophole, if I may use that term—probably shouldn't but I will—and the other is the question of enforceability. Mr. Dunnigan, how do you propose that we deal with those two issues which you are obviously concerned about inasmuch as you pointed to them in your testimony?

Mr. DUNNIGAN. Mr. Chairman, I think the states and our Federal partners are going to continue to look at an effective management program and this whole suite of issues that has been raised concerning a potential loophole. And we will do that as a part of our ongoing management efforts for striped bass.

The question of enforcement is an interesting one. It has been central to striped bass policy with the Congress since 1984—specific treatment in the Atlantic Striped Bass Conservation Act for enforcement at the state level and for coordination and cooperation among the states working with the Federal agencies. We have put some effort in the last year into improving that coordination.

But, frankly, Mr. Chairman, it is very expensive to do, and the National Marine Fisheries Service has limited resources. I can tell you that the states are very much in the same position, and until they can find some resources to support stronger enforcement activities, it is always going to be a very difficult problem.

Mr. SAXTON. Thank you. Would either of you gentlemen care to comment?

Mr. PEELE. Well, I can only say that the State of North Carolina—and I realize that they would have to enter into some sort of cooperative agreement for enforcement out in the EEZ probably, but the State of North Carolina—is undergoing a major expansion of its law enforcement sector within the division, 20 additional officers. Twenty-six new boats are hitting the water. They have a heli-

copter now, oceangoing vessels. So I think they are expanding in the right way.

Mr. SAXTON. OK. Mr. Wright.

Mr. WRIGHT. On that comment of enforcement, you know, I agree that you can't have enough enforcement to stop anybody from violating the laws or the regulations. In most cases, if you have got practical rules and regulations, you are going to have the majority or the large majority of the people act as law-abiding citizens. And you are always going to have a few people that are going to break the law.

We don't have enough police officers on the street to stop crime. And the question is is that putting together practical regulations could take the enforcement dollars that are needed and focus on those efforts where they are needed instead of having this broad spectrum of making sure everybody is law-abiding.

Mr. SAXTON. Thank you very much. I would like to thank each of the members of this panel and of the other panels for being here today and sharing their thoughts with us over a relatively long period of time, inasmuch as we have started at 10 o'clock and it is now quarter of two.

Thank you for being with us. I hope that we have all profited in learning a great deal from each other today. And we look forward to working with you in the future. Thank you very much. The hearing is adjourned.

[Whereupon, at 1:42 p.m., the subcommittee was adjourned; and the following was submitted for the record:]

104TH CONGRESS
1ST SESSION

H. R. 2655

To amend the Atlantic Striped Bass Conservation Act to authorize the Mid-Atlantic Fishery Management Council to prepare a fishery management plan for Atlantic striped bass under the Magnuson Fishery Conservation and Management Act.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1995

Mr. SAXTON introduced the following bill; which was referred to the
Committee on Resources

A BILL

To amend the Atlantic Striped Bass Conservation Act to authorize the Mid-Atlantic Fishery Management Council to prepare a fishery management plan for Atlantic striped bass under the Magnuson Fishery Conservation and Management Act.

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 Striped Bass
5 Preservation Act of 1995”.

1 **SEC. 2. ISSUANCE OF FISHERY MANAGEMENT PLAN FOR**
2 **ATLANTIC STRIPED BASS.**

3 Section 10 of the Atlantic Striped Bass Conservation
4 Act (16 U.S.C. 1851 note) is amended to read as follows:

5 **"SEC. 10. ISSUANCE OF FISHERY MANAGEMENT PLAN.**

6 "(a) IN GENERAL.—The Mid-Atlantic Fishery Man-
7 agement Council may prepare and submit to the Sec-
8 retary, under title III of the Magnuson Fishery Conserva-
9 tion and Management Act (16 U.S.C. 1651 et seq.), a fish-
10 ery management plan governing fishing for Atlantic
11 striped bass in that portion of the exclusive economic zone
12 located within the geographical area of authority of the
13 Council.

14 "(b) CONTENTS.—In addition to the requirements
15 applicable to fishery management plans under title III of
16 the Magnuson Fishery Conservation and Management
17 Act, the fishery management plan prepared under sub-
18 section (a) shall include provisions to—

19 "(1) ensure the effectiveness of all State regula-
20 tions governing, and any Federal moratorium in ef-
21 fect under Federal law on, fishing for Atlantic
22 striped bass within coastal waters of a coastal State;
23 and

24 "(2) achieve conservation and management
25 goals established for the Atlantic striped bass re-

1 source by the Atlantic States Marine Fisheries Com-
2 mission.

3 “(c) CONSULTATIONS.—In preparing a fishery man-
4 agement plan under this section, the Mid-Atlantic Fishery
5 Management Council shall consult with—

6 “(1) the New England Fishery Management
7 Council;

8 “(2) the South Atlantic Fishery Management
9 Council;

10 “(3) the Atlantic States Marine Fisheries Com-
11 mission; and

12 “(4) each Federal, State, and local government
13 entity affected by the plan.

14 “(d) EFFECTIVENESS OF MORATORIUM IN EEZ.—
15 The prohibitions relating to Atlantic striped bass under
16 part 656.3 of title 50, Code of Federal Regulations, as
17 in effect on November 15, 1995, shall be in effect until
18 the later of—

19 “(1) January 1, 2001; or

20 “(2) the date on which a fishery management
21 plan submitted under this section takes effect under
22 title III of the Magnuson Fishery Conservation and
23 Management Act.

24 “(e) EXCLUSIVE ECONOMIC ZONE DEFINED.—In
25 this section, the term ‘exclusive economic zone’ has the

1 meaning that term has under section 3 of the Magnuson
2 Fishery Conservation and Management Act (16 U.S.C.
3 1802).”.

TESTIMONY OF

RICHARD H. SCHAEFER
DIRECTOR, OFFICE FISHERIES CONSERVATION AND MANAGEMENT
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

BEFORE THE

COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
U. S. HOUSE OF REPRESENTATIVES

DECEMBER 12, 1995

Good morning, Mr. Chairman and Members of the Subcommittee. My name is Dick Schaefer. I am the Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). You have asked for our views on H.R. 2655.

The NMFS does not support extending the current moratorium on striped bass in the Exclusive Economic Zone (EEZ) for five years, or until a Fishery Management Plan is prepared by the Mid-Atlantic Fishery Management Council and implemented by the Secretary, whichever occurs latest. NMFS finds H.R. 2655 to be neither necessary nor appropriate for the following reasons:

(1) Atlantic coastal migratory striped bass stocks (with the exception of the Roanoke/Albemarle system stock in North Carolina and the Delaware River stock) were declared "fully recovered" by the Atlantic States Marine Fisheries Commission (ASMFC) in March of 1995 following a thorough stock assessment

conducted by ASMFC's Striped Bass Stock Assessment Committee, comprised of both State and Federal biologists; and

(2) inasmuch as nearly 95 percent of the historical landings of striped bass have been taken in state waters, the appropriate management planning body for this resource has been, and remains, the ASMFC.

With regard to the last point, an interjurisdictional fisheries management plan for striped bass (Plan), prepared by the ASMFC, has been in effect since 1981. It is recognized under the Atlantic Striped Bass Conservation Act (ASBCA) as the governing document for striped bass management along the Atlantic coast. The Plan has already been amended five times to reflect the most current status of the stocks at the time of each amendment; indeed, amendment 5 to the Plan (adopted in March 1995) declared these stocks to have recovered largely as a result of the restrictive management regulations that were imposed by the states. It is important to be reminded, also, that the Mid-Atlantic Fishery Management Council undertook development of a fishery management plan for striped bass in the EEZ more than 10 years ago but, early in the process, it was determined that the impact on the resource would be negligible and not cost effective; as a result, the effort was discontinued. The Congress, in its 1991 amendments to the ASBCA, repealed Section 6(c) which provided for preparation of a fishery management plan

for Atlantic striped bass by the appropriate Regional Fishery Management Councils should they so choose.

Rational fisheries management is built upon the exercise of flexible authority to impose strict regulations, when necessary, to protect or rebuild a stock, or provide for controlled harvest when the management objectives have been met and the stocks are healthy; this is referred to as "adaptive" management. This was the approach adopted with the Federal striped bass moratorium. Many states, in addition to reducing the total catch by 80 percent from the historical levels recorded in 1972 through 1979, also implemented moratoria in certain of their fisheries. The complementary Federal moratorium in the EEZ was deemed necessary and appropriate to enhance the effectiveness of state regulations in achieving their conservation and management objectives, i.e., to rebuild the stocks to former levels of historical abundance. However, because only 5-7 percent of the catch during the years of peak striped bass landings was taken from the EEZ, an EEZ closure could not, in itself, rebuild the stocks. Only effective state regulations could accomplish that result.

In response to your specific questions:

- o What is the future outlook for the Atlantic Coast striped bass population?

The future outlook for the Atlantic Coast striped bass population is good. Indices from both fishery dependent and fishery independent sources reveal that the abundance of striped bass has increased significantly in recent years. In fact, the rate of increase has been from 20 to 25 percent per year since 1983, which means that the stock size has more than doubled every four years. Juvenile indices were at record highs in 1993 and exceeded long term averages in 1994. These strong indicators of population growth and health have increased our confidence that the stock can presently accommodate greater controlled removals. With the application of harvest restrictions such as annual quotas, increased size limits to protect spawners, etc., there is no reason to believe that the striped bass population will not be maintained at the rebuilt levels and support the annual allowable harvest levels recommended by ASMFC.

- o What is the scientific basis for lifting the EEZ moratorium?

First of all, as stated earlier, because nearly 95 percent of the striped bass are taken in state waters, the ASMFC is, and should remain, the lead agency for striped bass management and the proposal to lift the moratorium in the EEZ was done in response to its recommendation. NMFS has supported the ASMFC's development of the Plan, and has actively cooperated in the resolution of related management issues since the ASBCA was

passed. Second, the stock is fully recovered. All of the biological data, i.e., juvenile indices, spawning stock biomass, population levels, age class distributions, mortality rates, etc., indicate that the population has recovered and can maintain healthy levels at the harvest rates being allowed by the ASMFC. The data are reviewed on an annual basis and necessary adjustments made ("adaptive" management) to ensure the necessary population indices are met and maintained. And, third, but important in our evaluation, is the opinion of ASMFC's Striped Bass Technical Committee, made up of state and Federal biologists, i.e., that since only about 5-7 percent of the landings of striped bass was taken from the EEZ prior to the moratorium, the effect on fishing mortality would be nearly "immeasurable" if the EEZ was reopened to fishing for striped bass.

- o How will the striped bass fishing in the EEZ affect striped bass fishing in State waters, and the implementation of State management plans?

The NMFS proposal to open the EEZ is designed to complement state regulations. At the time the striped bass population was declared "fully recovered" by the ASMFC, and the quotas were raised, NMFS discussed the EEZ closure with the state marine fisheries directors who serve on ASMFC's Striped Bass Management Board. Their position, as stated in an April 11, 1995, letter

from Philip G. Coates, Chairman of the ASMFC Striped Bass Management Board, to Rolland Schmitten, Assistant Administrator for Fisheries, was, and I quote, "At its March 8, 1995, meeting in Providence, Rhode Island, the Board agreed that ending the Federal moratorium would not jeopardize the health of the migratory stock, and EEZ landings could be carefully controlled." Specifically, the Board stated that harvest from Federal waters must conform with the regulations in place at the port of landing, and all commercial striped bass poundage at a given port should be counted against that state's commercial quota.

"Although commercial striped bass quotas for 1995 are considerably higher than in previous years, it is not expected that this change in EEZ regulations will result in major shifts of fishing effort into the management unit. Recreational striped bass fisheries are generally conducted within state waters, and state commercial allotments are carefully meted out by strict gear controls and limited tag dispensing programs. In general, permitting EEZ striped bass catch should help to reduce bycatch waste in the offshore fisheries while maintaining the integrity of established state industries."

This was reaffirmed in a July 26, 1995, letter from Gordon C. Colvin, Chairman of the ASMFC, to myself, who stated that "the Board's letter may be taken as a statement of the official views of the Commission on the moratorium question."

In addition, the reopening of the EEZ to striped bass fishing has been supported by both the Mid-Atlantic and New England Fishery Management Councils.

The NMFS proposal would not change any of the state regulations or increase the allowable catch established by the ASMFC. It simply would reopen the EEZ to both commercial and recreational striped bass fishing and impose a minimum size limit of 28 inches. All state regulations would apply once the striped bass are taken into state waters. The 28-inch minimum size limit was selected inasmuch as it is the baseline size limit from which the ASMFC catch is calculated and also the size limit that would protect over 50 percent of females and allow them to spawn at least once. NMFS believes the proposed size limit is necessary to assure that smaller striped bass are not targeted for sale in states with smaller minimum size limits.

The rule simply means that fishermen in the EEZ may not harvest or possess striped bass less than 28-inches in length. However, if fishermen enter the state waters of Massachusetts, for example, they may not possess striped bass less than 36-inches in length and the fish must have been taken by hook and line only. In other words, all of a state's regulations, (i.e., size limits, quotas, trip limits, permit requirements, sale or no sale, etc.), must be complied with if any striped bass taken in the EEZ are transported into that state's jurisdiction.

- o What impact will commercial fishing interests from other States fishing off New Jersey's coast have on recreational fishing in New Jersey waters?

The reopening of the EEZ to striped bass fishing should have very little or no effect on recreational fishing in New Jersey's waters. The sale of striped bass in New Jersey is prohibited, and would remain so under the NMFS proposed rule. While striped bass could be taken in the EEZ off New Jersey and landed in a different state, such fish must comply with the state-of-landing's regulations and would be counted against its quota. Further, as noted earlier, it is the opinion of ASMFC's Striped Bass Management Board that "it is not expected that this change in EEZ regulations will result in major shifts of fishing effort into the management unit." The allowable catch has been calculated to maintain a healthy stock, and does not provide additional quota. In fact, reopening the EEZ to striped bass fishing should reopen some prime areas for recreational fishermen.

That concludes my testimony, Mr. Chairman. I will be happy to respond to any questions that you or members of the Subcommittee may have.



The Family Resort

Borough of Seaside Park

Sixth & Central Avenues • Seaside Park, New Jersey 08752

(908) 793-0234

December 5, 1995

Congressman James Saxton, Chairman
Subcommittee on Fisheries, Wildlife and Oceans
Committee on Resources
US House of Representatives
339 Cannon House Office Building
Washington, D.C. 20515-3003

RE: December 12, 1995, Testimony Before Subcommittee on Fisheries, Wildlife and Oceans with Respect to H.R. 2655, as Well as NMFS's Plan to Allow Commercial Fishing for Striped Bass in the EEZ Zone

Dear Congressman Saxton:

Enclosed is a copy of my testimony to be presented at the December 12, 1995, hearing on your Subcommittee on Fisheries, Wildlife & Oceans, with respect to your own Bill, H.R. 2655 and the NMFS's plan to open up the EEZ zone for commercial fishing of striped bass. On behalf of the members of our Town Council, our residents and many tourists, and the small businesses which depend on fishing and the tourism industry in general, I certainly thank you for all your efforts concerning this most vital issue. Besides being able to present the substance of my testimony itself concerning striped bass and the recreational fishing industry in my town, it is indeed uplifting to know that our voice will be heard in Washington.

Additionally, I wanted to again commend you and your hard working staff, and especially, Gary Gallant, Scott Jacobs and Sandy Condit, for all their substantive and procedural help in making sure that our town and my testimony is presented in proper form in the record. I understand that Mr. Jacobs will be able to have the proper number of copies presented in the Committee's required format so that my enclosed testimony becomes part of the permanent Subcommittee's record.

Congressman James Saxton

RE: December 12, 1995, Testimony Before Subcommittee on Fisheries, Wildlife and
Oceans with Respect to H.R. 2655, as Well as NMFS's Plan to Allow
Commercial Fishing for Striped Bass in the EEZ Zone

Page 2

December 5, 1995

Once again, I thank you and your office for all your help and support, and I look forward to
seeing you on December 12, 1995, if not before.

Sincerely,



MAYOR, JOHN A. PETERSON, JR.

JAP:jh

Sent via regular mail and telefax (202) 225-3244 (with enclosures)

Enclosure

c: Seaside Park Borough Council (with enclosures)
Gary Gallant (with enclosures)



The Family Resort

Borough of Seaside Park

Sixth & Central Avenues • Seaside Park, New Jersey 08752

(908) 793-0234

December 5, 1995

Congressman James Saxton, Chairman
Subcommittee on Fisheries, Wildlife & Oceans
Committee on Resources
U.S. House of Representatives
H1-805 O'Neill House Office Building
Washington, D.C. 20515

RE: December 12, 1995, Testimony Before Subcommittee on Fisheries, Wildlife and Oceans
with Respect to H.R. 2655, as Well as NMFS's Plan to Allow Commercial Fishing for
Striped Bass in the EEZ Zone

Dear Congressman Saxton:

On behalf of the other members of the Borough of Seaside Park Town Council, our residents and many tourists, and all the businesses in our community, I wish to thank you and the members of your Subcommittee for allowing me to present testimony today on the above issue concerning striped bass, which is a vital concern to our economy and the tourism industry of all New Jersey, if not the entire East Coast. Parenthetically, I must also note my appreciation for all the hard work and efforts from your office and other members of your Subcommittee on behalf of related issues with regard to the Magnuson Act, the Clean Water Act and the Endangered Species Act. Our shore economy, my own community and the future of New Jersey's second largest industry of tourism in general are intrinsically linked to the preservation of a clean, natural environment with a flourishing stock of marine and other species.

To sum up my testimony to be presented today, I wish to offer my support for HR 2655 which would extend for five (5) years the current moratorium on striped bass fishing in the EEZ, and would also require the implementation of a Fishery Management Plan before said moratorium would be lifted. Related to my full support concerning this Bill introduced on November 16, 1995, I would again go on record in total opposition to the National Marine Fishery Services (NMFS) pending plan to reopen for commercial net fishing of striped bass in the aforementioned EEZ Zone, at a time when the species is just beginning to rebound from the devastating days when wholesale commercial harvesting of the species and other factors nearly depleted the striped bass entirely from the East Coast. I join with the various recreational fishing groups, particularly in New Jersey, and my own constituents and tourists who are dismayed over the swiftness of the NMFS's proposal, as well as lack of full environmental impact studies for a comprehensive fishery management plan for the species. Some of my more in-depth presentation of the many reasons to support HR 2655 and to oppose the NMFS's current proposal would include the following:

1. Economics and the Effects of Recreational Striped Bass Fishing on Tourism

As you are aware, tourism is the second largest industry in the State of New Jersey, and this eight billion dollar (\$8,000,000,000) industry provides three hundred and fifty thousand (350,000) jobs, a large proportion of which are directly related to the New Jersey Shore. In New Jersey alone there are over two thousand (2,000) tackle shops, marinas, party and charter boats, all of which depend on fish like the striped bass. These businesses employ approximately nine thousand nine hundred (9,900) people and generate sales of fishing tackle alone of over three hundred twenty-six million dollars (\$326,000,000) in New Jersey. Often cited economic surveys show that the New Jersey Shore (one hundred twenty-seven (127) miles long) generates approximately two billion dollars (\$2,000,000,000) more in beach related tourism revenues in a ten (10) week summer season (approximately eight billion dollars (\$8,000,000,000) than does the total box office gate of every motion picture theater in the United States, in an entire year (approximately 5.6 billion dollars in 1993).

Further, in relating such general background about tourism to recreational striped bass fishing, I would emphasize the total ripple economic effect of recreational surf fishing and particularly striped bass fishing, which boosts sales of fishing equipment, bait, clothing, gasoline, vehicles, boats, motel rooms, food, beach fees and many other expenditures which have a far greater economic benefit to New Jersey's economy than has been recognized. As striped bass fishing occurs primarily during the spring and fall seasons, the benefit to the New Jersey Shore economy occurs at a critical time after summer residents have left the area. As such, in my own town of Seaside Park and up and down the Jersey Shore, the many bait and tackle shops, sporting goods stores, small restaurants and luncheonettes, and the real estate rental and sale businesses are entirely dependent upon recreational fishing and especially the most popular surf fishing for striped bass. This overall ripple economic effect has a vast positive benefit upon tourism revenue and our state's economy and should be thoroughly studied and documented prior to implementing any proposal to reopen the EEZ Zone to commercial fishing, which proposition could entirely jeopardize this substantial economic benefit.

Further, besides the obvious economic expenditures cited above, recreational striped bass fishing can certainly be credited for a portion of purchases of extremely valuable beach buggy vehicles and/or boat purchases, many of which are in excess of fifty thousand dollars (\$50,000). Such lesser known economic pluses for recreational fishing and striped bass fishing in particular, can be further seen in the recent enthusiasm for salt water fly fishing which has generated thousands of dollars of additional tackle shop revenues. If the National Marine Fishery Service is to err, it should err on the side of caution, and not jeopardize the pursuit of recreational striped bass fishing which forms a vital part of our Shore, and indeed, our entire State's tourism economy.

2. The Striped Bass Species has not Significantly "Recovered" as Ruled Upon by NMFS.

NMFS has recently made the determination that the striped bass has significantly "recovered" and has indicated that its decision is supported by scientific documentation. The methods used to reach this conclusion are not universally accepted even in the scientific community. Since the majority of striped bass are spawned in the Chesapeake Bay or the Hudson River, New Jersey fishermen are dependent on migratory fish. The further from the spawning grounds, the fewer the fish. No striped bass fisherman in New Jersey would agree that this fishery is recovered. In 1993 and 1994 only a handful of legal striped bass were caught at nearby Island Beach State Park by several thousand fishermen, fishing both spring and fall. Island Beach attracts New Jersey's highest density of surf anglers who recall the historic levels of striped bass. In 1995 there have been more fish, however, 95% were less than 18" and few legal sized fish have been caught. On October 1 - 1,069 fishermen entered the Governor's Surf Fishing Tournament contest at Island Beach, and only a single legal bass was taken. This was during the peak season of the historic striped bass surf fishery and few fish were present. This anecdotal information is typical of the entire coast.

Further, the historic striped bass fishery in Barnegat Bay that was nationally known in the 1950s, is non-existent. There were great numbers of school sized bass in Barnegat Bay, and now, only a small number near Barnegat Inlet are found.

Finally, while I would certainly applaud the great strides made by the Congress, State officials and various citizen's groups in the cooperative effort to restore the Chesapeake Bay, its water quality, and the estuary system, I should note that 90% of the catch of striped bass in our area and southward on the New Jersey coast spawn in the Chesapeake Bay itself, and do to the general degradation of the Chesapeake Bay water, it is by no means assured that the current trend toward recovery of the striped bass species will continue. It's far too early to reach any kind of scientific based conclusion that the New Jersey coast will ever reach the historic levels of striped bass caught again in light of these factors, and I would emphasize that the Congress and the National Marine Fishery Service should use the utmost degree of caution in reaching any decision in this area.

3. The Striped Bass Is a Unique Species in New Jersey.

No other fish species attracts the numbers of anglers or the enthusiasm than does the striped bass. The striped bass occurs in inshore habitats, is a challenge to catch, will readily hit artificial lures, and possesses fine table qualities, all of which make the striped bass New Jersey's most sought after species. It is for this reason that New Jersey has had a no sale law for many years and recently declared the striped bass a game fish. The highest and best use of the striped bass resource is recreational fishing.

4. Recreational Fishing Impacts New Jersey's Quality of Life.

New Jersey residents value their 127 miles of coastline, and one of the primary uses of our coastal waters is recreational fishing. As other species of fish have declined, the ability of fishermen to have an opportunity to catch fish has also significantly declined in recent years.

Blue fish stocks are down as are weakfish and summer flounder. The reduction of these primary recreational fish species has been dramatic. The moderate increase in striped bass stocks have partially filled the demand for recreational fishing. The opportunity that recreational fishing provides for New Jersey's residents, and especially children, should not be underestimated as a major factor in our quality of life.

5. Credibility of NMFS is at Stake.

For more than 25 years, New Jersey's coastal fishermen have supported the restrictions on striped bass. New Jersey's no sale, no commercial fishing, size limits, and bag limits have been, along with efforts in other states, responsible for the current increase in striped bass stocks. Voluntary compliance with the strict regulations has been exceptional and a credit to the collective conservation attitude of New Jersey's fishermen. Many striped bass fishermen return all fish to the water as they believe that they will contribute to the recovery of the fish they love.

To open the fishing to commercial netting now, under a questionable decision that the fishery is recovered, will be viewed by thousands of New Jersey fishermen as a threat to the striped bass resource as well as a severe impact on their trust in the regulatory process.

6. The Proposal has not Been Well Thought-Out.

Since New Jersey has a no sale law, where will the commercially caught fish go? We are creating a climate for violations by opening up commercial fishing in a state with no market. Additionally, what gear will be permitted? Will pair trawlers be permitted? Gill nets? What considerations have been given to insure that undersized fish will not be killed? All recent studies show few fish survive being caught in nets. The 28 inch limit will certainly result in an extraordinary number of dead undersized fish which will find their way into the illegal market. This would be an unconscionable waste of one of our most valuable marine resources.

7. Enforcement.

As Mayor of the small New Jersey community of Seaside Park, I am well familiar with the fact that the current economic, social, and political climate make tax dollars and resources all too finite in providing Federal, State, and local government services. With such limited availability of funds, it is simply unrealistic to open up the EEZ Zone for commercial fishing of striped bass, and to also expect the existing law enforcement mechanisms and personnel to have the ability to effectively regulate the situation.

Where will these resources come from to enforce the proposed commercial fishery? There is presently inadequate enforcement in New Jersey coastal waters due to cutbacks in both federal and state agencies. Fishing violations are now a constant problem in New Jersey as witnessed this year in the commercial menhaden fishery. Time and time again boats were observed inside the 1.2 mile legal limit. Many of the violations occur at night when enforcement of size and catch limits will be impossible. The illegal netting in Raritan Bay has been documented over many years and continues today.

8. Impact of Menhaden Fishing.

Although this issue has not been documented, a common belief of New Jersey's fishermen is that the larger bass which were common in the past and are now rarely seen, now migrate further offshore due to over fishing menhaden inshore. Larger bass follow the migrating menhaden which are now virtually eliminated by commercial vessels when they appear off our coast. Since the menhaden are absent near shore, so are the striped bass. A number of speakers made this point at the recent NMFS hearings at New Jersey sites, that as the striped bass are now forced further offshore in search of food, they will become vulnerable to commercial nets. Since 90% of these larger fish are breeding females, there may be an unanticipated significant factor that has not been considered. It may also be true that the menhaden fishery also has a direct impact on striped bass as a bycatch.

9. Potential Catastrophic Loss of the Striped Bass Resource.

Striped bass travel well known migration routes making them easy targets for commercial fishing. They are exclusively an inshore species and travel in large schools. They are a slow fish and once targeted, can be followed by commercial boats using modern navigation and fish finders. Ironically, a species which is extremely wary and difficult to catch on hook and line will be vulnerable to commercial nets.

In some years there are large concentrations of striped bass outside 3 miles in the EEZ Zone, which, if this proposal is implemented, could mean a devastating blow to the striped bass resource. This nearly occurred off the coast of North Carolina and Virginia several years ago as regulators did not recognize that a concentration of fish had wintered far offshore and were vulnerable to commercial over fishing.

It would be an unfortunate occurrence to see a feeding frenzy of large commercial vessels including foreign vessels, off the coast of New Jersey which would eliminate a resource that New Jersey fishermen have worked 25 years to bring back. These fish would not even be permitted to enter the New Jersey marketplace and would therefore provide no economic benefit to our state. It is certainly true that a fishery offshore will be beyond the reach of New Jersey enforcement agencies, such as the New Jersey Marine Police and the New Jersey Division of Fish, Game and Wildlife. This fishery would also take place beyond the view of most New Jersey fishermen who would not be aware until the fish are gone.

10. The Effect on PCB's on Striped Bass Stock as it Relates to Potentially Reopening of the EEZ Zone has not Been Well Thought out.

While others testified at the recent NMFS' hearing on the issue, and most particularly, Tom Fote, the effect of PCB's on any thought to reopen the EEZ Zone to commercial netting of striped bass should be thoroughly examined. Since the Hudson River fish still retain levels of PCB's above acceptable levels for human consumption, and we now know that the Chesapeake Bay and Hudson River striped bass populations intermix, it is impossible to segregate fish that are contaminated from those that are not.

11. Summary and Enclosures.

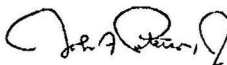
In summary, I would again offer my full support for HR 2655 which would extend for five (5) years the current moratorium on striped bass fishing in EEZ Zone, and would also require the implementation of a Fishery Management Plan before said moratorium would be lifted. Related to this position, I would also indicate that the current proposal to open the EEZ Zone for commercial fishing of striped bass is not in the overall public interest. It is absolutely premature to place additional pressure on a species that is just beginning to make a comeback, the limits and parameters of which, have not been fully documented. Most importantly, the Congress should realize that the striped bass is not just another fish species to New Jersey fishermen, as it represents a cultural and historic recreational tradition that is important to our citizens and our economy.

Further, my own coastal community of Seaside Park is fully representative of the many similar towns which benefit far more from recreational fishing than any gains realized from commercial fishing to be realized from other states. It is hard to equate in simple objective or quantifiable terms the value of memories such as my own, when I was a small boy wishing my father best of luck as he picked up the latest fishing lure and traded a few fish stories at the nearby Cap Colvin's Bait and Tackle Shop, and then trudged down to the beach in hopes of reveling in the excitement of catching a magnificent striper to proudly bring home to his family. I ask for the opportunity to preserve and protect recreational striped bass fishing for my children and grandchildren's generations so that they'll be able to happily tag along as I go to my town's still existent Cap Colvin's Bait and Tackle Shop (now run by Mr. Colvin's granddaughter and her family, as 3 C's Luncheonette) when I'll trade a few fish stories about whether they are biting on clams or most prevalent in nearby Island Beach State Park, or even down the street where my own memories and experiences with this glorious recreational fish continue to live on. Naturally, I would ask the Congress to realize that my own anecdotal information and personal memories are representative of many of the residents, tourists, and small business operators from up and down the New Jersey Coast who have voiced overwhelming public sentiment in opposition to the NMFS's proposal. As noted herein, neither the full economic input nor the environmental impact of this all too hasty decision have been addressed. Similarly, the PCB issue, gear restrictions, overall enforcement and the all too limited public funds lend further support to reject the NMFS's proposal and to support HR 2655.

In closing, I can't help but note that in certain political arenas, and most certainly, with respect to the environment in general, the public suspicion of government regulations and management plans has pushed the pendulum of public opinion and government too far. In showing most exemplary leadership on various ocean environmental issues, and specifically, with regard to the striped bass, I would ask the Subcommittee to recognize that striped bass have been regulated since the first settlement of the New World. As noted by the United States Fish and Wildlife Service, the Massachusetts Bay Colony prohibited the use of striped bass as a fertilizer for corn and squash plantings by our earliest settlers, and in 1669, Plymouth Colony ordered that revenues from the Fishery for striped bass be used to construct the first public schoolhouse in North America. (See *Striped Bass: Restoring a Legacy*, published by the U.S. Fish and Wildlife Service, distributed in October 1995). I would ask that the Subcommittee and the Congress recognize the reasonableness of existing regulations of striped bass so that we may preserve and protect recreational salt water sport fishing for this species, and ironically, future commercial fishing as well, for generations to come. In support of my testimony, I have presented a certified Resolution adopted on November 2, 1995, from the Borough Council of Seaside Park, Ocean County, New Jersey, some representative Ocean County, New Jersey area newspaper articles documenting the public outcry over the NMFS proposal, a two (2) page March 1990 Fish and Wildlife Service summary concerning Striped Bass (*Morone saxatilis*), and a three (3) page table of sport fish data on Striped Bass on directed trips distributed by the New Jersey Division of Fish, Game, and Wildlife.

Thanks again for allowing me the opportunity to testify on this most important issue.

Respectfully submitted,



MAYOR, JOHN A. PETERSON, JR.

JAP:jh

Enclosure



Striped Bass

(*Morone saxatilis*)



Striped Bass - A Resource at Risk

Since colonial days, East Coast fishermen have delighted in the striped bass, a migratory fish known for its size and fighting ability. Stripers, often called rockfish in the Chesapeake Bay, have long been important commercial and game fish from North Carolina to Maine. But during the past decade, striped bass numbers have declined alarmingly, especially in the Chesapeake, the spawning and nursery ground for nearly 90 percent of the Atlantic population.

From a record commercial catch of 14.7 million pounds in 1973, the harvest dropped to 1.7 million pounds just 10 years later. Sport fishermen report an equally

severe drop in their harvest. The decline meant a loss of some 7,000 jobs and \$220 million in 1980, the latest year for which figures are available.

Causes for the decline are numerous and interwoven, and may include overfishing, pollution, and the degradation or loss of habitat.

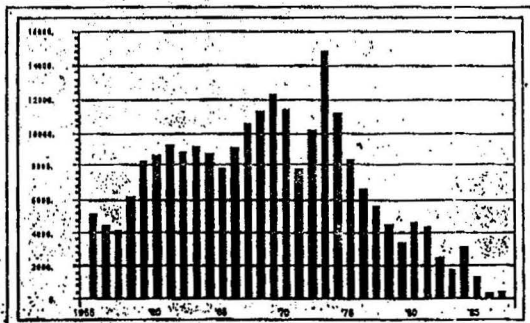
Cause for Concern

So alarming was the decline of the Atlantic striped bass in the 1970s that it became a matter of congressional concern. In 1979 the Congress called for an Emergency Striped Bass Research Study. The study is to assess the size of the migratory stock, determine causes of its decline, calculate the economic importance, and recommend measures for restoration.

Researchers from the Fish and Wildlife Service, State agencies and universities have found, for example, that larval striped bass are very susceptible to toxicants like arsenic, copper, cadmium, aluminum, and malathion.

Research in the Chesapeake's Nantuxet and Choptank Rivers showed that high acidity levels from heavy spring rains react with aluminum in the soil, causing it to dissolve in the waters; the combination of high acidity and aluminum levels is lethal to newly hatched stripers. Studies also show that chlorination of effluent from sewage plants and electric power stations adversely affects zooplankton, leading to starvation of newly hatched striped bass that feed on it. The study team also concluded that reducing fishing pressure would have an immediate positive effect by enabling females with eggs to spawn. An Atlantic States Marine Fishery Commission management plan, based partly on recommendations of the emergency study, sets overall minimum size limits to reduce the catch. Seasonal or total closure and various other size restrictions are measures States have now enacted under the plan.

Annual Striped Bass Commercial Landings 1955-1987
(thousand pounds)



Bringing the Striper Back

Hatchery production has been used in attempts to restore stripers runs from North Carolina and the Gulf of Mexico and in establishing the species in inland waters. The U.S. Fish and Wildlife Service annually produces eight to 10 million fingerlings for these programs. Now the Service and State agencies are using this experience to try to

The Future of the Fishery

Since mortality of striped bass in the wild is greatest from the fertilized egg through the fingerling stage (4 to 6 inches), hatchery rearing should substantially increase survival. Whether sufficient numbers will survive to spawn we do not yet know. With fishing restrictions, pollution control, stocking - and most important, commitment - we hope to bring the striper back.

Since the Chesapeake Bay is the primary spawning and nursery area for Atlantic stocks of striped bass, restoration largely depends on improving habitat and water quality in addition to hatchery efforts. We have much to gain in restoring the striped bass and its Chesapeake home; we have much more to lose if we decline the challenge.

bolster the striped's dwindling Chesapeake Bay population.

Adult fish are captured for artificial spawning as they make their runs to spawning grounds. At just the right moment, females are artificially "stripped" of their eggs, which are then fertilized with milt from captured males. The eggs are incubated in a variety of moving water aquaria. As the newly hatched fish develop, they are fed a diet of brine shrimp. After a few days, they are transferred to hatchery rearing ponds where they eat a natural diet of microscopic organisms and commercially prepared fish food.

In 3 to 5 months, the fish grow to a length of 4 to 6 inches. They are now past the point of greatest vulnerability and can be released into their native Chesapeake tributaries. Some of the strippers will be tagged and later recaptured to evaluate the success of the stocking program and the fish's ability to survive in the wild.

The first strippers will be stocked in the fall of 1985. Several million will be stocked during the five-year program.

Life History

The silvery striped bass gets its name from the seven or eight dark, continuous lines along the side of its body. Most strippers weighing in more than 30 pounds are males. The fish can weigh up to 100

pounds and reach nearly five feet in length.

Striped bass spawn in fresh or brackish waters but spend most of their adult lives in the ocean. On the Atlantic Coast they range from the St. Lawrence River in Canada to Florida's St. Johns River, although they are most prevalent from Maine to North Carolina.

Male strippers mature at 2 to 3 years and spend most of their lives feeding near their natal waters. Females migrate along the coast, returning for their first time to spawn at 5-8 years. It takes several years for spawning females to reach full productivity. An average 6-year-old female produces half a million eggs while a 15-year-old can produce three million.

When water temperature begins to rise in the spring, mature fish begin their spawning runs in freshwater rivers and streams, chiefly in tributaries of the Chesapeake Bay. Other important areas include the Hudson River and rivers along the North Carolina coast.

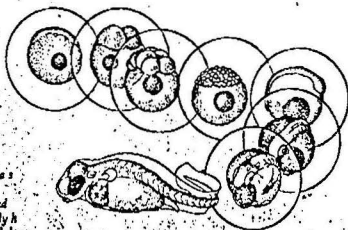
Once the female deposits her eggs, they are fertilized by milt (sperm) ejected from the males. Because they are only semi-buoyant, the eggs require enough water flow to stay suspended for 2 or 3 days until they hatch.

Larval striped bass obtain nutrients from the yolk sac for about 5 days after hatching. At this stage they are particularly vulnerable to pollution and predators.

After 2 to 3 years, at the juvenile stage (12-20 inches), about half the females migrate to the ocean where they mature. The males, however, tend to stay in the estuaries.

Striper Facts

- 90% of the Northeast Atlantic striped bass population once depended on Chesapeake Bay spawning grounds.
- Striped bass commercial catch has declined from 14.7 million pounds in the early 1970's to 1.7 million pounds in the early 1980's.
- This 10-year decline was responsible for the loss of 7,000 jobs and \$220 million.
- U.S. Fish and Wildlife Service and Maryland will stock Bay waters with several million striped bass fingerlings during a 5-year pilot program beginning in 1985.
- At one time striped bass were used to fertilized fields, so great were their numbers.
- The continent's first public school was financed by profits from the sale of striped bass and other fish.
- Maximum weight recorded for a striped bass is 125 pounds; age is 29 years (in captivity).
- Most strippers weighing more than 30 pounds are female.
- A 6-year old female striper produces 500,000 eggs; a 15-year old can produce 3 million.



Sequential development of a striped bass from early cell stages through the advanced embryo stage, and a recently hatched larva, about 1/4 inch long.

U.S. Fish and Wildlife Service

The Chesapeake Bay is the largest estuary in North America. Its waters provide food and habitat for an abundance of fish and wildlife. It serves as a highway for commerce, a playground, a storehouse of food, and a home for the 13 million people who live in its vast watershed. But in recent years the Chesapeake has become less able to support the fish and wildlife it once did. Increasing amounts of excess nutrients, sediment, and toxic substances are causing serious ecological problems in the Bay. Studies show alarming declines in species of fish and wildlife and in the habitat available to them.

The U.S. Fish and Wildlife Service is one of many Federal, State, and local agencies and private organizations engaged in the Chesapeake Bay action program to reverse the damage already done, to arrest further degradation, and to restore the Bay - as nearly as time, technology, and resources allow - to its former state of abundance and environmental health.

As one of the primary Federal stewards of the nation's living natural resources, the U.S. Fish and Wildlife Service provides leadership in habitat and wetlands protection, fish and wildlife research, technical assistance, and in the conservation and protection of migratory birds, anadromous fishes, certain marine mammals, and threatened and endangered species. The Service also manages more than 450 National Wildlife Refuges and 70 National Fish Hatcheries across the country, including several in the Bay area.

For more information, contact the U.S. Fish and Wildlife Service, 1825 Virginia Avenue, Annapolis, MD 21401, (301) 265-5448.

Table 1. Sportfish Data on Striped Bass Directed Trips

Region	# Trips	# SB	% Catch	<28"	28-38"	>38"	C/E	% of Legal Catch
1*	3405	2969	24.2	2372	566	31	0.87	16.5
2*	2203	1980	16.2	1665	294	21	0.90	8.7
3*	1871	1823	14.9	1205	563	55	0.97	17.1
4*	2364	3432	28.0	1739	1603	90	1.46	46.7
5*	650	589	4.8	465	112	12	0.91	3.4
6*	665	1303	10.6	1079	198	26	1.96	6.2
7*	41	150	1.2	98	52	0	3.66	1.4
	11199	12246		8623	3388	235	1.09	

- 1* - Sandy Hook to Seaside Park
 2* - Island Beach State Park
 3* - Long Beach Island
 4* - Brigantine to Cape May
 5* - Intracoastal Waters
 6* - Hudson River including Sandy Hook Bay
 7* - Other

Table 2. New Jersey's recreational catch per effort for 1991 through 1993, by month, taken from end-of-season reporting forms.

	1991	1992	1993
Jan	0.00	0.00	0.33
Feb	0.00	0.00	0.00
Mar	0.40	0.67	3.10
Apr	0.76	1.10	0.74
May	0.63	0.81	0.90
Jun	0.37	0.67	0.74
Jul	0.32	0.37	0.36
Aug	0.48	0.47	0.58
Sep	0.70	0.47	0.63
Oct	0.76	0.60	0.76
Nov	1.49	1.03	1.36
Dec	1.37	1.89	1.99
Year	1.06	0.89	1.09
Oct-Dec	1.28	0.99	1.25

Table 3. Striped Bass Trophy Fish Data for 1991 through 1993
Compiled from End-of-Season Reporting Forms

	1991	1992	1993
# Trips	6,572	15,690	11,199
Avg Hrs/Trip	4.35	4.30	4.38
# Fish < 28"	5,011	9,609	8,623
28 - 38"	1,777	3,906	3,388
> 38"	157	523	235
Total	6,945	14,022	12,246
Rel 28 - 38"	1,028	1,966	1,902
Rel > 38"	63	191	68
C/E (#Fish/#Trips)	1.06	0.89	1.09
% Legal Size	27.9	28.2	29.6
% Released	56.4	48.7	54.4
Positive Intercepts (PI)	2,396	5,451	4,427
% PI	36.5	34.7	39.5

BOROUGH OF SEASIDE PARK

Resolution of the Mayor and Borough Council opposing the proposed federal regulations which would permit commercial fishermen to take striped bass in federal waters by netting in the Exclusive Economic Zone which extends from 3 miles to 200 miles offshore.

Resolution No. 95-193

Adopted: November 2, 1995

WHEREAS, the National Marine Fisheries Service has proposed changes to existing federal regulations which prohibit the taking of striped bass by both commercial and recreational fishermen; and

WHEREAS, the existing regulations were adopted in 1981 in response to a severe decline in the amount of striped bass caught in coastal waters from Maine through North Carolina; and

WHEREAS, if adopted these changes would permit commercial fishermen to take striped bass in federal waters by netting in the Exclusive Economic Zone which extends from 3 miles to 200 miles offshore; and

WHEREAS, recreational fishing is an important segment of tourism which is the second largest industry in the State of New Jersey and provides the economic foundation of Ocean County; and

WHEREAS, the proposed re-opening of the closed EE Zone to allow netting of striped bass by commercial fishermen could seriously jeopardize the fragile stock of this popular sport fish and threaten recreational fishing and the businesses and tourism dollars generated therefrom.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Seaside Park, in the County of Ocean, State of New Jersey as follows:

1. The Mayor and Borough Council hereby oppose the proposed changes which would permit commercial fishermen to take striped bass in federal waters by netting in the Exclusive Economic Zone which extends from 3 miles to 200 miles offshore.
2. The Mayor and Borough Council urge the National Marine Fisheries Service to conduct a complete environmental and economic analysis of the proposed changes and their impact on the recreational fishing and tourism industries of Ocean County and New Jersey.
3. The Borough Clerk is hereby directed to forward a certified copy of this Resolution to the following:

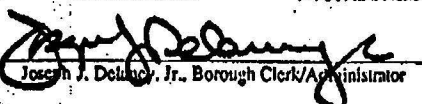
William Hogarth, F/CM, National Marine Fisheries Service
U.S. Senator Bill Bradley
U.S. Senator Frank Lautenberg
Congressman H. James Saxton
Congressman Christopher Smith
Congressman Frank Pallone
Ocean County Board of Chosen Freeholders
Ocean County Municipalities

FOR: Mr. Anderson, Miss Pascale, Mr. Roe, Mr. Kelly, Mr. Moyse

AGAINST: None

ABSTAIN: None

ABSENT: Mr. Clonum


Joseph J. DeLano, Jr., Borough Clerk/Administrator

I hereby certify this to be a true copy of a Resolution adopted by the Borough Council on November 2, 1995

viking yacht company

December 12, 1995

Subcommittee on Fisheries, Wildlife & Oceans
Committee on Resources
U.S. House of Representatives
H1-805 O'Neill House Office Building
Washington, DC 20515

Re: **Testimony Supporting H.R. 2655 (Atlantic Striped Bass
Preservation Act of 1995) Introduced by Chairman Jim Saxton**

Dear Committee Members:

I would like to thank the Committee for inviting me to testify this morning on the regulation of striped bass fishing in the Exclusive Economic Zone (EEZ).

I am the Chairman and Chief Executive Officer of the Viking Yacht Company (Viking) and have served in that capacity for the past 35 years. For the past five years, I have been President of the NJ Boat Builders Association, as well as a member of the Government Relations Committee of the National Marine Manufacturers Association (NMMA). I am also the Chairman of the New Jersey Alliance To Save Fisheries (Alliance).

Viking is a premier builder of large sportfishing yachts. In 1990 we employed over 1500 people and did in excess of \$100 million in the manufacturing of these boats. As a result of the federal luxury tax that was imposed in January 1991 and repealed on August 13, 1993, our entire industry collapsed; presently the boating industry is in a regrowth period. At Viking, we are back to 600 employees and in excess of \$50 million in sales.

The NJBBA is an organization of fifteen New Jersey builders of large boats, primarily sportfishing boats.

The NMMA is an organization of some 1400 marine manufacturers, which includes better than 90% of all boat builders, particularly those who build boats that are used to fish.

The Alliance is an organization representing 800,000 recreational fishermen; 20,000 marine industries; and various conservation groups.

In these capacities I have been able to observe the erosion of the boating market in the United States as a result of the lack of fish to be caught by recreational fishermen owning boats. Over the past several years, there has been a general decline in all the

"ON THE BASS RIVER"

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(609) 296-6000

fishing areas of the United States which, in turn, has caused many people who normally buy fishing boats to seek other forms of recreation. A typical example of this problem is seen in the striped bass fishing along the Mid-Atlantic Coast, where recreational fishermen would once go out and catch a dozen fish in the bays and/or ocean. Today, many boats some times come back without even getting a bite.

Unless this trend is reversed, the effect on the United States boating industry will be catastrophic. Although there are no statistics as to how many people are giving up boating because of the lack of fish available to be caught, it is quite obvious that avid fishermen will not buy million-dollar sportfishing boats that we at Viking manufacture if, in fact, there are no or little fish to be caught. This, of course, is not only true at Viking; but it is true of any manufacturer of boats using for recreational fishing throughout the United States.

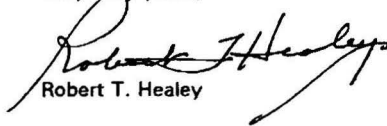
At Viking our boats range from \$500,000 to \$2.2 million and the average price of our boats is \$1 million. For every boat that we do not build because of the lack of fish, five production workers in our plant will lose their jobs for one year. Our marketing people at Viking project that we are losing at least ten boats per year as a result of the fishing crisis. This constitutes fifty jobs per year at Viking. If you project such numbers over the entire boat manufacturing industry in the United States, the present loss of jobs, as a result of the fishing crisis, is in the thousands. This loss of jobs will continue to increase unless there is a reversal of the *fishing crisis*.

Striped bass has always been a fine fish of the recreational fishermen and is a prime example of what I am discussing here today. It is important to the boating industry that the EEZ remain closed to the commercial fishing of striped bass. Quite obviously striped bass in the EEZ must be caught by recreational fishermen from boats and not from the beach.

It is our customers and our manufacturing jobs that will suffer if our government allows the overharvesting by commercial fishermen of striped bass in the EEZ. We, therefore, request you to keep the EEZ closed to commercial fishing unless we can be assured of a viable plan, which can be enforced, to provide sufficient fish for boating recreational anglers.

Again, thanking you for the opportunity to testify before the Committee, I remain

Very truly yours,



Robert T. Healey

RTH/pa

Jersey Coast Angler Association

1201 Highway 37 East Suite 9 Toms River, New Jersey 08754

phone 908-5066565 fax 908-5066975

Thomas Fote

22 Cruiser Court Toms River NJ 08753

pH 908-270-9102 fax 908-506-6409

Congressional Testimony on H.R. 2655

I would like to thank Chairman James Saxton for introducing H.R. 2655 and for the timely manner in which he convened this hearing. The issue addressed in this bill is important not only to the people of New Jersey but to people in all the states throughout the migratory range of the striped bass. I would also like to thank Congressman Frank Pallone for cosponsoring the bill. While I have this opportunity, I would also like to thank Chairman Saxton and the full Committee, especially Congressman Wayne Gilchrest, for the excellent job they did on the reauthorization of the Magnuson Act.

My name is Tom Fote and I am the one of the three Commissioners representing the state of New Jersey on the Atlantic States Marine Fisheries Commission (ASMFC). I am also the Legislative Chairman of the Jersey Coast Anglers Association (JCAA), which represents 80 fishing clubs in New Jersey and surrounding states. This is one time I can testify wearing both hats because both New Jersey's delegation to the ASMFC and the membership of JCAA are in total agreement. New Jersey's three Commissioners, Senator Louis Bassano, Division of Fish & Game director, Robert McDowell and I voted unanimously in opposition of the reopening the Exclusive Economic Zone (EEZ) when this was proposed at an ASMFC Striped Bass Board Meeting. The Division of Fish & Game submitted written comments to the National Marine Fisheries Service (NMFS) advising them that they would not support the reopening of the EEZ to resumed striped bass harvesting. The Division concerns were that they would not be able to enforce their laws and loop holes would be created.

Senator Louis Bassano is sorry he could not be here in person due to his legislative duties in New Jersey, but asked me to convey his appreciation to Chairman Saxton and the subcommittee for the fine job they are doing.

The comments submitted during public hearings held by NMFS in the states of Massachusetts, New York, New Jersey, Virginia and Connecticut demonstrated overwhelming opposition to the reopening of the EEZ at this time. The fishermen of Maine and Pennsylvania, when made aware of the proposal to reopen the EEZ, requested public hearings in their states to voice opposition to this change in management. They were denied the opportunity to participate. There was plenty of Pennsylvania representation at the New Jersey public hearings, with all present speaking in opposition. The ASMFC Striped Bass Board voted on December 7 the EEZ should not be open until we can fish at full fishery and until NMFS can assured the that all the legal problems are addressed.

In this testimony, I will limit my comments to only three reasons that clearly detail why it is premature to reopen the EEZ at this stage of the recovery of the striped bass fishery.

1) **Lack of federal enforcement of striped bass regulations.**

ASMFC member states proved that they could work together to rebuild depleted striped bass stocks under the cooperative process established by the Striped Bass Conservation Act. They developed and instituted regulations that they could monitor and enforce within state boundaries. Member states have expended considerable time and money on law enforcement in recent years, to ensure that these regulations are followed. In November of this year, I actually had the opportunity to fish for striped bass seven times on the beach near my home and my vehicle was inspected on one of those days by a conservation officer to insure that I was in compliance with the laws regulating the fishery. When I asked the C.O. if he had written any summons that day, he remarked that he had cited three fishermen that morning and had intercepted approximately 500 that day looking specifically for striped bass violations.

Enforcement in state waters has been strong and sustained, in stark contrast to the total lack of enforcement in the waters of the EEZ. There has been a moratorium on the harvest of striped bass in the EEZ for more than five years and during that period, the NMFS has written only one summons for illegal possession of striped bass in federal waters. I have not heard of a single instance of a boat being intercepted in the EEZ off New Jersey for the possession of striped bass, yet we know it occurs every year. I have seen the names of individuals that caught fish on offshore lumps in the EEZ in the fishing reports section of local newspapers. After reading these reports, I would call the outdoor writers responsible for the columns, remind them of the moratorium and ask them to inform their readers again. When asked if they had been contacted by any one from NMFS to remind them of the closure, the answer was always "no."

Bruce Freeman, then representing New Jersey at the ASMFC, and I always felt there was no law enforcement effort by federal authorities in the EEZ concerning striped bass regulations. We would ask the NMFS representative at Striped Bass Board Meetings about enforcement efforts and if the service had written any summons for striped bass violations that year. The answer would always be the same NO! One year, NMFS reported that they had finally written a summons and some of Board members laughed, since lack of enforcement of the regulations had become a standing joke. However lack of enforcement just isn't funny!

Please understand that I am not pointing a finger at NMFS or the Coast Guard for the low priority on the enforcement of striped bass regulations in federal waters. They have an enormous enforcement responsibility for species ranging from summer flounder to the pelagics, and striped bass is the lowest priority on their list. The Coast Guard must also deal with search and rescue and other missions. In an ideal world, we should put more money into enforcement of fisheries laws, but with reduced funding, enforcement efforts will continue to decline in the coming years. I was made aware of a recent Coast Guard notice that indicated there would be even less enforcement effort in 1997 and beyond for fisheries laws.

2) Protection of Historical Fisheries

Striped bass has always been an inshore fishery, with the overwhelming majority of the catch, both commercial and recreational, coming from within state waters. Historically, the harvest was 90% recreational and 10% commercial outside of Chesapeake Bay. The traditional recreational fishery was accomplished from the beach or in estuary waters, where the average user was a blue collar or low income family member who could participate in the fishery with a small expenditure in money and manage to put a high protein food source on the table as a result of their fishing efforts.

The commercial fishery was comprised of small, independent watermen working with small boats and utilizing gill nets, pound nets and hook and line. This was never a big boat, offshore fishery. By reopening the EEZ with the restrictions presently in place on almost every other commercially viable species, and with striped bass stocks continuing to rebound, the pressure to expand this into an offshore fishery using non-traditional gear will be extreme, with even great problems as a result. Keep in mind that the least damaging methods of commercially harvesting striped bass are tended gill nets, pound nets and hook and line. Once the fishery is open offshore, other gear types that generate large volumes of bycatch and discards will move into the fishery. This will open the door to vastly increased non-harvest mortality, which will have an extremely negative impact on the spawning stock biomass and on the traditional user groups.

3) Insuring the public of striped bass that are safe to consume

As a commissioner on the ASMFC, my first concern is the protection and sustainability of our public resource marine fisheries. But there is the added consideration of being sure the public is not consuming fish that are contaminated with dangerous pollutants. I take this part of my job very seriously. We all should. When we discuss striped bass harvest and consumption, we must temper our discussion with the knowledge that not all striped bass are considered safe to eat in large quantities and fish from certain waters are considered unsafe to consume at all. It is our responsibility to insure the public the safest possible fish for consumption and to not back away from the unpleasant task of making this an important part of any management plan.

The recreational striped bass fisherman is, without a doubt, consuming the greatest volume of striped bass. Therefore, it is the recreational fishermen who should be given the greatest opportunity to retain fish that are safe to eat. Unfortunately, under the present management regime, just the opposite is taking place. The recovery plan for striped bass forces sport fishermen to only harvest larger fish, the very fish that can be carrying the highest volume of dangerous pollutants, while special considerations are given to commercial harvesters to assure the fish they send to market are safe for consumption. One of my goals in the recovery of this fishery was to continue to reduce recreational size limits as the fishery recovers, so sport fishermen, the very people who consume the greatest amount of these fish, can eat the least contaminated members of the population.

The necessity to accommodate a new offshore fishery, a fishery that will be based on striped bass exclusively over 28 inches, will make it impossible to continue to reduce size limits for

the historic user groups. The states that presently have PCB advisories in place for striped bass have instituted special commercial size limits to make sure they can control the fish going to market and assure the public that they fall within federally mandated PCB levels. The traditional subsistence recreational fishermen will continue to be forced to consume striped bass that are questionable with regard to PCB content, because present size limits mandated do not allow him to retain smaller, safer fish.

At the same time, it will make it harder to control commercially harvested striped bass going to market. Be advised that areas with the highest level of contamination, areas like western Long Island, Hudson River, Raritan Bay and Delaware Bay, are presently closed completely to the commercial harvest of striped bass or are regulated by fish size to prevent these fish from being sold to unsuspecting consumers at fish markets and in restaurants. If the EEZ is reopened, there is no control to assure these fish are not going to market, since they all swim through federal waters during the course of their seasonal migrations, making them fair game for commercial harvest. Is NMFS and the FDA willing to post PCB advisories in every fish market and restaurant to warn the public of the possible health risks of consuming striped bass? Remember that pregnant women and young children are advised to NOT consume any amount of striped bass whatsoever from specific waters!

If federal waters are to be reopened, the federal government must mount a comprehensive study of PCB contamination in federal waters, just as the federal government required of the states. The federal government can not exempt itself from the very regulations it imposes on the states for protecting the public's health.

In conclusion, it has been said many times by many people, "if it ain't broke, don't fix it!" At present, there is no problem filling any state's allowable quota of striped bass from within state waters. There is absolutely no justifiable reason to reopen the EEZ to striped bass harvest with the resulting problems to the fishery and with the public health risks it will generate. HR 2655 and its five year extension of the moratorium in federal waters, will provide the time necessary to explore the problems and find suitable solutions for them.

FISHERMEN'S DOCK CO-OPERATIVE, Inc.

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JAMES LOVGREN
N.O.D. FISHERMENS DOCK CO-OP
TRUSTEE: N.J. SEAFOOD HARVESTORS
ASSOCIATION
PRESIDENT, OCEAN COUNTY FARM BUREAU



My name is James Lovgren and I am a 3rd. generation commercial fisherman who fishes out of the Fishermens dock co-op in Point Pleasant beach, N.J. I've been fishing for over 20 years, and own and operate my own trawler the F.V. Sea Dragon. I want to thank congressmen Jim Saxton, and Don Young for allowing me to testify before you today concerning H.R. 2655, the striped bass moritorium extension bill.

Coming from N.J. and attending all 3 N.M.F.S. public hearings cocerning the E.E.Z. reopening I can tell you N.J.'s recreational industry is up in arms. I can also tell you that 75% of those sports who testified didn't have a clue about what the proposed N.M.F.S. regulations actually meant. The first Toms River hearing that was cancelled due to inadakuete preparation was a scene out of the deep south in the 1920's. All that was missing was the white hoods and before you knew it commercial fishermen would have been hanging dead from the end of fishing poles. If this country is going to go back to mob rule, then apparently striped bass is where we will start.

A N.J. department of agriculture study released this year on the commercial and recreational fishing industries effect on the states economy reached these conclusions using 1993 figures. Value of commercial fish landings; 100,000,000 dollars. Economic value added results in a total of 600,000,000, dollars generated by the commercial industry and its support industries. Economic value added to the recreational industry is 762,000,000 dollars. These numbers prove that even though more people participate in the recreational industry, they are equally important financially. Employment figures show 9,100 people directly employed by the

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commercial industry fulltime, and 21,840 by added f.t.e. of its support industries. 9,700 F.T.E. depend on the recreational industry for their jobs. That means that more then twice as many people rely on the commercial industry for full time employment then they do on the recreational industry. I think these official N.J. statistics prove the always overlooked aspect of the true value of commercial fisheries to N.J. *1. (note).

I've been asked why are N.J. commercial fishermen so interested in striped bass? Afterall it has been declared a gamefish, and is illegal to sell them in the state. The answer is twofold. First is regulatory discards; the throwing away of dead legal size fish in the name of conservation. The second is because this past summer the recreational industry declared war on the commercial industry. They initiated a highly publicized net ban campaign, and decided that N.J. would be targeted as the first state. They have since declared striped bass as the first battle.

No one in the commercial industry wants a war with anybody. We want to be able to continue to supply the public with a nutritious food product, relying on properly managed and sustainable fisheries and a clean environment. Now, I'm not a big fan of fisheries management, but there is certainly enough of it around to reach some resonable conclusions.

Each coastal state has their own fisheries scientists and management system. The U.S.N.F.C. is a federal commision that attempts to regulate coastal migratory species within 3 miles of the U.S. coast. N.M.F.S. manages all fisheries in federal waters from 3 miles out to 200 miles. A lot of public money is spent paying these scientists and managers to manage fisheries. They are doing their jobs. They say, and the commercial industry agrees, that the striped bass stocks are recovered.

I should not be here today, I should be out fishing trying to provide for my family. You should not be here here today. This

(note) 1. "The status and condition of N.J.'s marine fisheries, and seafood industries" N.J.D.O.A.1995. Pg.xiii- xiv

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country has a million more serious problems to address then having to waste time because the recreational industry doesn't like the conclusions reached by 3 different layers of government scientists, and fishery managers. Did anybody say budget?

As written, the commercial industry opposes H.R. 2655. We feel that the stocks are recovered enough to allow the limited amount of harvest that would actually occur under the N.M.F.S. proposal. Striped bass are the most tightly regulated fin fish on the east coast, and each state has a predetermined poundage quota that cannot legally be overrun. So whether a bass is caught in state or federal waters, the total amount of bass actually landed will remain the same.

The M.A.F.M.C. should not have to develop a fishery management plan for striped bass, as required by H.R.2655. The A.S.M.F.C. already has an effective plan in place that is one of the very few plans that have effectively restored a depleted fishery to past levels. To require the M.A.F.M.C. to develop a striped bass plan is not only duplicious, it is a waste of very valuable time and resources that should be spent managing other species of fish that need our immediate attention. This requirement is nothing more then a delaying tactic contrived by the recreational industry so that they can continue to hog the striped bass fishery.

N.J.'s commercial industry, will support H.R. 2655 provided it is amended to provide a 500 pound possession limit. A 500 pound possession limit will do a number of things, the biggest one being that it will address the regulatory discard problem in federal waters. As the striped bass population has increased, the amount of bass being caught incidently in other fisheries has also increased. Many of these fish are dead and presently have to be thrown back to be eaten by crabs, instead of feeding humans, and contributing to our economy. A 500 pound possession limit will not allow commercial boats to catch a large amount of fish off of one state and unload them in another. It would not be financially rewarding enough to do so. Traditional small commercial fishing operators would not have to worry about strange fishing boats from other states unloading 20,000 pounds of stripers that would come out of their quota. Anglers would

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not have to worry so much about commercial fishermen "slaughtering" stripers off the Virginia and North Carolina coast during their winter migration.

It is a perfect compromise. Commercial men get to utilize fish that they now discard dead, this will help them to pay their bills a little bit since they are being forced to take reductions in almost every other fishery. Recreational anglers won't have to worry about commercial men running rampant thru the large schools of striped bass, raping and pilaging everything that swims. And lastly it is a cautious approach to our valued striped bass stocks.

A study done by the state of Connecticut convincingly proved that the depletion of the Shad population in the Connecticut river was caused overwhelmingly by predation by striped bass, and not by over harvesting by commercial netters as it was assumed. This predation will continue in other rivers and other states until other fish species are depleted and then the bass will turn to predation of their own young, possibly causing their own stocks to collapse again.

I personally feel the N.M.F.S. proposal to open the E.E.Z. will have no adverse effect on the health of the striped bass stocks, but in the spirit of compromise and caution, a 500 pound possession limit will allow a lot of dead fish to contribute to our diets and economy without affecting the bass population. If the E.E.Z. remains closed, these fish will still be caught and killed, only they will become crab bait.

Now is a critical time for fishermen, fisheries managers, and the fish themselves. With some species of fish at historic low levels, we must all be careful that we do the right thing with our fishery resources. And strange as it sounds, too many striped bass might be more of a problem than too few. Schools of 30 pound stripers can decimate other fish populations just as easy as loss of habitat, or overfishing. There is a delicate balance here and we would be well advised to take all things into consideration with regard to what is a sustainable population of striped bass.

Fig.5.

extended testimony

Striped bass have made a remarkable comeback from the effects of loss of habitat, pollution, and overfishing, and everyone involved in bringing the stocks back deserve our thanks. Commercial fishermen realize more than anyone the long hard struggle, and the sacrifices that had to be made to restore the striped bass population. Years of little or no catches caused economic hardship to many, and forced fishermen to either change fisheries, or change jobs. We understand the recreational fishermen's concern about allowing commercial fishing of striped bass, but it must be pointed out that 20 years ago when the striper population collapsed, there was little or no regulation governing the catching of these fish, or of the unchecked pollution of our waterways.

Now there is a clean water act, and there are annual poundage quota's set for each state, and both recreational and commercial fisheries, based on each state's historical participation. Fisheries management has come a long way since passage of the Magnuson Act, and the striped bass is testament that depleted fish stocks can be restored if enough hard work, and sacrifices are made.

Opening up the E.E.Z. is not opening Pandora's box. State and federal officials have agreed that their population is now restored. That doesn't mean its open season on striped bass. Remember they are the most tightly regulated fish on the east coast, and have been for years. Every state has a quota that can not be over run, so whether a fish is caught in state, or federal waters, the total amount of bass caught coast wide will remain the same. Allowing striped bass to be caught in federal waters will have absolutely no effect whatsoever on the health of the striped bass stocks. What it would accomplish would be to stop some of the wasteful discard of dead bass that are inadvertently caught by fishermen targeting other species.

These regulatory discards are an extremely disturbing aspect of new fishery management plans. Perfectly good fish of legal size must increasingly be thrown overboard when they are inadvertently caught in other fisheries or out of season. There is absolutely no conservation gains, no economic gains, no ease of enforcement gains.

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It is a total waste and can only be described as insane.

Recently the A.S.M.F.C. who regulate fisheries within 3 miles of the coast decided that the weakfish population was near collapse. Their solution; close all federal waters to weakfish harvestors. Like striped bass, weakfish are a coastal migratory fish who spend most of their lives in state waters. But they do wander and are frequently caught as far out as the continental shelf during the winter. When they are caught in federal waters they are; 1 .almost all legal size, 2, they are all dead because being caught in deep federal waters makes their air bladders blow right out of their mouths.

1996 will see millions of pounds of legal sized commercially caught weakfish thrown over dead because the A.S.M.F.C. has not done their job. They should have closed the whole fishery down 3 years ago but didnt because the recreational industry cried too much. So now they close down waters that they dont even regulate because it doesnt hurt the recreational industry. If weakfish stocks are in such bad shape then put a total moratorium on catching them in all waters. Weakfish reach sexual maturity in 1 year so the stocks would recover extremely fast. (they are already recovering because of increased mesh sizes). The pain of not being able to harvest them would then be shared equally by all. If a congressional hearing should be held on any fishery matter it should be held on the closing of the E.E.Z. to weakfish, because it is a total sham, and a disgraceful waste of perfectly good fish for no conservation gain. These fish are almost all caught incidently and will be caught and killed whether there is a moritorium or not.

Gamefish status of striped bass increases the amount of regulatory discards, so will extending the moritorium in the E.E.Z. Whether the recreational industry in N.J. wants to recognise the commercial fisherman's right to equal access to our natural resources or not, there are other states that do recognise these rights,. And these rights are guarantied by the magnuson act under National standard #4. Which reads; Conservation and management measures shall not discriminate between residents of different states. If it becomes

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necessary to allocate or assign fishing privileges among various U.S. fishermen such allocation shall be;

A. Fair and equitable to all such fishermen.

B. Reasonably calculated to promote conservation.

C. Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Continued closure of the E.E.Z. and gamefish status are contrary to National Standards A.D. and C. Except for puffing up a few ego's and providing fodder for the sport writing propagandists, the effects of gamefish status in N.J. have been negative. If you want to eat a bass in N.J. you better catch it yourself or go N.Y. or Pennsylvania, and buy one. This removes millions of dollars annually from N.J.'s economy. If a gill netter has to throw away dead bass this is a waste of a resource, and money. Finally gamefish status drive a wedge between the two user groups and allows one unfair and illegal dominance of a public resource against the rules of the Magnuson act. Lets stop the waste. Amend H.R. 2655 and allow a 500 pound possession limit.

A handwritten signature in cursive script, reading "James Lopez". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

SUMMARY PAGE

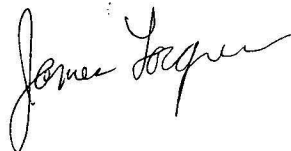
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Extending the E.E.Z. moritorium will lead to increased discards of legal fish that will be dead and wasted with no benefit to the economy, or the striped bass population.

3 different layers of fishery managers have declared the striped bass stocks restored. Only political pressure from the recreational industry, who wish to continue to hog a public resource, is holding up the opening of federal waters.

Opening up the E.E.Z. will not result in increased harvest of striped bass because they still can only be landed in certain states that have set poundage quotas which cannot be overrun. Whether a fish is caught in federal or state waters does not matter, because the quota limit is still the same.

A 500 pound possession limit is a perfect compromise because it is not enough fish to warrant a directed fishery by new entrants, or out of state boats. It will prevent the waste of incidentally caught bass, by allowing them to be harvested when they are caught in federal waters.

A handwritten signature in dark ink, appearing to read "James Lovgren". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Lovgren".

STATEMENT OF
JOHN H. DUNNIGAN
EXECUTIVE DIRECTOR
ATLANTIC STATES MARINE FISHERIES COMMISSION

Before the
Subcommittee on Fisheries, Wildlife and Oceans
Committee on Resources
United States House of Representatives

Washington, D.C.
December 12, 1995

Mr. Chairman and Members of the Committee,

I am John H. Dunnigan, Executive Director of the Atlantic States Marine Fisheries Commission. I am pleased to have been invited here today by the Committee to testify on behalf of the Commission and its state members on issues relating to H.R. 2655, a bill to authorize preparation of the federal fishery management plan for Atlantic striped bass and to legislatively extend the current moratorium on fishing for striped bass in the EEZ. I would also like to thank you, Mr. Chairman, for your consideration in scheduling this hearing, which allowed the Commission's Striped Bass Management Board to meet last week with the National Marine Fisheries Service and review the public record that has been gathered with respect to the NMFS proposal to remove the moratorium on fishing for Atlantic striped bass in the EEZ.

The Commission was formed over fifty years ago by the fifteen Atlantic coast states so that they could work better together to address their mutual interests in the valuable coastal fishery resources that they share off of their coasts. Over the five decades of its history the Commission has undertaken a number of activities, largely in response to the current needs of the time. For the past fifteen years, the Commission has been known principally for its cooperative Interstate Fishery Management Program. Under this program, the states work closely together and with the federal government to develop and implement mutual fishery conservation programs that address the interjurisdictional fishery resources that the states share. The program arises from the recognition that, because of the geographic range and migratory nature of these resources, no one state nor the federal government has sufficient authority to safeguard its own interests in their

**TESTIMONY OF JOHN H. DUNNIGAN
HOUSE SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
H.R. 2655: December 12, 1995**

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conservation. Only by working together can all jurisdictions achieve what is in their own individual best interest.

The Congress recognized the importance and effectiveness of this program when it passed the Atlantic Striped Bass Conservation Act in 1984. Under this law, states are required to implement the measures contained in the Commission's fishery management plan for striped bass or face federal sanctions. The Commission's actions, and the supporting federal legislation, were implemented to address a threatening situation for one of this country's most cherished and valued coastal fishery resources. During the 1970s the coastal population of Atlantic striped bass had declined due to many factors including overfishing and the loss and degradation of coastal fishery habitat. As a result of the cooperative action implemented by the states, working together through the Commission, the Atlantic striped bass resource has been restored. The recovery program has been an unqualified success, and is recognized throughout the country as perhaps the best success story for marine fisheries restoration. The states and their federal partners have shown that fisheries management works. It works for the resource; but most importantly it works for the recreational and commercial fishermen who depend upon this resource. Fishermen today are harvesting striped bass in numbers that have not been seen for many years; and this recovery has been crucial to supporting economically valuable fisheries that in many cases have few options.

Given the wide recognition of the success of the striped bass management program, many believed that the model that proved so successful for striped bass could work for other coastal fishery resources as well. In response, the Congress passed the Atlantic Coastal Fisheries Cooperative Management Act in 1993. States are now required to be in compliance with all fishery management plans adopted by the Commission. Every year the Commission reviews the status of implementation of each FMP. The states' overall record of compliance since the new law took effect has been outstanding.

The Commission and its state members strongly appreciate the leadership shown by Congress in taking these legislative steps, and in providing funding to initiate these programs. This Committee earlier this year approved and moved through the House of Representatives a reauthorization of appropriations for the Atlantic Striped Bass Conservation Act. The Commission looks forward to similar action from the Senate soon. Clearly the Congress understands the importance of these resources to valuable recreational and commercial fisheries; recognizes the substantial and effective role that the states, working together with the federal government, can

play; and is willing to provide the political leadership and appropriate funding for a successful program.

Mr. Chairman, the Committee today is considering H.R. 2655, a bill to authorize preparation of the federal fishery management plan for Atlantic striped bass and to legislatively extend the current moratorium on fishing for striped bass in the EEZ. The bill would authorize preparation of a FMP by the Mid-Atlantic Fishery Management Council for that portion of the EEZ within the geographical authority of the Council. It would require that the FMP ensure the effectiveness of state regulations and achieve the conservation and management goals of the Commission's FMP. It would require consultations with the New England and South Atlantic Fishery Management Councils, the Commission, and each federal, state and local government entity affected by the FMP. Finally, the bill would, in effect, continue the current moratorium on fishing for Atlantic striped bass in the EEZ until authorized by the federal FMP referred to in the bill, but in any event for at least five years.

Mr. Chairman, H.R. 2655 was introduced after a proposal by the National Marine Fisheries Service to remove the moratorium of fishing for striped bass in the EEZ. The Commission this past summer supported the NMFS proposal to gather public comment on this issue. This was based on the assumption that, so long as fishing mortality is controlled, it makes little difference where fish are harvested; and that given the recovery of the coastal Atlantic striped bass resource, fishermen should not be needlessly constrained. During the public comment period it became apparent that vast segments of the public continue to be concerned about the potential for expanding the fishery too fast. The Commission's Striped Bass Management Board met last Thursday, December 7, and reviewed what NMFS had learned through public comment. The Board, which speaks for the Commission on this matter, decided to recommend to the National Marine Fisheries Service that it postpone lifting the moratorium on fishing for Atlantic striped bass in the EEZ at least until the Board implements the full target fishing mortality rate envisioned in Amendment 5 to the fishery management plan. Under Amendment 5, the fishery is being reopened in stages, and is currently under an interim target fishing mortality rate. The final target is a fishing mortality rate that will allow the harvest of the full maximum sustainable yield, and is currently scheduled to be implemented in 1997.

The Board decided to recommend postponement of the withdrawal of the moratorium at this time largely because of three factors. First, it became clear in the public comment that there was relatively little sentiment among the public supporting the proposal. Second, during the public

comment it appeared that the proposal might raise the potential for some loopholes. As I said earlier, so long as overall fishing mortality is controlled it does not matter significantly where the fish are harvested. However, it could be possible that some states where fisheries would be closed might still allow the landing and/or sale of fish legally harvested in other jurisdictions; and that for a case like that, a mechanism to account for those fish has not yet been developed. The Board was concerned about whether the relevant management jurisdictions would be able to effectively close this potential loophole. There was also a related concern whether adequate authority exists under the law to effectively allow state landing and possession laws to control fish harvested from an open EEZ. These concerns are related to a larger issue that all coastal states have about the erosion of the protection that Section 306 of the Magnuson Fishery Conservation and Management Act is supposed to provide to state fishery agencies. A third consideration for the Board was the fact that the Commission still has not allowed the fishery to expand to the ultimate target fishing mortality rate level. Amendment 5, which was adopted earlier this year, uses a conservative, stepped approach to phase toward the ultimate goal of a fishing mortality rate that allows harvest of maximum sustainable yield. Given that we are not yet at our ultimate target fishing mortality rate, it is prudent at this time not to expand the area in which fishing is allowed.

However, the Commission's position on the proposed removal of the federal moratorium in the EEZ does not mean that it would support the bill before the Committee today. To the contrary, the Atlantic States Marine Fisheries Commission would be opposed to the enactment of H.R. 2655. The Commission has consistently taken the position that it is unnecessary and ultimately counterproductive for Congress to become involved in the specifics of managing individual fisheries. Fishery resource conservation decisions should be made within the confines of the fishery management process, and that in fact has happened in this case. Congress and the states have invested in process for making decisions on the conservation and management of Atlantic striped bass. That process has given us the remarkable recovery of one of this country's most valuable coastal fishery resources. This program has been hailed far and wide as an outstanding example of successful fisheries management. Setting policy for Atlantic striped bass management has involved the Commission, state fisheries agencies, federal fisheries agencies, and recreational and commercial fishermen. It has been a long, arduous process, but one that has been successful in developing and carrying out a conservative and prudent management program. Specific efforts to legislatively deal with particular problems undermine the hard work and leadership of the Congress in establishing a program that can broadly safeguard the public's interest in all of our coastal fishery resources.

Mr. Chairman, you indicated in your invitation letter an interest in a number of specific issues that I will attempt to address. You asked about the future outlook for the Atlantic striped bass population. The future outlook for Atlantic striped bass is extremely positive. All along the coast the fishery is currently supported by year classes of fish that benefited greatly from the very restrictive state management regimes implemented under the cooperative interstate program during the 1980s. Given the conservative nature of the Commission's management program, these fish will continue as a part of the fishable biomass for some time. In addition, recent years have seen the production of very large year classes of juvenile striped bass. The Commission was criticized in 1990 and 1991 for reopening the fishery based on the 1989 year class; but the intervening time has only confirmed that this year class will be a strong contributor to the coastal fishery for years to come. The 1993 year class, which will start to significantly migrate along the coast next year, is historically high. The 1994 year class was very strong; and the 1995 year class in Chesapeake Bay was slightly above average. Spawning has recently been strong in all of the estuary systems that support the coastal striped bass fishery resource. As our scientists have told us, this indicates very strong fisheries for many years to come. Prudent conservation will still require that we control overall fishing mortality. The Commission's management program does that, and the prospect for the future striped bass fisheries along the Atlantic coast is therefore very positive.

You also asked about the effect of striped bass fishing in the EEZ on fisheries that occur in state waters and on the implementation of state fishing regulations. The short answer should be that there would be no effect at all so long as overall fishing mortality is controlled. However, as I described above, during the public hearing process that NMFS conducted on its proposal, significant issues were raised concerning whether an EEZ fishery would create loopholes that would detract from the effectiveness of state programs. The states and the Commission obviously have some concerns that this could be a problem.

Mr. Chairman, you also asked about the potential impact that commercial fishing interest from other states that fish off New Jersey's coast might have on recreational fishing in New Jersey waters. This requires some speculation, but it is difficult to believe that large numbers of commercial fishermen will redeploy their efforts to the EEZ. Over the past few years, the problem for commercial striped bass fishermen has not been the need to go find fish, but rather the problem of staying away from them when pursuing other fisheries. Striped bass are plentiful in traditional areas, and it is counterintuitive to think that commercial fishermen would put up with the additional expense and inconvenience of going offshore for fish that are readily available in inshore areas.

Before the current moratorium, there were few fish caught commercially in the EEZ; and we do not see any reason to assume that it would become a significant factor now. However, for the reasons stated earlier, it is the Commission's position that the EEZ moratorium should not be removed at this time.

Mr. Chairman, the Atlantic States Marine Fisheries Commission appreciates your interest in the conservation of the Atlantic striped bass resource. However, H.R. 2655 is not needed. There is an effective and successful management program in place, and further specific legislative regulation at this time is simply unnecessary. We would urge the Committee not to approve H.R. 2655.

Mr. Chairman, let me thank you again for the opportunity to be here and for your strong commitment to effective fisheries conservation and management. I would be pleased to answer any questions that the committee may have.

STATEMENT OF
BOB PEELE
DEPUTY DIRECTOR
NORTH CAROLINA FISHERIES ASSOCIATION, INC.
BEFORE THE
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
TUESDAY, DECEMBER 12, 1995

NORTH CAROLINA FISHERIES ASSOCIATION, INC.
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Mr. Chairman, I want to thank you and the members of the Fisheries, Wildlife and Oceans Subcommittee for the opportunity to express the views of the North Carolina Fisheries Association on HR 2655 which was introduced on November 16, 1995. The legislation, if enacted, would extend the existing moratorium on striped bass fishing in the Exclusive Economic Zone (EEZ) for five years and require the implementation of a Fishery Management Plan (FMP) before the moratorium could be lifted.

Mr. Chairman, we think that if this proposal is prompted by a concern for protecting the resource, it may be misguided since striped bass harvests from the EEZ has historically been minimal. From 1974 to 1982, before strict measures were taken to protect the species, the annual average of striped bass harvested from the EEZ was only about 6 percent of the total harvest.

In addition, requiring the implementation of a Fishery Management Plan (FMP) before the moratorium may be lifted is frightening given the fact that the Mid Atlantic Council was instructed to develop such a plan more than 10 years ago and it has never gone beyond a draft proposal. In 1984 the New England Council stated that it would be willing to help develop such a plan only if it appeared that the Atlantic States Marine Fisheries Commission's (ASMFC) plan did not live up to expectations.

So now we are in a catch-22. The ASMFC plan has been successful in restoring stocks, therefore there is no Council plan. And yet, although both recreational and commercial fishermen have sacrificed again and again, HR 2655 mandates that without a plan the moratorium will continue.

Let me assure you that commercial fishermen of North Carolina recognize the need to protect marine resources through the implementation of FMPs. As we all know, a major factor of any FMP is the value and credibility of data upon which the plan is based. It is our belief that opening the EEZ will actually improve data. Currently, striped bass caught commercially as incidental bycatch in the EEZ, such as in North Carolina's flynet or dogfish fisheries, can not be landed and are thrown overboard. Fishery managers can only guess how many striped bass are returned to the ocean each year. Allowing fishermen to land striped bass will give managers a better accounting of stocks and fishing pressure. Better quality data will naturally lead to better management.

Members of the recreational fishing community might argue that commercial catches need to be limited to allow the larger number of recreational fishermen to catch higher numbers of striped bass, thus fueling coastal economies through an increase in tourism. This argument maintains that since the recreational community is larger and means more to local economies, their catches should be increased. However, a recent white paper produced by the Maryland Department of Natural Resources this past August argues that a ban on commercial striped bass fishing

would result in an additional catch of only 1 fish for every 17 recreational fishermen. So the expected increase in catches for anglers might not be as large as expected, thus making the economic benefits of HR 2655 minimal.

One point that seems to be continually lost is that striped bass are part of a nationally owned public trust resource. Every U.S. citizen owns a piece of the striped bass pie and, for the great majority, the commercial fishing industry is their only access to an important resource which the American public owns.

The latest ASMFC calculations put the commercial portion of the striped bass harvest at about 21 percent. That is a very small portion when considering that the vast majority of Americans choose to pay to have their seafood caught and delivered to restaurants and retailers where it can be accessed for their personal consumption. Along the east coast, 79% of the striped bass caught in 1994 were landed by anglers.

Over the last 20 years there has been a growing trend to ignore the rights of the nonfishing public to their share of the public resource. This attitude has begun to foster the perception that elected officials are giving in to demands from a monied few that the fisheries be allocated only to those who can afford the expense of the fishing sport and/or choose to spend their time chasing their supper. HR 2655 in effect would continue to limit access to a public trust resource by the commercial fishing industry which, in this case, is just the delivery system for the American consumer.

I have also heard the arguments that opening the EEZ to the commercial harvesting of striped bass will erase any improvements in the stocks of the last 10 years due to a rush by commercial fishermen to harvest from the EEZ. Such concerns are invalid. If the EEZ is opened, striped bass landings from the EEZ will be subject to state quotas, as set by the ASMFC. No increase in the total poundage of commercially caught striped bass will result, only an expansion of the territory that can be fished.

Also, to continue the moratorium prohibiting harvest or possession of striped bass instead of addressing other related problems may be penny wise and pound foolish. Since 1980 striped bass studies have identified other causes besides overfishing for the decline in striped bass numbers. Habitat deterioration and poor water quality as a result of residential and industrial development in spawning areas have, and probably continue, to affect striped bass as well as other species. Perhaps it is time to address these issues rather than putting all the burden on fishermen to make up for what has become a lackadaisical environmental policy.

Mr. Chairman, the bottom line on this issue, according to the North Carolina Fisheries Association, is simple. There is no biological need for a continuation of the EEZ moratorium on the harvest of striped bass. The Atlantic States Marine Fisheries Commission and the National Marine Fisheries Service recognize that the Hudson River and Chesapeake Bay stocks are now fully recovered and support the opening of the EEZ. Even the Roanoke

stocks, which are not deemed fully recovered by the ASMFC, are showing signs of dramatic improvement. Just this past August, an ASMFC newsletter hailed the improvements in the Roanoke stocks by stating:

"Evidently, excellent juvenile recruitment, early sexual maturation, and low fishing mortality rates in the system have all combined to propel the adult stock upward toward pre-1975 levels. This means the local population will reach recovery somewhere between 1997 and 2000,..."

To be honest, Mr. Chairman, the North Carolina Fisheries Association disagrees with the ASMFC on the issue of the Roanoke stocks. We firmly believe the Roanoke striped bass stocks are fully recovered. Rock are numerous all over the Albemarle Sound and are now entering rivers, such as the Scuppernon River, to spawn where they have never spawned before. The point is that everyone seems to agree that the Atlantic coast striped bass stocks, except those of the Roanoke, have fully rebounded. As a member of Congress stated back in 1991:

"A decade ago the striped bass appeared to be doomed. But through the sacrifices of commercial and recreational fishermen, and the work of enlightened state governments and the ASMFC, the striper has slowly, but surely, worked its way back. Our goal is to make certain that progress continues."

Mr. Chairman, Congressman Studds was correct in 1991. The striper was recovering. Now, over four years later, the road to recovery for Atlantic striped bass is complete. After a decade of sacrifices, now is the time to offer some relief to the commercial fishing industry, not further prohibitions.

Lastly, if the moratorium is continued in light of the recovery of Atlantic striped bass stocks and at the sole request of recreational fishing industry groups, then the commercial industry will lose all faith in the current fishery management system. For a variety of species, commercial fishermen follow the mandates of FMPs and quota allocations. They may not agree with many of the mandates, but they begrudgingly follow them in the hope that if they make sacrifices and follow FMP guidelines, the current management system will allow them to fish at better levels once stocks recover. This is in a sense an unwritten agreement between fishermen and regulators. However, HR 2655 ignores the acts of good faith and sacrifices of commercial fishermen and the best scientific data currently available that proves striped bass stocks have recovered. To continue the moratorium will breach the faith commercial fishermen have in the management premise that compliance and sacrifices today will lead to better fishing in the future. In light of the full recovery, now is the time to allow fishing for striped bass in the EEZ, not further prohibit it.



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**STATEMENT OF LEE WEDDIG
EXECUTIVE VICE-PRESIDENT
NATIONAL FISHERIES INSTITUTE
BEFORE THE
HOUSE FISHERIES, WILDLIFE, AND OCEANS SUBCOMMITTEE
ON
H.R. 2655, ATLANTIC STRIPED BASS PRESERVATION ACT OF 1995
DECEMBER 12, 1995**

Mr. Chairman and members of the Committee, I am Lee Weddig, Executive Vice-President of the National Fisheries Institute, a trade association of seafood businesses around the world. I want to thank you for giving me the opportunity to testify before the Subcommittee today.

Sound fishery management is an ever-evolving but yet imprecise science that has made great strides over the last several decades. There was a time, not so long ago, when our oceans were viewed as an unlimited source of fish and seafood. It was believed that no matter what mankind took from the sea, it was capable of replenishing itself indefinitely.

Well, fishery scientists and managers alike have learned the hard way that this belief held no water. Unfortunately, the health of a number of fish stocks, including the Atlantic striped bass, plummeted as managers and fishermen coped to find solutions.

Today, however, roughly a decade following the imposition of the Atlantic Striped Bass Conservation Act, the remarkable recovery of the striped bass represents a testament to the power of effective fishery management --- fishery management based on the most complete and accurate science available.

It is apparent that the National Marine Fisheries Service (NMFS) and the Atlantic States Marine Fisheries Commission (Commission) and its member states have done an excellent job in managing the rebuilding of striped bass stocks with thorough research and analysis on its spawning stock biomass, recruitment, and mortality rates to make the finding that the stocks have recovered.

Comments of Lee J. Weddig,
NFI Executive Vice-President
December 12, 1995
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Mr. Chairman, the National Fisheries Institute (NFI) has some concerns with H.R. 2655. Overall, NFI believes the legislation is inappropriate at this time for several specific reasons that I will discuss.

First, the bill changes the process of managing the striped bass fishery. Striped bass has been managed primarily by the Commission under the Atlantic Striped Bass Conservation Act. In 1977, the Secretary of Commerce gave the Mid-Atlantic Fishery Management Council the authority to manage striped bass. However, the Council never approved a fishery management plan (FMP) for striped bass, because a striped bass FMP was not a priority. It was not until the Atlantic Striped Bass Conservation Act became law did NMFS, with its new authority, establish a moratorium on striped bass in the EEZ. This Act also gave the Commission the authority to develop a comprehensive interstate management plan within state waters. It is this authority that will be circumvented and duplicated under H.R. 2655. Even though the Council continues to have the authority under the Magnuson Act, today it has an even larger list of issues it must address and, as such, a striped bass FMP should not be a priority.

Second, H.R. 2655 will duplicate the efforts that the Commission has already made. During this time of limited resources for fishery management, it would be unwise to direct the Council to begin the process to develop an FMP when an FMP created by the Commission already exists.

In addition, NMFS has initiated a proposed rulemaking that raises the issue of opening the EEZ to striped bass harvest. NMFS has completed an environmental assessment and conducted several public hearings where concerns have been raised by affected parties. These issues should be analyzed before the EEZ is opened to fishing. NMFS is still in its fact-finding stage for this proposed rule and plans to consult with the appropriate councils before moving forward on any decision. One advantage of opening up the EEZ to the harvesting of striped bass is that fishery managers will receive a more accurate assessment of the bycatch of striped bass in the EEZ. This more reliable data will greatly assist managers in making more accurate management decisions. We think this process should continue and not be stalled by any legislative moratorium, at this time.

Specifically, H.R. 2655 continues the current moratorium for at least five more years. This legislative moratorium will prevent the implementation of a refined and comprehensive FMP for the entire designated range of the Atlantic striped bass stock, as developed by the Commission. According to the Commission's plan,

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NFI Executive Vice-President
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fishermen are currently harvesting significantly less than maximum sustainable yield (MSY), but will be allowed to fish at MSY starting in 1997. It is our understanding that the Commission's Striped Bass Board met last week and determined that the opening of the EEZ should coincide with the its current plan to raise the allowable harvest to MSY in 1997. This should allow adequate time for any concerns regarding appropriate management to be addressed.

Overall, proper management of our nation's fisheries should rely on the best available science instead of legislative intervention.

Finally, one fundamental concern that I would like to address is the expanding effort of a larger anti-commercial campaign by recreational fishermen which ultimately could affect the supply of quality American seafood to its consumers. We are all aware of the efforts of some recreational fishing groups to make striped bass a gamefish along Atlantic coast waters. This designation would severely impact the livelihoods of working families, small businesses and coastal communities that depend on commercial fishing.

Equally important it would deprive all non-fishing citizens who enjoy the taste and nutrition provided by the excellent-eating striped bass of any opportunity to do so. The percentage of the population who go sport fishing in the oceans is very small -- but 85% to 90% of the population purchases fish at retail stores or in restaurants. This majority should have the right of access to the striped bass resource -- access that is conveniently and inexpensively available through products provided by commercial fishermen. If all citizens must share the burden of conservation, then all citizens should receive the benefits of healthier stocks.

Rather than focusing on unreasonable user group allocations, we would encourage recreational anglers to work with commercial fisherman to practically address fair and equitable management programs that increase fishery populations.

Thank you again for this opportunity and I welcome any questions from the Committee.



Testimony of the
Seafarers International Union of North America
On
House Resolution 2655,
"The Striped Bass Preservation Act of 1995"
Before the House Subcommittee on
Fisheries, Wildlife and Oceans

The Honorable James Saxton, Chair

December 12, 1995

The Seafarers International Union of North America (SIU) represents over 500 commercial fishermen working in the Exclusive Economic Zone (EEZ) off the Eastern coast of the United States. It also has 85,000 members nationwide, many of whom enjoy recreational fishing in their free time. On behalf of these men and women, the Union is writing in respectful opposition to the proposed ban on the harvest of striped bass in the EEZ by commercial fishermen embodied in H.R. 2655.

The Magnuson Act, and every fishery management plan promulgated under its authority, is premised on one very specific point: sacrifices made today to insure the health and rebuilding of fish stocks will be more than rewarded with opportunities to harvest fish when stocks recover. H.R. 2655 breaks that promise and sends absolutely the wrong message to the commercial fishing industry at a time when it is being asked to make a large number of deep sacrifices for the good of this nation's marine resources.

The Atlantic States Marine Fisheries Commission has declared all major stocks of Atlantic striped bass "fully recovered." And even with that, the Commission is taking a precautionary, risk-adverse approach to management, allocating very small quotas to the recreational and commercial fishing industries to insure that another stock collapse does not occur. In light of this recovery, the National Marine Fisheries Service is in the process of fulfilling its Magnuson Act responsibilities by generating regulations which would open the EEZ to the harvest of striped bass, but only under the very strict guidelines of the ASMFC's fishing limits and individual state's rules covering the allocation of its quota share.

No biological goals are served by the five year moratorium proposed in H.R. 2655. Commercial striped bass quotas are too low to support a directed fishery. Instead, most Atlantic states have issued their commercial quota so that fishermen can land some of the striped bass incidentally harvested while in other directed fisheries. Instead of recognizing this fact, however, many



SIUNA Testimony on H.R. 2655
December 12, 1995

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sports fishing interests have used alarmist rhetoric to create the mis-impression that the NMFS regulation would create a virtual "free-for-all" in the EEZ and threaten the future of the stocks.

Nothing could be further from reality. In point of fact, the implementation of federal rules opening the EEZ will have no perceptible impact on the harvest or income of Atlantic commercial fishermen. At most, it may mean that fishermen who traditionally work in federal waters *may* have the opportunity of landing a few striped bass each year that they otherwise would have had to discard.

What is at stake is a vital principle. That principle is trust in government, belief in the fisheries management system and that the words our politicians and bureaucrats put to paper do indeed matter. What message would the failure to open federal waters to striped bass fishermen send to groundfish fishermen who face the biggest closures and most drastic fishing restrictions ever implemented in America's history? That message would be: Get everything you can now, because no matter what happens to the stocks, you will not be able to fish.

The SIUNA supports others in the commercial fishing industry who are calling for a federally mandated cap of 500 pounds of striped bass, in addition to the 28 inch size limit included in the NMFS proposal, for fishing vessels in the EEZ. The Union believes that even this proposal is more liberal than any state's current commercial restrictions, but its inclusion may help to allay fears of some that the rule as proposed could create some type of uncontrolled harvest.

In summary, the Seafarers International Union strongly urges Congress not to pass the striped bass moratorium. It sends the wrong message to the industry, and it is management by Congress, instead of the agencies and states who have the expertise to deal with these matters. The Atlantic striped bass is as abundant today as many fishermen have ever known it to be, and this fact alone may be cause for concern. Fisheries biologists are beginning to fear that predation by striped bass on other stocks of recreational and commercial interest may be negatively affecting their abundance.

Congress should be looking for ways to help the recreational and commercial fishing industries in the northeast. Putting new obstacles in their way and micro-managing healthy resources is not the way to accomplish this. Thank you for this opportunity to testify.



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JOINT STATEMENT OF

**THE AMERICAN SPORTFISHING ASSOCIATION
AND
THE NATIONAL MARINE AND MANUFACTURERS ASSOCIATION**

ON H.R. 2655

THE ATLANTIC STRIPED BASS PRESERVATION ACT OF 1995

**SUBMITTED TO THE HOUSE SUBCOMMITTEE ON
FISHERIES, WILDLIFE AND OCEANS
DECEMBER 12, 1995**

**Mike Hayden, President/CEO
American Sportfishing Association
1033 Fairfax Street, Suite 200
Alexandria, VA 22314**

**Jeff Napier, President
National Marine Manufacturers Association
200 E. Randolph Drive, Suite 5100
Chicago, IL 60601**

Mr. Chairman, we respectfully submit the following testimony on behalf of the American Sportfishing Association (ASA) and the National Marine Manufacturers Association (NMMA) in support of H.R. 2655, the *Atlantic Striped Bass Preservation Act of 1995*. This legislation would continue the moratorium on all harvest of striped bass in the Exclusive Economic Zone (EEZ) for a period of five years. This legislation is in response to the recent proposal by the National Marine Fisheries Service (NMFS) to reopen the EEZ for striped bass fishing after a six year closure. Although we recognize the tremendous recovery in the health of the striped bass population, we have serious concerns that reopening the EEZ to striped bass harvest at this time would have substantial negative impacts on the states' ability to continue to enforce striped bass management plans. In order to maintain the integrity of what has proven to date to be the most effective management plan on the Atlantic coast, these concerns must be thoroughly addressed prior to reopening the EEZ. In particular, we are concerned that the original justification for closing the EEZ (i.e. the elimination of loopholes caused by conflicting state and federal regulations) has not been addressed and is as valid today as it was when the EEZ was closed in 1989.

ASA represents the environmental and business interests of the sportfishing community. The primary goal of the ASA is to ensure the availability of a healthy and sustainable fishery resource. Nearly 700 members, spanning a broad spectrum of the sportfishing community (including manufacturers, retailers, conservation and advocacy organizations as well as state and federal fisheries agencies) recognize that a sound resource is the basis for a sound industry and, as such, are united in their commitment to ensure proper management of fisheries.

NMMA represents over 1600 members that manufacture recreational boats, engines and related products. Our members range from small proprietor's to Fortune 500 companies. We, as a recreational fishing and boating industry are in a "recovery" as well. A large part of that recovery relates to selling fishing boats, engines and equipment. So while we place stabilization of certain species, like striped bass, on our priority list we must also consider the impact that a declining fishery has on our economy.

Striped bass are extremely important to Atlantic coast recreational fisheries and continued sound management of these stocks is vital to sustaining a vibrant and sustainable recreational economy. In the Atlantic region, according to NMFS, over 30% of the recreational saltwater fishing trips in the North Atlantic *alone* targeted striped bass in 1994. In the North and Mid Atlantic regions, this amounted to 3,927,204 trips (18% of all trips). The economic activity generated through these trips is enormous, amounting to over \$270,000,000 to coastal communities from Maine to North Carolina. Nationwide, 13% of all saltwater fishing was directed at striped bass during 1991.

Striped bass are one of the few (if not the only) fisheries in the North East Atlantic which are in stable condition because of proper management. According to the NMFS' *Status of the Fishery Resources of the Northeastern United States for 1994*, a full 60% of the finfish

resources are in fact overexploited! This record of overharvest is due in part to fishery managers' inability to resist short sighted demands (often emanating from a small portion of the fishery) to increase exploitation of stocks.

The tremendous recovery of striped bass on the Atlantic Coast is undeniably a story of management success by halting runaway overfishing. From peak landings of over 12 million pounds in the early 1970's, striped bass populations crashed to landings of less than 4 million pounds by the end of that decade. The primary factor leading to this drastic decline was extremely high mortality rates caused by excessive overharvest throughout the striped bass' range.

The mismanagement of striped bass leading to this crash was a direct result of the uncoordinated and often conflicting management actions by state agencies. Although a striped bass management plan had been in place since 1981 in an attempt to coordinate actions, states, reacting at times to constituent pressure to increase harvest, did not implement the tough actions that were necessary to increase fishery abundance. In 1984, passage of the Atlantic Striped Bass Conservation Act, which was endorsed and championed by the sport fishing community, required states, acting under the auspices of the management plan developed through the Atlantic States Marine Fisheries Commission (ASMFC), to implement conservation measures as outlined in that plan. That legislation provided the groundwork for the tremendous recovery of striped bass that has occurred in the last decade.

As part of the ASMFC management plan, member states not only agreed to restrict harvest of striped bass to ensure total recovery, but also determined that consistent and uniform regulations were needed coastwide to avoid the confusion and enforcement problems associated with conflicting state regulations. However, the ASMFC's management efforts were being hindered by a loophole in the plan which allowed continued fishing for striped bass in the EEZ (generally 3-200 miles offshore). Although the states could restrict fishing for striped bass in state waters, they could not prohibit fishing in the EEZ and in many cases, because of interstate commerce laws, were forced to allow these fish to be landed and/or transported through their state. This created a tremendous problem with the enforcement of state regulations.

To rectify this situation, during the 1988 reauthorization of the Atlantic Striped Bass Conservation Act, Congress granted NMFS the authority to regulate the fishery in the EEZ to facilitate state management efforts. Soon thereafter, NMFS, after conferring with the ASMFC, closed the EEZ to all harvest (commercial and recreational). This action greatly simplified state enforcement of their striped bass regulations and improved the effectiveness of striped bass recovery efforts.

It is important to recognize that the actions of NMFS in originally closing the EEZ were taken primarily to increase the effectiveness of the implementation and enforcement of state management efforts and secondarily as a conservation measure. Currently, there are some fisheries taking place in the EEZ for species other than striped bass which nonetheless result in an incidental take of striped bass. From a biological standpoint, the percentage of

these striped bass which are now being killed by incidental take in select fisheries is, like other mortality (resulting from sources such as entrapment in power plants, site specific mortality from environmental impacts, illicit fishing activity etc) already incorporated in the coastwide model of striped bass and is subsequently accounted for within the management framework. Although the ASA and NMMA generally support reducing such incidental mortality by allowing the harvest (and subsequent designation of these fish to a state's quota), we are concerned about a number of enforcement problems that would develop by reopening the EEZ before addressing these concerns and which may actually cause *increased* harvest of striped bass above the coastwide quota.

The inconsistency of state regulations (including the wording of each state's regulations) reopens loopholes that caused the original problems prior to 1988. For example, if a state such as Massachusetts has a regulation which only permits hook and line harvesting of striped bass but a commercial vessel which harvested striped bass with trawl or gill nets in the EEZ enters state waters, is that vessel in violation of state law?

Further, five of the states and the District of Columbia, which are subject to the Striped Bass Conservation Plan, have regulations which, in one form or another, restrict the harvest, the sale or the import for sale of striped bass and, as such, have no commercial allocation under the Plan. Some states prohibit the harvest for commercial purposes of striped bass in *their* state waters, but allow the sale of striped bass which are harvested outside of state waters and imported into the state. These regulations vary to such a degree from state to state that, under current laws, it may be possible to land fish caught within the EEZ and sell them within the state which has no commercial quota. How, then, are these fish counted against the overall coastwide harvest of striped bass? Furthermore, how would striped bass that are landed outside of the 13 states subject to the plan be counted against the coastwide harvest?

The answers to these questions raise other issues regarding the federal/state relationship in interstate commerce. By addressing the issue of striped bass in the EEZ, NMFS would establish a federal presence in the management of the population in the absence of a *federal* fishery management plan. Unlike the Magnuson Act which governs other fisheries within the EEZ, the Striped Bass Act (under which authority NMFS recently proposed reopening the EEZ) contains no provisions outlining the extent of jurisdiction of the federal government.

In attempting to clarify the answers to some of these questions, we spoke with representatives from NMFS as well as a fisheries administrator from a state that is central to the striped bass management program. The response from the NMFS officials was that the conflicting regulatory/enforcement problem "was the states' problem." Incredulously, the response from the state official was that it "was a federal problem." Clearly, these responses indicate that this proposed action is being taken in haste without due consideration to the actual effect on the fishery or the state's ability to adequately regulate and enforce harvest.

The sportfishing community, having been a primary supporter of the original Atlantic

Striped Bass Conservation Act and subsequent amendments, is very concerned about the continuing effectiveness of this act and the health of striped bass populations. Abundant fish populations are necessary to support a diverse sportfishing industry along the Atlantic coast. No species is more important to this industry than striped bass. At present, the problems that would arise from reopening the EEZ, both legal challenges and management concerns, far outweigh extremely limited benefits, if any, that can be attained. Are we to create a situation which results in an increased harvest from the EEZ that is not attributed to any state's quota (as well as maintaining or even expanding the mortality which is currently taking place in the EEZ) simply in an attempt to appease a small segment of the fishery? Will this action generate a flurry of lawsuits regarding management authority, needlessly tying up NMFS and state resources which could be better spent on finding solutions to other well documented fishery management problems?

In closing, striped bass is one of the most important species on the Atlantic coast to the sportfishing community. To reopen the EEZ would result in serious concerns over the enforceability of management plans and, perhaps result in furthering the conflicts created through the Atlantic Striped Bass Conservation Act between state and federal governments. We strongly support H.R. 2655 which keeps the EEZ closed to striped bass fishing until such times as these and other conflicts are thoroughly addressed and resolved.

Mr. Chairman, thank you for the opportunity to provide testimony on this important legislation.

Questions Submitted by the Honorable Peter G. Torkildsen
Before the Subcommittee on Fisheries, Wildlife and Oceans

Hearing on H.R. 2655

Atlantic Striped Bass Preservation Act of 1995

December 12, 1995

1. Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?
2. Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.
3. Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?

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Honorable Peter Torkildsen
U.S. House of Representatives
Committee on Resources

Dear Mr. Torkildsen;

Thank you for your interest in regard to the proposed Atlantic Striped bass Preservation Act of 1995, H.R. 2655. I will answer your questions in order of presentation as written on your enclosed letter.

1. I don't know of any precedent for congress extending a moratorium on a fishery. Stock depletion is a fairly recent occurrence, sometimes with many causes, (loss of habitat, pollution, and over-fishing to name a few). Our state and federal governments employ many scientists and fishery managers to manage our fish stocks. Theirs is not an easy job as fishery management is still a developing science. These people are doing the best that they can considering the many complex issues involved in fisheries management.

Congress absolutely should not, at this stage, micro-manage any fishery. The original Striped Bass Preservation Act was necessary because at the time fisheries managers didn't have the tools (power), or the guts to enact such a drastic cut back in landings. Times, and regulations change.

What congress should be doing regarding fisheries management is seeing that the managers have the tools to properly manage fisheries through reenactment of the Magnuson Conservation Act. Our legislators from coastal states, such as yourself, should educate our mid-western neighbors about the importance of the Clean Water

Act, and work through your differences to provide relief from those regulations that truly are unnecessary or not cost effective, while still providing adequate and necessary environmental protection. There are many similar problems with the Wetlands Preservation Act, but it is a very important piece of legislation that will, in time, along with the Clean Water Act, And Magnuson Conservation Act, restore and maintain our fishery resources. By micro- managing the Clean Water Act, The Wetlands Preservation Act, and the Magnuson Conservation Act, Congress will be doing what the fisheries managers cannot. Our fishery resources, and our public need a clean marine environment, and our Congress should be making sure we have it.

2. In regard to the M.A.F.M.C.'s exclusive jurisdiction over Striped Bass it should be pointed out that the A.S.M.F.C. has management jurisdiction over all state waters (out to 3 miles offshore), and that these waters historically account for over 90% of all Striped Bass landings. All coastal states have equal representation on the A.S.M.F.C. although fishery politics sometimes effects the equality of management plans.

In regard to the small amount of Striped Bass caught in federal waters, the M.A.F.M.C. was given exclusive jurisdiction presumably because that region historically accounts for the largest amount of Striped Bass caught. The problem you point out is an important one because there are many species of fish that have large migratory ranges that overlap into other management regions. I assure you that there are fishermen in every region who feel that they do not have proper representation because their regional council does not have exclusive jurisdiction over a certain fishery. What may be good management measures in one region may be totally inappropriate in another. Each council does appoint a liaison to attend their neighboring regions meetings, but their effectiveness is limited by the quality of their knowledge, and the power of their persuasion.

3. H.R.2655 is not necessary, but in taking a cautious approach to this fishery, the M.A.F.M.C..should extend the E.E.Z. moratorium until Jan.1, 1997. This will allow them ample time to address the

the many issues brought up by the recreational and commercial fishermen. I personally believe that their decision will be the same one, that the Striped bass stocks are recovered, and that limited harvest from federal waters should be allowed. All that this extension will accomplish is the continued waste of a valuable monetary, and nutritional commodity as regulatory discard.

Once again, thank you for your interest in this matter, and if I can be of any use to you concerning this subject, feel free to contact me.

Thank You,

Sincerely;

James Lovgren

A handwritten signature in cursive script, appearing to read "James Lovgren", written over the printed name.

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January 6, 1996

Honorable Congressman James Saxton
Chairman, Subcommittee on Fisheries,
Wildlife and Oceans
Committee on Resources
US House of Representatives
H1-805 O'Neill Building
Washington, DC 20515

**RE: Additional Testimony with Respect to H.R. 2655 (Atlantic Striped Bass
Preservation Act of 1995)**

Additional Questions Raised by the Honorable Congressman Peter Torkildsen

Dear Congressman Saxton:

I am in receipt of your December 13, 1995, correspondence in which you have provided the three (3) follow-up questions raised by the Honorable Peter G. Torkildsen with respect to H.R. 2655 (The Atlantic Striped Bass Preservation Act of 1995). In this regard, I would emphasize several points made in my initial testimony submitted on December 5, 1995, and verbally expanded upon before your subcommittee on December 12, 1995.

Further, with respect to the first paragraph of the additional questions raised by Congressman Torkildsen, I would note question 1:

Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress's role to micromanage the striped bass fishery? Should Congress micromanage any fishery?

The original Atlantic Striped Bass Conservation Act in conjunction with the applicable sections of the Magnuson Fishery Conservation and Management Act provide ample precedent for Congress imposing a moratorium, or any and all other applicable conservation measure on a fishery in general, or with respect to the specific striped bass fishery.

Seal Legend - Trinity

Land - Beach Plum

Sea - Striped Bass

Air - Sea Gull

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Further, the Congress has historically accepted its most important role of jurisdiction and management of various fisheries, as well as preventing the total depletion of fisheries for future generations. What some have inaccurately labeled as a "recovery" of the striped bass should be interpreted as a positive indication of the direction taken by the original Striped Bass Conservation Act, as well as a reason for extending the moratorium until such time as full data can be gathered and scientific conclusions and long term projections can be assessed with a reasonable degree of accuracy so that immediate re-opening of the fishery does not entirely reverse the progress made and devastate the species along the entire East Coast.

Finally, I would respectfully dissent from the use of the term "micromanage" as long established scientifically based reasonable management of our fish and natural resources must remain within the jurisdiction of the Federal Government and the Congress.

Question 2: Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.

My understanding of the procedures and regulations associated with the Council system show that one regional council does not have exclusive jurisdiction in matters related to striped bass or any other fishery. Historically, and logically, there has existed a lead Council which comes from the region which has the greatest proportion of a specific fishery located within its boundaries. Such would be the case with respect to striped bass whose numbers and major spawning areas exist in the greatest percentages within the jurisdiction of the Mid-Atlantic Council. Nevertheless, as demonstrated by testimony before the Committee, as well as by testimony before recently concluded hearings of the NMFS, public input and opinions and positions taken by all the other regional councils have indeed been part of the deliberating process concerning whether or not to continue the moratorium imposed upon taking of striped bass in the EEZ zone.

Ironically, there are significant numbers of recreational surf fisherman who frequent my own town of Seaside Park and other New Jersey's coastal communities, who actually reside in states not given any voice in a regional fishery Council. Ideally, the input from these individuals and their elected federal representatives, as well as input from all other regional Council's should be taken into account prior to the enactment of any regulatory or legislative action being imposed with respect to striped bass or any other fishery. The system thereby does indeed provide a voice for fisherman in New England, as well as those within the jurisdiction of other fishery management Councils.

Question 3: Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?

I would again re-emphasize those points made in my previously submitted written testimony and expanded upon in my verbal comments before the Subcommittee on December 12, 1995. Most importantly, I would again state that whatever degree of recovery of the striped bass fishery that currently exist has occurred simply because Congress had the foresight and wisdom to enact the moratorium currently in place. It would not be prudent or scientifically supportable at this point to react to a distinct minority of individuals from certain geographic locations who wish to immediately lift the moratorium and open the fishery up in the EEZ zone. The more prudent course, as recommended by H.R. 2655 (Atlantic Striped Bass Preservation Act of 1995) would be to allow up to five (5) years of additional time in which to fully assess the impact of the moratorium previously imposed and to allow a full assessment of data and scientific literature and study on what effect if any, the lifting of said moratorium would impose upon the long term future of this most vital recreational resource which forms a substantial part of our cultural and the economy of my own coastal community. It is my understanding that significant numbers of individuals from all states represented by the Subcommittee, including Massachusetts, have testified before the National Marine Fisheries Service to urge that the moratorium be kept in place for commercial striped bass fishing in the EEZ zone. I would urge your support for H.R. 2655, and I thank you very much for allowing me the opportunity to present some additional testimony and comments on this most vital Bill.

Respectfully submitted,



MAYOR JOHN A. PETERSON, JR.

JAP:jh

Sent via Federal Express No.: 8471502852 and telefax to: 202-225-8244

c: Honorable Peter Torkildsen sent via Federal Express No: 8471502874
 Ms. Kathy Miller - sent via Federal Express No.: 8471502863
 Seaside Park Borough Council

JERSEY COAST ANGLERS ASSOCIATION
Working For Marine Resource

1201 ROUTE 37 EAST, SUITE 9, TOMS RIVER NJ 08753
PHONE 908-506-6565 FAX 908-506-6975

Thomas Fote
22 Cruiser Court, Toms River, NJ 08753
ph 908-270-9102 fax 908-506-6409

Re: Questions pertaining to H.R. 2655

Dear Congressman Torkildsen,

Thank you for the opportunity to respond to your questions on the subject of maintaining the closure on the taking of striped bass in the Exclusive Economic Zone (EEZ) as detailed in H.R. 2655.

Question 1: Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?

The extending of the moratorium on the taking of striped bass, or any other fishery under the jurisdiction and management of the National Marine Fisheries Service for that matter, is within the purview of Congress. It was Congress that instituted the Atlantic Coast Striped Bass Conservation Act that authorized NMFS to take whatever steps were necessary, including imposing moratoria, to rebuild and then maintain the striped bass fishery in the first place.

Congress took these steps because this extremely important fishery was on the verge of total collapse and it is within the discretion of Congress to tell NMFS how long the moratorium must remain in place to complete the rebuilding process and allow the states to explore the legal ramifications of a reopening of the EEZ. It is our worst fear that when the EEZ reopens, states will be unprepared for possible legal implications and could inadvertently lose the ability to manage the fishery within their legal boundaries.

Please keep in mind that the National Marine Fisheries Service has a poor record of protecting certain fisheries. The New England ground fish debacle is a perfect example. With striped bass, you have the majority of the user groups coastwide telling NMFS to keep the EEZ moratorium in place until we can assess the impact of the most recent expansion of the harvest quota. The user groups are saying, "keep it closed," with the exception of a very small minority in specific geographic locations. Yet, NMFS is listening to that vocal minority that wishes to reap the fast rewards of the recovery now, rather than wait until the recovery can be better assessed and future harvest more controlled.

Question 2: Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.

The Council system is set up in such a manner as to have one regional council, usually the one that has the greatest proportion of a specific fishery within its boundaries, take the lead role in a specific management plan so as to reduce duplication and increase the productivity of the management process. The lead Council does not have exclusive jurisdiction in matters pertaining to that fishery and the process is set up in such a way that participation by other regional councils in drafting a fishery management plan is required.

Since the majority of the striped bass fishery is located within the states that make up the Mid-Atlantic Council, including the major spawning areas (the Hudson River, Chesapeake Bay, and now with the rebounding of the stocks, the Delaware River), it is only proper that the Mid-Atlantic Council should be the lead Council for a striped bass management plan for the EEZ. Public input into the system would be established through hearings held both within the states that make up the lead Council and also in areas outside that Council's boundaries, to be sure that the public's interests are heard.

Question 3: Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?

It is the belief of most fishermen involved in the striped bass recovery that the single greatest reason the recovery has reached its present state is because of the moratoria put in place and because Congress saw fit to give the lead role in managing the fishery back to the states. The states made the hard decisions, closed entire fisheries within their boundaries where necessary. They were removed from the Beltway politics that have often precluded the National Marine Fisheries Service from making hard decisions to rebuild the stocks. On a state level, fishermen were able to put enough pressure on officials responsible for rebuilding the fishery to take the prudent road and do whatever was necessary to save the fishery.

As you know from my earlier testimony, Congressman Torkildsen, I am the Governor's Appointee from New Jersey to the Atlantic States Marine Fisheries Commission. I attended the last Striped Bass Board meeting that was held in your state in early December. There were more than 25 representatives from your home state in the audience, some of which are your constituents. They came from the commercial, recreational and charter fishing industries and not one spoke in favor of reopening the EEZ. In fact, every one testified that the EEZ remain closed, many quoting H.R. 2655. Most of them were there representing large associations, speaking on behalf of hundreds of individuals. Everyone I've talked to from your home state before, during and after this meeting, were in opposition to reopening the EEZ. You can obtain all the spoken and written comments from your state by call the ASMFC office for transcripts.

If you would like a list of people and organizations from Massachusetts that I've spoken with concerning H.R. 2655, I would be happy to provide you with names, addresses and phone numbers, because they have all taken the position that the EEZ should remain closed. They are far too concerned with the importance of the striped bass fishery to risk taking this unnecessary step at this time. That is why there was such a cry from states throughout this fish's range not to reopen the EEZ. It was this cry that Congressman Saxton responded to by authoring and introduce H.R. 2655 and we ask that you support its passage.

Release For Tomorrow

A handwritten signature in black ink, appearing to read "Tom Fote", written in a cursive style.

Tom Fote

**NEW JERSEY
ALLIANCE TO SAVE FISHERIES**

Telephone (609) 296-6000

Post Office Box 308, New Gretna, NJ 08224

Fax (609) 296-3956



January 2, 1996

Subcommittee on Fisheries, Wildlife and Oceans
U. S. House of Representatives
Room H1-805 O'Neill Building
ATTENTION: Kathy Miller
Washington, DC 20515

Dear Subcommittee Members:

I would like to thank Mr. Saxton and the Subcommittee on Fisheries, Wildlife and Oceans for the honor of participating in this process. This issue is very important to the recreational fishing industry and its many anglers and also to commercial fishermen coastwise.

Mr. Torkildsen asks some very good questions and my responses are as follows:

1. *Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?*

Answer: Congress must step in now and protect this valuable fishery from the mismanagement problems and confusion that exists within the process. The ASMFC stated in March 1995 that this fishery was recovered and recommended to NMFS that the EEZ should be reopened for harvest. On December 7, 1995 at an ASMFC hearing in Braintree, Massachusetts, all commissioners who were present voted unanimously to reverse the March 1995 recommendation. Incidentally, new conflicts with the science have developed. At the Senate Hearing on December 12, 1995 regarding reauthorization of the Atlantic Striped Bass Act, Bureau of Wildlife and Fisheries' biologists reported to Senator Chaffee's committee that striped bass stocks were not fully recovered. This is in total contrast to biology reported by the ASMFC.

When mechanisms start to fail us and there are doubts, missing components and unresolved jurisdictional enforcement issues, the answer is "*yes, it is time for Congress to protect the resource until the Agency, the Council, the Commission and State Councils can sort out and solve these problems*". This will give us the time needed to implement an effective fishery management plan absent of fear from another fishery stock collapse. Yes, Congress should always have a management option to step in and micromanage any fishery when mismanagement from the normal process threatens a public resource.

Subcommittee on Fisheries, Wildlife and Oceans
Attention: Kathy Miller

January 2, 1996
Page 2

2. *Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.*

Answer: The Mid-Atlantic Fishery Council and the New England Fishery Council should be brought into the process if there is to be any harvest in the EEZ. This is the Councils' jurisdictional area and no F.M.P. has been devised for striped bass harvest. The Mid-Atlantic and New England Councils need to coordinate effective management plans with the ASMFC.

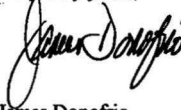
3. *Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?*

Answer: Striped bass is a success story; that is true. However, it was a success only because the indiscriminate and uncontrolled commercial netting was totally shut down for a number of years. Also, recreational bag limits were dramatically reduced. As stocks started to rebuild, very controlled commercial harvest in state waters was allowed and the EEZ remained closed. There was no magical management process. All prior jurisdictional, enforcement and by-catch problems are still with us.

In addition, there is no significant concentration of sexually mature female striped bass anywhere. In November and December the smaller concentrations migrate south to North Carolina waters and remain in the EEZ prior to their inland spawning migration in early spring. These often larger fish are very vulnerable and contribute significantly to the entire NE striped bass population.

This Bill, H.R. 2655, will insure protection and allow time for all the above-mentioned problems to be resolved. ***Yes, Mr. Saxton's Bill H.R. 2655 is necessary!***

Very truly yours,



James Donofrio
Executive Director

JD/pa
cc: The Honorable Peter Torkildsen



North Carolina Fisheries Association, Inc.

P.O. BOX 123K3
New Bern, N.C. 28561



Phone: (919)833-2288
FAX: (919)833-0616

Questions Submitted by the Honorable Peter G. Torkildsen
Before the Subcommittee on Fisheries, Wildlife and Oceans
Hearing on HR 2655
Atlantic Striped Bass Preservation Act of 1995
December 12, 1995
As Answered By The
North Carolina Fisheries Association, Inc.

1. Is there any precedent for Congress extending the moratorium on a fishery? Do you feel it is Congress' role to micromanage the striped bass fishery. Should Congress micromanage any fishery.

The North Carolina Fisheries Association does not feel Congress should micromanage any fishery. The Magnuson Act passed by Congress created the current management system containing regional councils and requirements for fishery management plans. One goal of Magnuson was to take management decisions out of the hands of individuals unfamiliar with fish species and give decision making authority to regional parties familiar with the specific fisheries. When Congress manages a fishery, this regional approach that ensures local input is circumvented.

3. Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?

HR 2655 which would extend the current moratorium on fishing for striped bass in federal waters for an additional five years is not needed. Since striped bass stocks along the east coast are showing dramatic signs of improvement, there is no biological need for a continued moratorium. The commercial industry has sacrificed greatly to ensure the recovery. Now that the stocks have recovered, the sacrifices of commercial and recreational fishermen alike should be rewarded, not punished by further prohibitions.

The vast majority of commercial catches of striped bass occur in federal waters, or the Exclusive Economic Zone (EEZ). HR 2655 which continues the moratorium only in the

EEZ is simply a move on the part of recreational interests to limit commercial activity, thus ensuring larger recreational catches in the future.

Continuing the moratorium will breach the faith commercial fishermen have in the management premise that compliance and sacrifices today will lead to better fishing tomorrow. In light of the striped bass recovery, now is the time to reward the sacrifices of fishermen, not punish them further.

One point that is often forgotten is that striped bass are part of a nationally owned public trust resource. Every citizen of this nation owns a piece of the striped bass pie. Most Americans who do not have the time or financial means to fish themselves choose to have their seafood caught by the commercial fishing industry and delivered to restaurants and retailers where it can be accessed. By limiting commercial catches, HR 2655 would continue to limit access to a public trust resource by the commercial fishing industry which, in this case, is just the delivery system for the American consumer.

viking yacht company

January 15, 1996

*** Letter Sent Via Fax to 202-225-1542 ***

Subcommittee on Fisheries, Wildlife and Oceans
U. S. House of Representatives
Room H1-805 O'Neill Building
ATTENTION: Kathy Miller
Washington, DC 20515

Dear Subcommittee Members:

I would like to take this opportunity to extend my thanks to the Subcommittee on Fisheries, Wildlife and Oceans for hearing my testimony on this very important issue to the boating industry.

Below please find my responses to Mr. Torkildsen's questions:

1. *Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?*

Answer: We know of no precedent for Congress extending the moratorium on this fishery. The only success story in the history of fisheries has been the return of the striped bass from a near collapse. This was the result of a total moratorium. This fishery is recovering but is not fully recovered.

NMFS, with strong pressure from North Carolina commercial fishing interests, attempted to lift the very moratorium that is bringing back this fishery. Based upon ASMFC scientists, they concluded the fishery was fully recovered and that lifting the moratorium would have no impact. U.S. Fish & Wildlife biologists testified before the Senate committee for the reauthorization of the Atlantic Striped Bass Act that this fishery was *not* fully recovered, which is in contradiction to the ASMFC and NMFS scientists. Only after 2000 recreational fishermen in New Jersey overwhelmed the NMFS public hearings did NMFS pull back their directive to reopen the EEZ.

NMFS, by admission, has no successful fishery management plan; and what was achieved by the moratorium on the striped bass, they were about to destroy. Unless Congress establishes a precedent and micro manages the striped bass fishery, we will *never* have a successful fishery management plan.

Subcommittee on Fisheries, Wildlife and Oceans
Attention: Kathy Miller

January 15, 1996
Page 2

2. *Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.*

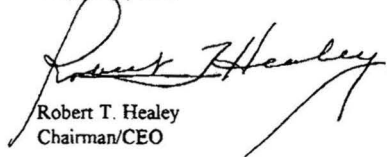
Answer: The New England Fishery Council and the Mid-Atlantic Fishery Council should work jointly with the ASMFC and manage this fishery with all the states involved to work out their jurisdictional problems.

3. *Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?*

Answer: As stated in answer #1, true, it is a success story but only because a total moratorium was in effect for many years. Now, with partial harvesting being allowed, the stocks have recovered to that allowable degree.

There has been no real magic as far as a management plan. All prior jurisdictional by-catch and enforcement problems still exist with this fishery. Mr. Saxton's bill, with Congressional protection, will allow management to work out these problems and put an effective management plan in process. This is why Bill H.R. 2655 is necessary.

Very truly yours,



Robert T. Healey
Chairman/CEO

RTH/pa

cc: The Honorable Peter Torkildsen

RESPONSES TO QUESTIONS

JOHN H. DUNNIGAN, Executive Director, Atlantic States Marine Fisheries Commission

1. Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?

ANSWER: H.R. 2655, the Atlantic Striped Bass Preservation Act of 1995, would extend the current moratorium on commercial harvest of striped bass in the federal waters of the Exclusive Economic Zone (EEZ) for at least five years, after which the fishery could be opened if the Mid-Atlantic Fishery Management Council develops and the Secretary of Commerce approves a fishery management plan for that fishery. The basic pattern of the Atlantic Striped Bass Conservation Act is to allow the Secretary of Commerce to tailor rules to the needs of the fishery. We are not immediately aware of similar moratorium action that Congress has taken with respect to a fishery, at least not one in which the states are the lead partners in management. The Commission believes that the Congress, the federal agencies, the states and the fishing constituency have all invested a lot in the existing process, and that Congress does not have to intervene in this case. This should be the case as a general rule for fisheries management (i.e., defer to administrative processes developed pursuant to statutes such as the Atlantic Striped Bass Conservation Act, the Atlantic Coastal Fisheries Cooperative Management Act and the Magnuson Fishery Conservation and Management Act), although specific facts would have to be evaluated individually.

2. Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.

ANSWER: It is our understanding that the Secretary of Commerce has designated the Mid-Atlantic Fishery Management Council as the lead for Atlantic striped bass under the Magnuson Fishery Conservation and Management Act pursuant to the authority contained in Section 304 (f)(1) of that law. Under normal Magnuson Act procedures, this would require consultation and coordination with the New England Fishery Management Council and the South Atlantic Fishery Management Council. However, given the comprehensive nature of the cooperative interstate fishery management program for Atlantic striped bass under the auspices of the Atlantic States Marine Fisheries Commission, it does not appear that there is any benefit to be gained from having a separate federal fishery management program as envisioned by H.R. 2655.

3. Striped bass is a success story. This fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill (H.R. 2655) necessary?

ANSWER: The Atlantic States Marine Fisheries Commission believes that H.R. 2655 is not necessary at this time for the effective management and prudent conservation of the Atlantic striped bass resource. The best way to successfully manage this resource is through the cooperative interstate and state-federal process established under the Atlantic Striped Bass Conservation Act.



NATIONAL FISHERIES INSTITUTE, INC.

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January 10, 1996

The Honorable James Saxton
Chairman
Subcommittee on Fisheries, Wildlife, and Oceans
Committee on Resources
805 O'Neill Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to respond to your request to answer questions submitted for the hearing record by Congressman Peter Torkildsen on H.R. 2655, the Atlantic Striped Bass Preservation Act of 1995.

QUESTION 1. Is there any precedent for Congress extending the moratorium on a fishery? Do you feel that it is Congress' role to micromanage the striped bass fishery? Should Congress micromanage any fishery?

ANSWER 1. To my understanding, Congress has never legislated the extension of a moratorium which would prohibit the opening of a fishery in federal waters. As a general rule, Congress should not micromanage the striped bass fishery, or any other fishery. Fisheries are best managed based upon scientific analysis by managers who have expertise in the fishery. Congress should intervene only when it is apparent that the management process has broken down. In this instance, we believe that intervention is premature, especially if the opening of federal waters will have little or no negative biological impact on the striped bass stocks. It is apparent that fishery managers and fishermen themselves do not want to see striped bass stocks plummet again.

QUESTION 2. Why should the Mid-Atlantic Fishery Management Council have exclusive jurisdiction over striped bass? There are many fishermen in New England who would not be represented if the Mid-Atlantic Council has exclusive jurisdiction.

ANSWER 2. Because striped bass is predominantly caught in state waters and is managed successfully under the Atlantic States Marine Fisheries Commission, we feel that the development of a fishery management plan for Atlantic striped bass developed by one regional council is not practical. The National Marine Fisheries Service has the authority and clearly stated the concerns in their proposed rule to open federal waters to the harvesting of striped bass. H.R. 2655 does direct the Mid-Atlantic Council to consult with the

The Honorable James Saxton
January 10, 1996
Page 2

New England and South Atlantic Councils and the ASMFC. However, the opening of federal waters affects such a small portion of historical landings that the development of a FMP by the Mid-Atlantic Council would be given a low priority. By having NMFS address this fishery management process directly, interested parties residing in all states along the Atlantic coast can expect fairness in developing the management plan.

QUESTION 3. Striped bass is a success story, this fishery beat the odds and came back as a result of the conservation efforts of both commercial and recreational fishermen. In your opinion, why is this bill necessary?

ANSWER 3. H.R. 2655 is not needed at this time and overstates the need and means for legislative protection of a stock that has made a remarkable recovery. In fact, if this legislation was to pass Congress it would set a dangerous precedent for the future management of fisheries, and especially commercial fishing.

The NFI looks forward to working with you to resolve your concerns. If you have any further questions, please feel free to contact me at (703) 524-8884.

Sincerely,

Bill Wright

BILL WRIGHT
Government Relations

CONGRESSMAN FRANK PALLONE, JR. *Sixth District of New Jersey*

FOR IMMEDIATE RELEASE: November 21, 1995
 CONTACT: Ted Loud (202) 225-4671

PALLONE PRAISES SAXTON STRIPED BASS LEGISLATION

Says E.E.Z. Exclusion Proposal Helps Further Goal of Game Fish Legislation

Rep. Frank Pallone, Jr., D-N.J., announced his cosponsorship of legislation introduced by Rep. Jim Saxton, R-N.J., that authorizes a five year extension of the current moratorium on the harvest of striped bass within the U.S. Exclusive Economic Zone (EEZ).

Pallone has been a fierce opponent of attempts to reopen federal and state waters to commercial fishing for striped bass and has sponsored legislation to make striped bass a game fish.

While Pallone supports Saxton's efforts, he urged his colleagues and fisherman to reaffirm their support for game fish status for striped bass.

"If we really want to protect the stocks, if we really want to preserve the thousands of jobs associated with the recreational fishing industry, we need to pass a game fish bill," Pallone said.

"The EEZ exclusion legislation will at least ensure continued protection of striped bass in federal waters. Given the tremendous level of interest in New Jersey, I'm looking forward to participating in next month's hearing."

Pallone is a member of the House Subcommittee on Fisheries, Oceans and Wildlife which has jurisdiction over fisheries management. Saxton is the Subcommittee's Chairman.

The Subcommittee is scheduled to hold a hearing on the legislation on December 5.

Earlier this month, Pallone provided testimony to federal officials opposing the reopening of the EEZ to striped bass fishing. Atlantic Striped Bass Stocks began declining in

- more -

the 1970s. Commercial harvests of striped bass declined precipitously in the period between 1973 to 1983 from 15 million pounds down to 3.5 million pounds.

Pallone also said that he thought that the moratorium should be amended to allow no-sale recreational harvest in accordance with the laws of the state in which the fish is landed.

"I believe that this is a good first step and it maintains the current status quo. But I think the stock has recovered to the point where limited recreational harvest could be allowed. I intended to work with Chairman Saxton and others to see if this makes sense and possibly find a way to accomplish this," Pallone concluded.

#

**New Jersey Alliance To Save Fisheries
POSITION PAPER
On the Proposed Opening of the
Exclusive Economic Zone (EEZ)
To Striped Bass Harvest**

The **New Jersey Alliance To Save Fisheries** asks that the proposed lifting of the moratorium to harvest Striped Bass in the Exclusive Economic Zone (EEZ) be rejected. No change should be considered until:

- ♦ Biological studies regarding impact to stock viability, vis-a-vis By-Catch mortality, are thoroughly studied;
- ♦ Conflicts between the interacting Federal agency, Atlantic States Marine Fishery Commission (ASMFC), and various state regulatory agencies must be resolved before any management plan can be effective. The reopening of this fishery could exacerbate the present conflicts. The agencies involved in this management regime are the National Marine Fisheries Service (NMFS), ASMFC and every State fish and game agency. The Mid-Atlantic Fishery Council should be brought into the process on this specific issue.

Fish caught inside the EEZ possibly will be landed, transported and sold within a state that has no commercial quota. How then are these fish counted in the overall coastwise harvest of striped bass? Furthermore, how would striped bass that are landed outside the thirteen (13) states that are subject to the Plan be counted against the coastwise harvest? How will we account for the likely increased by-catch?

If the EEZ is reopened, the NMFS has established a federal presence in this fishery's management despite the absence of a Federal Fishery Management Plan.

Therefore, we recommend that the NMFS maintain the closure to striped bass harvest in the EEZ while all the above-stated conflicts are addressed and resolved.

NEW JERSEY ALLIANCE TO SAVE FISHERIES

Robert T. Healey
Chairman

(609) 296-6000 Fax (609) 296-3956

"On the Bass River"
New Gretna, NJ 08224

James Donofrio
Executive Director

(908) 869-9463 Fax (908) 869-0721

FISHERIES CONSERVATION ALERT

PROPOSED REOPENING OF THE EEZ TO STRIPED BASS HARVEST

- Background:** The striped bass along the Atlantic Coast from Maine to North Carolina were depleted to near extinction in the early 1980's due to commercial overharvest and poor management.
- In 1988 the National Marine Fisheries Service (NMFS) implemented a moratorium on striped bass harvest in the Exclusive Economic Zone (EEZ), 3 to 200 miles. At the same time several states instituted gamefish status in their waters (up to 3 miles). Gamefish status prohibits the sale and commercial harvest of a species. As a result of these measures, striped bass stocks have been in recovery.
- Pending Issue:** In late September 1995, NMFS announced its plan to reopen the EEZ to commercial and recreational harvest of striped bass. A series of federal hearings are in process in some of the above coastal states, with a comment period ending on November 15, 1995. Thereafter, a determination will be made.
- Motive:** It is believed that commercial fishing lobby groups in North Carolina are exercising enormous pressure to reopen the EEZ for their benefit in conjunction with the striped bass migration to their wintering grounds. These wintering fish represent the main breeding stocks of the entire northeast striped bass population. We believe any harvest in this area will reverse the recovery which is now in progress.
- Major Concern:** NMFS, in their haste to accommodate a few commercial interests in North Carolina, have no federal fishery plan to preserve these stocks. The EEZ should not be reopened for harvest until a plan is developed that will ensure preservation of spawning fish and full recovery of the entire population.
- The Facts:**
- ✓ There are conflicting laws in coastal states effecting Striped Bass in the EEZ.
 - ✓ No statistical study shows that Striped Bass will not be depleted to near extinction.
 - ✓ Recreational fishing for Striped Bass generates over \$270 million annually to the economies of the above coastal states.
- Take Action:** Please request the postponement of the reopening of the EEZ for one (1) year to allow broader input from the states effected and development of a proper management plan. Immediate ly contact (Nov. 15 deadline):
- Roland Schmitt***, Director, National Marine Fisheries Service,
1335 East-West Highway, Room F, Silver Springs, MD 20910
Phone (301) 713-2239 Fax (301) 713-2258

MARINE PATROL SECTION OVERVIEW

The North Carolina Marine Patrol addresses the overall law enforcement efforts of the Division of Marine Fisheries. It is the police arm of the Division's efforts to meet statutory and rule obligations to the Department of Environment, Health and Natural Resources.

Marine Patrol officers are granted the general powers of peace officers throughout North Carolina, enforcing all matters within their respective subject matters and territorial jurisdiction. Additionally, Marine Patrol officers are authorized to arrest without warrant for felonies, breaches of the peace, assaults upon themselves or others in their presence, and other offenses which threaten the public trust and peace, or subvert the authority of the State of North Carolina.

The Patrol's marine resource enforcement obligations include:

- 1) 370,312 acres of water and bottom closed permanently due to pollution.
- 2) 50,000 acres closed to shellfishing periodically due to storm water runoff and waste treatment plant breakdown. These areas vary widely, and must be posted and patrolled to protect the public health.
- 3) 4,000 miles of ocean and estuarine shoreline. North Carolina has the largest estuarine area of any Atlantic coast state.
- 4) 21,941 commercial fishing licenses sold in 1994.
- 5) 11,785 shellfish and crab licenses sold in 1994.
- 6) the one million-plus sportfishermen utilizing our coast yearly.
- 7) routine patrols of the entire coastal area, to include the waters, fish houses, and wholesale/retail establishments. In addition, operations are conducted throughout the entire state to guard against the sale of illegal seafood products.

ACCOMPLISHMENTS

January through July, 1993 enforcement activities (warnings and citations) total 871; for the same time frame in 1994, 1,101. January through July, 1995 activities total 1,770. *Seven-month enforcement activities went from a total of 871 in 1993 to 1,770 in 1995 -- an increase of 103%.*

Annual totals (12 months) for 1993 statewide enforcement efforts show the issuance of 727 warnings and 938 citations; 1994 annual totals show 1,214 warnings and 1,504 citations issued. *Annual (12-month) enforcement activities show an increase of 63% from 1993 to 1994.*

Marine Patrol Section Overview
Page Two

ACCOMPLISHMENTS (Cont'd)

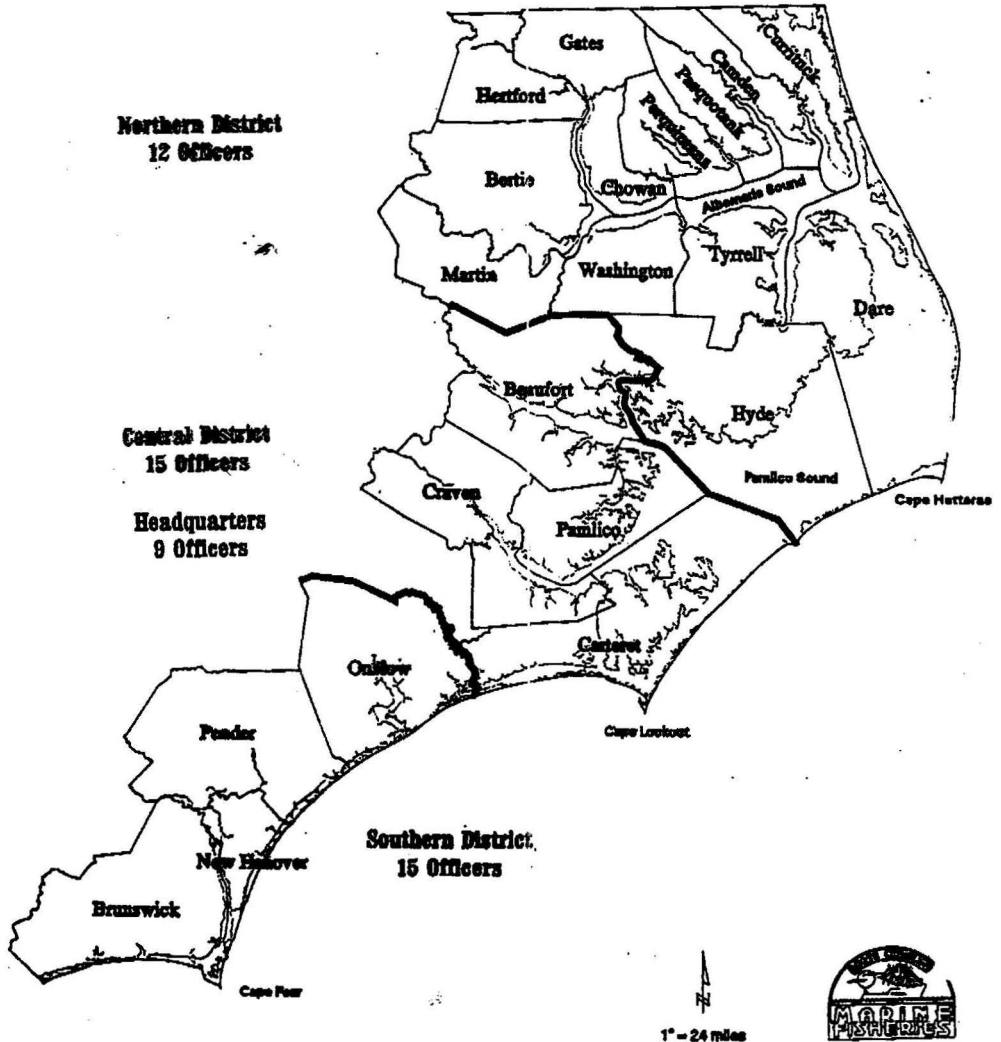
An inspection form and procedure was established in 1995 to better document officer interaction with the general public, fishermen, and dealer network. The revised weekly activity reporting form shows greater detail of Marine Patrol activity (ratio of enforcement hours to enforcement actions). Statistics are now detailed to show patrol hours (by boat, vehicle and aircraft), and total inspections of individuals, fish houses, and wholesale/retail markets.

Activity reports for the period January through July 1994 show total hours, with number of citations and warnings issued. Totals for the period show 32,339 enforcement hours exerted, and 1,101 actions taken -- a ratio of 1 action per 29 hours. (Inspections not resulting in a warning or citation were not recorded.)

For the same time frame (January through July) in 1995, totals show 22,621 patrol hours, 1,053 citations and 717 warnings issued, and 29,419 inspections. Ratio is now 1.3 actions per hour.

North Carolina Marine Patrol Coastal Law Enforcement Districts

Effective November 30, 1984



THE SUNDAY STAR-LEDGER, December 3, 1995

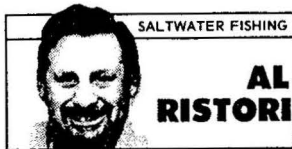
Saxton pushing bass moratorium

Rep. Jim Saxton (R-NJ) addressed the American Sportfishing Association (ASA) Northeast Regional meeting at Hershey Motel, Seaside Heights, yesterday and presented a positive tone to prospects for his recently introduced bill to maintain the moratorium on striped bass fishing in federal waters.

Saxton is chairman of the House Subcommittee on Fisheries, Oceans and Wildlife, and has signed on several other congressmen including New Jersey representatives Frank Pallone (D) and Chris Smith (R). Most importantly, Alaska congressman Don Young, who's chairman of the full committee, is also a cosponsor.

Saxton emphasized that additional cosponsors are needed in order to make his bill a high priority, and readers are urged to contact their congressmen about signing on. There's a strong push in North Carolina to open up federal waters as great numbers of large, pre-spawning bass winter over there and are easy targets for druggers. Though the National Marine Fisheries Service (NMFS) proposal calls for state laws to be observed should federal waters open up, they will be dependent on the Coast Guard for enforcement and that agency is backing off fisheries due to a lack of funds.

Commercial fishermen have discussed the possibility of going to court to use the interstate commerce clause in order to get the right to transport stripers from federal waters (if opened) through non-sale states to legal markets. This is just one of the possible loopholes that may be opened by the NMFS proposal, and with the lack of enforcement, you can bet that once netting of bass starts offshore it will soon carry into state waters at night.



SAXTON'S SUBCOMMITTEE sent the revised Atlantic Striped Bass Conservation Act to the Senate earlier this year, and he has contacted Sen. John Chafee (R-R.I.) about having his amendment added to the Senate bill presently being considered. Senators Bradley and Lautenberg should be asked to help in this effort.

The ASA is unanimously behind Saxton's bill and will be working to add cosponsors to it. There will also be an effort made at Thursday's meeting in Braintree, Maine, to have the Atlantic States Marine Fisheries Commission (ASMFC) take a position against overturning the federal moratorium. Even some inshore commercial groups are in favor of that position since the opening of federal waters may result in their having to share state quotas with druggers.

The state-by-state reports at yesterday's meeting didn't present as rosy a picture of striper abundance as that painted by John Field of the ASMFC during Friday's session. Brad Burns of Maine said they had loads of small bass up there, but fewer 28-inch bass and a relative scarcity of 36-inchers.

George Scocca of Nor-east Saltwater said the western end of Long Island Sound is clogged with school stripers from the Hudson River stock, but Montauk has been on-and-off lately and the south shore migratory run has been disappointing — particularly in terms of large bass.

Though Maryland's fall season got off to a fast start, stripers became much more difficult to catch as the weeks rolled by and Capt. Richard Novotny of the Maryland Saltwater Sportfishermen's Assn., like many others present, feels that too many bass are being removed from the biomass. I'll have more about what went on at the ASA meeting the last two days in future columns.

Government to protect big winter stripers

It is almost certain that the big striped bass that winter off the coasts of Virginia and North Carolina will be protected from a direct fishery this year.

The word from Washington is that the National Marine Fisheries Service is moving very deliberately on its proposal to open

federal waters to fishers for striped bass. A few North Carolina netters had been hoping to legally target the fish in December.



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This winter fishery, first direct and later as a bycatch to the spiny dogfish fishery, is regarded by some as being an obstacle to an even more rapid recovery of the striped bass stocks because the fish are traditionally all mature breeders.

Sources close to NMFS said yesterday that the government is aware that it has an image problem after the New Jersey hearings, and satisfying a few commercial netters by opening federal waters is a poor way to enhance it.

What the service has done is extend the public comment period on the proposal to Dec. 7, possibly longer, and is studying the enormous amount of testimony and letters on the issue.

Meanwhile, protection for the striped bass may be coming from another direction as Rep. H. James Saxton, R-N.J., introduced a bill Friday that would authorize a five-year extension of the moratorium on fishing for bass in federal waters.

Rep. Frank Pallone Jr., D-N.J., whose own bill making the striped exclusively a recreational fish was reintroduced early this year, is co-sponsoring the five-year bill to be known as the Atlantic Striped Bass Preservation Act of 1995.

Saxton said that he agrees with the NMFS belief that the striped bass stocks have grown substantially in the last few years through various conservation measures, but he wants protections put in place to avoid another decline.

"A well-researched, scientifically-based management plan will keep us from making the same mistake twice," he said. "My approach to protecting the striped bass population simply calls for this common-sense measure."

Saxton, who is chairman of the

House Subcommittee on Fisheries, Wildlife and Oceans, said the striped bass is too important to the recreational fishery to gamble with its future.

"We just can't turn our back on the striped bass population," he said. "In effect, we'd be turning our back on the local economy, which derives millions of dollars each year from the fishery."

Saxton said a congressional hearing on the bill is scheduled for Dec. 12 in The Capitol.

Surf anglers enjoyed probably their best three days of the season from Sandy Hook through north Long Branch this week, according to Ernie Giglio of Giglio's Bait and Tackle, Sea Bright.

"The fish are everywhere," he said. "One guy caught 40 bass and kept his limit."

Giglio caught four himself in an hour on clams at daybreak. His son, Tom, had six and nephew Jimmy Giglio, had four. Most were 24 to 26 inches.

Buddy Brazaitis of Clark caught a 33-pound bass, and Jamie Gibbons of Red Bank had an 18-pounder. John Guadagnino of Freehold had a 21 1/4-pounder, one of two bass he caught on Capt. Jerry Ciriello's Freddy C from Leonardo.

Ciriello said 47 bass were caught on the boat Monday night of which 38 were keepers and the heaviest 25 3/4 pounds. Bob Leonard of Seaside Park had two bass to 13 pounds.

John Bushell Jr. of Betty and Nick's Bait and Tackle, Seaside Park, said bass were caught all along the island Beach stretch yesterday with over 20 keepers weighed in the shop by noon.

Rich Mor of Trenton had a 22-pound, 1-ounce bass, and Fred Bogue had a pair that went 19 1/2 and 18 1/4. The black needlefish is a popular artificial with anglers throwing plugs.

Boats from most Shore area basins will be making Thanksgiving morning trips for striped bass, offering anglers a chance for action and still getting home in time for dinner.

Many anglers thought the Hudson Canyon tuna fishery was over, but Capt. Richie Mansfield proved otherwise when he brought the Jersey Giant back to Belmar Marine Basin with 35 yellowfin and a longfin yesterday. The fish ran from 40 to 70 pounds.

Mansfield said that the water temperature was 61 degrees where he fished and the area was loaded with bait — more than he saw there in the summer.

Pallone joins criticism of NMFS bass meeting

The echoes from the angry crowd of striped bass fishermen who were denied access to the federal fishery management process Monday night in Toms River were heard as far away as Washington yesterday.

The hearing drew an estimated 600 to 700 people, making it the largest in New Jersey since the management process began. Many who attended termed it the absolute worst.

Rep. Frank Pallone Jr., D-N.J., was outraged at the failure of the National



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Marine Fisheries Service to accommodate the crowd that clamored to be heard on the subject of reopening federal waters to the harvest of striped bass.

Pallone has been in the forefront of striped bass conservation efforts since he was a state legislator. His bill to make the striped bass a fish exclusively for sport fishermen is known coastwide as the "Pallone bill."

In a letter yesterday to Rolland Schmitt, director of NMFS, Pallone said he opposes reopening of the bass fishery in federal waters.

"There is no way that you or any member of your agency could know my opinion from the record of the Toms River hearing because my office, like other interested parties, was prohibited from presenting testimony that night," he said.

"It is outrageous that recreational and commercial fishermen, charter and party boat owners, sporting goods retailers and manufacturers, environmentalists and academics were shut out of the hearing process," he said.

"Due to extreme mismanagement and an apparent unwillingness to listen first-hand to those who will be affected by NMFS decisions, these people were either not allowed to speak or, even worse, not even allowed into the hearing," he said. "So poorly managed was the hearing that many of those who gained entrance could not hear the speakers or be heard above the din of the crowd."

Pallone urged Schmitt to not only extend the comment period, but to schedule another hearing in New Jersey in an appropriate forum.

Tackle shops and marinas were buzzing yesterday as fishermen shared their

feelings of frustration and anger and some called their legislators to express their concern over this latest NMFS fiasco.

At another NMFS hearing scheduled in Toms River in the spring, nearly 100 tuna fishermen turned out at the designated time, and the government did not show. At a NMFS bluefin tuna meeting in Belmar a few weeks ago, 220 fishermen attended and officials did not bother to record the comments.

Two good bay days

Barnegat Bay striped bass fishermen had their best two days of the season this week with six fish over 35 pounds weighed in at Nick Latorre's Bayway Bait and Tackle, Forked River, Lacey Township.

Scott Eno of Waretown nailed a 42-pounder yesterday, and Doug Blood of Lacey had a 47-pounder. Eric Suschke of Trenton caught a 40-pounder on Monday, Joe Daily of Forked River had a 42-pounder, Jerry Edwards had a 43-pounder and John Majkowski of Waretown had a 35-pounder.

Fluke fishing was interesting along the beach, and Capt. Bobby Bogan Jr. of the Gambler out of Point Pleasant Beach said most anglers had four and five fluke plus a nice showing of small blues.

Capt. George Bachert of the Fishermen, Atlantic Highlands, found slow fluke fishing along the Staten Island shore, and better action around the terminal channel.

Capt. Rob Semkewyc of the Sea Hunter out of Atlantic Highlands said five anglers had their limits of fluke on the morning trip. He fished Raritan Reach and expects good fishing for at least a week.

Surf fishing was slow in many areas yesterday, but a bluefish blitz erupted in the Seaside Park surf in the morning, and anglers had a field day with 3- to 7-pound fish.

The Spring Lake Live Liner Fishing Club won the Team Mullet Invitational Striped Bass Tournament with 104 points over the weekend. George Tompkins paced the winners with a 20-pound bass, the largest in the contest.

The Shark River Surf Anglers placed second with 63 points, and the Monmouth Beach Cartoppers placed third with 32 points. The Asbury Park Fishing Club was fourth with 24 points, Team Mullet fifth with 15, and the Berkeley Striper Club sixth with 13.

Anglers upset at proposal to allow netting of stripers

The sea turned as angry yesterday as some of the fishermen at Monday night's striped bass hearing in Toms River.

The fleet stayed tied at the dock, but the pitch of the rhetoric in the tackle shops and marinas was high. The recreational fishing community is still stirred up over the government proposal to net striped bass in federal waters.

Jim Donofrio, executive director of the New Jersey Alliance to Save Fisheries, said his phone rang all day.

"We sat back and watched a lot of these fisheries being decimated," he said. "A lot of guys in the party and charter-boat business, and a lot of tackle shop owners, took the hits."

"We didn't send our kids to the hearings to cry, we didn't ask for federal aid," he added. "We went out and got other jobs if we had to. We took our lumps, we stood tall, but we're not going to stand by and see them ruin the striped bass stocks again."

Last Friday, New Jersey officials traveled to Washington, D.C., to talk to legislators and National Marine Fisheries Service officials about the striped bass proposal. In addition to Donofrio, the officials included Dave Arbeitman, president of the Thousand Fathom Club; John Koegler of the Jersey Coast Anglers Association; and Bob Healy, a member of the board of directors of the New Jersey Alliance.

Arbeitman said the mission was to impress upon Washington the importance of the fishery to the recreational industry.

"They listened," he said. "We sat down with four people from NMFS, and we definitely got our point across."



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the struggle for quota; if federal waters are opened to striped bass fishing.

Rep. Robert E. Andrews, D-N.J., wrote NMFS director Roland Schmitt that he is opposed to the lifting of the moratorium.

In his letter, he wrote: "While I am optimistic about the recovery of the Atlantic striped bass stock, I remain extremely cautious about any rush to reopen the federal fishery."

"A resumption of striper fishing at the proposed levels could result in the same conditions that caused the destruction of the stock in the 1970s. I firmly believe that affording gamefish status, on the federal level, to the Atlantic striped bass is the only way to truly ensure protection of the stock."

Tom Fote, one of New Jersey's representatives to the Jersey Coast Anglers Association, said he had breakfast yesterday with Paul Perra and Dr. William Hogarth, both of the National Marine Fisheries Service's office of fisheries conservation and management.

"We stopped in at Betty and Nick's (bait and tackle shop in Seaside Park), and I explained that years ago there was a whole line of shops here," he said. "The shops went when the striped bass stocks declined. They

Arbeitman said support came from new sources such as Rep. Wayne Gilchrist, R-Md., whose Chesapeake Bay netters will lose in

were pretty impressed."

Earl Etzel, vice commodore of the Forked River Tuna Club, said his group is unified in its support against opening federal waters to striped bass netting and was well represented among the 525 fishermen who attended Monday night's hearing.

The club held a striped bass tournament over the weekend, and Jerry Edwards won with a 40.35-pound bass. Bill Whitson was second with a 31-pounder and Mike King third with one that went 18.25 pounds.

Edwards has caught five stripers over 30 pounds this season. Whitson fished with George Broome, the veteran bass fisherman whose daughter, Kathy, has won honors in the club's tournament twice in past years.

King fished with Bill Ridgeway, another veteran bass fisherman. They have placed among the top anglers in many of the club's tournaments.

The weather was bad over the weekend, but 38 boats were in the tournament and 23 stripers were caught. Chris Sullivan of Forked River caught the smallest bass, a 31-inch, 9-pounder.

Etzel said anglers interested in the club's tournaments next year or wanting information on the club can phone: (609) 693-5353.

Greg Bogan of Brielle Bait and Tackle said big stripers have finally started to show around Manasquan Inlet.

Al Bauer of Brick Township caught a 35-pounder on his boat, Kristen B. Bauer, and sons Al and Eric, and daughter Kristen, were trolling bunker spoons east of the inlet when the 46-inch bass hit. They also caught bluefish and weakfish.

Saxton bill will protect stripers

in federal waters

Though it appeared a few weeks ago that the National Marine Fisheries Service (NMFS) proposal to reopen federal waters to striped bass exploitation couldn't be stopped, the introduction of a bill by Rep. Jim Saxton (R-NJ) has changed that outlook completely.

Saxton's bill, H.R. 2655, has been titled the Atlantic Striped Bass Preservation Act. It authorizes a five-year extension of the current moratorium on retaining stripers in federal waters beyond the three-mile state zone.

Despite the increase in striped bass stocks after years of sharply reduced harvesting, Saxton agrees with most sportsmen that it makes sense to exercise extreme caution in order not to duplicate the mismanagement of the species during the last period of abundance in the 1960s and 1970s that led to

a severe decline.

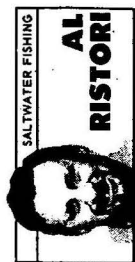
Not only will the Saxton bill extend the moratorium for five years, but it also requires that a fishery management plan be prepared before ending it. The mere filing of this bill should be enough to prevent NMFS from going ahead with their plan since Saxton is chairman of the House Subcommittee on Fisheries, Oceans and Wildlife, which holds the pursestrings of the agency.

REP. FRANK PALLONE (D-NJ), also now a member of the subcommittee, has cosponsored that bill and is a firm opponent of reopening federal waters to striped bass exploitation. He's even more concerned with solving the striped bass problem once and for all by making that species a game fish as

specified in his bill H.R. 393 which is cosponsored by N.J. congressmen Saxton, Zimmer, Smith, Tortorelli and Andrews.

A hearing on H.R. 2655 will be held in Longworth House Office Building at 10 a.m. Dec. 12. N.J. ASMFC Commissioner Tom Fote and Seaside Park Mayor Jim Peterson are among those scheduled to testify.

The complete change in this situation represents a triumph for the Alliance to Save Fishing. Executive Director Jimmy Donofrio ensured big turnouts for the NMFS hearings in Toms River (twice) and Long Branch, and while the overwhelming sentiment expressed by sportsmen at those hearings could be ignored by NMFS it certainly hasn't been overlooked by our congressmen.



SALTWATER FISHING

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Sport fishing community up in arms over proposal

An estimated 500 to 600 recreational fishermen, and related marine industry people showed their deep concern for the future of the Atlantic striped bass, by rallying at the National Marine Fisheries Service open hearing on Oct. 16.

The meeting was called by NMFS to discuss the proposed reopening of federal waters to commercial netting of stripers, a plan strongly opposed by the sport fishing community.

Reacting on short notice, the newly-formed New Jersey Alliance To Save Fisheries hit the deck running. They generated such interest in the hearing that recreational anglers came in overwhelming numbers. The Toms River fire marshall had to evacuate the over-filled Ocean County Administrative Building to relieve the fire hazard, and NMFS was forced to reschedule the hearing in a larger facility. The Alliance requested the meeting be held in a location with a capacity for at least 1,500 to 2,000 people, and an adequate sound system.

NMFS was ill-prepared for the aborted meeting, with no PA system. Speakers could not be heard



over the chants of, "No Nets, No Nets" from the angry sport fishermen, protesting any expansion of commercial netting of striped bass.

The new hearings in New Jersey are scheduled for 7 p.m., Nov. 7 at the Hilton Inn in Long Branch and at 7 p.m., Nov. 13 at the Holiday Inn in Toms River. Additional hearings will be held in Massachusetts, Connecticut, New York, and Virginia.

The Alliance is again urging anglers, boat captains, marina operators, bait and tackle shop owners, and everyone who benefits from recreational fishing, not only to attend the hearings and bring their pals, but to be prepared to speak out against the proposed expansion of commercial netting of stripers.

They point out that commercial netting of stripers has been banned in New Jersey since 1939. Over the years, further regulations eliminated the small by-catch exemptions in Delaware Bay. In 1991, New Jersey designated stripers as game fish, not legal for sale in the state.

The reopening of commercial netting just three miles off our beaches nullifies New Jersey's right to manage an extremely valuable fishery that is primarily and historically an inshore natural resource.

For more information and directions to the meeting, call Jim Donofrio, executive director of the

N.J. Alliance To Save Fisheries (908) 869-9463.

I'll be putting on a slide show about our Alaskan adventure last summer at 8 p.m., Nov. 7, at the meeting of the New Jersey Chapter of the Hudson River Fishermen's Association. We traveled to the Baranof Wilderness Lodge near Sitka on the Alaskan Panhandle, where we fished tidal rivers and saltwater areas, catching sea-run Dolly Varden trout, three species of Pacific salmon (chum, silver, and pink), and giant halibut. The meeting is at the Ridgefield Park VFW Hall, 109 Berger Turnpike.

Despite poor shad fishing results experienced this past spring by some anglers, shad population data and hydroacoustic data indicate that there was no serious downturn in the Delaware River shad population. The pattern of return suggests that the shad came through in a concentrated time period and in large numbers, making the timing of fishing trips very critical to success. It also seems that a significant portion of the run came through later than usual and after what normally had been considered the peak of the fishery.

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