

EEZ TRANSIT ZONE CLARIFICATION AND ACCESS ACT

APRIL 25, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 3070]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3070) to clarify that for purposes of all Federal laws governing marine fisheries management, the landward boundary of the exclusive economic zone between areas south of Montauk, New York, and Point Judith, Rhode Island, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “EEZ Transit Zone Clarification and Access Act”.

**SEC. 2. RECREATIONAL FISHING IN BLOCK ISLAND SOUND TRANSIT ZONE.**

(a) **IN GENERAL.**—The Secretary of Commerce, in consultation with the Atlantic States Marine Fisheries Commission, may issue regulations to permit and regulate recreational Atlantic striped bass fishing in the Block Island Sound Transit Zone.

(b) **BLOCK ISLAND SOUND TRANSIT ZONE DEFINED.**—In this section the term “Block Island Sound transit zone” means the area of the exclusive economic zone north of a line connecting Montauk Light, Montauk Point, New York, and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island, and Block Island Southeast Light, Block Island, Rhode Island.

(c) **SAVINGS CLAUSE.**—Nothing in this section or the regulations issued under this section shall affect—

(1) any permit that—

(A) is issued under any other provision of law by the National Oceanic and Atmospheric Administration, including a permit issued before the date of the enactment of this Act; and

(B) authorizes fishing in the Block Island Sound Transit Zone; or

(2) any activity authorized by such a permit.

Amend the title so as to read:

A bill to authorize the Secretary of Commerce to permit striped bass fishing in the Exclusive Economic Zone transit zone between Montauk, New York, and Point Judith, Rhode Island, and for other purposes.

#### PURPOSE OF THE BILL

The purpose of H.R. 3070, as ordered reported, is to authorize the Secretary of Commerce to permit striped bass fishing in the Exclusive Economic Zone transit zone between Montauk, New York, and Point Judith, Rhode Island.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 3070, as amended, improves access for Atlantic striped bass fishing under limited circumstances in the Block Island Sound transit zone, a strip of federal waters between Montauk, New York, and Block Island, Rhode Island.

The current management of the Atlantic striped bass fishery in state and federal waters is unique. Each state in the Atlantic region manages its own fisheries in state waters (0–3 miles from shore) or, in some cases, collectively through the Atlantic States Marine Fisheries Commission (ASMFC). As it relates to this bill, the National Oceanic and Atmospheric Administration (NOAA) manages fisheries in federal waters (3–200 miles from shore) through the Mid-Atlantic Fishery Management Council. According to NOAA, mid-Atlantic commercial fishermen grossed \$458 million in landings revenue in 2013, with key species for both commercial and recreational anglers being Atlantic striped bass and summer flounder.

The Atlantic striped bass is a migratory species that poses management challenges as it routinely crosses state boundaries and swims up rivers to spawn in the spring. In an effort to establish consistent and coordinated management among states, the ASMFC Striped Bass Management Board manages the species in state waters. State fishery managers from each participating Atlantic coastal state from Maine to Florida comprise the ASMFC. For striped bass, the states agree on and set a management goal for the entire state water fishery which usually consists of a percentage increase or decrease in harvest over the previous year. Once the management goal has been agreed to by the ASMFC, individual states can set their own management plans in a process called “conservation equivalency.” If the ASMFC technical committee finds that an individual state’s plan meets the parameters of the overall management goal already agreed to by the states, that individual state’s plan will go back to a full vote by the ASMFC. Conversely, if a specific state is found by the other participating states to be out of compliance with the plan approved by the ASMFC, the states can elect, by unanimous consent, to notify the U.S. Secretary of Commerce who is authorized to order the out-of-compliance state’s waters be shut down to striped bass fishing.

NOAA manages Atlantic striped bass in federal waters. However, commercial and recreational harvest of the species in federal waters is prohibited, in part, under Executive Order 13449. While the stock has rebounded from the 1980s—from 5 million in 1982 to 56 million in 2007, according to the federal government—NOAA

has not used its discretion under the Executive Order to lift this moratorium despite a 2003 ASMFC recommendation to do so.

There has been some regulatory confusion around Block Island Sound, a strip of federal water between Montauk, New York, and Block Island, Rhode Island. Specifically, the Natural Resources Committee heard testimony that this small strip of federal water, which is immediately adjacent to state waters, is a transit zone for fishermen who possess Atlantic striped bass in federal waters but caught such fish in neighboring state waters. Due to the lack of line demarcation, there is a risk of anglers receiving fines for inadvertently fishing in federal waters. As introduced, the bill aimed to resolve this regulatory confusion by adjusting the federal/state boundary in Block Island Sound to have the area managed under state jurisdiction.

Due to concerns regarding potential impacts of the boundary change, the bill was amended to authorize the U.S. Secretary of Commerce, in consultation with the ASMFC, to allow and regulate limited striped bass fishing in the Block Island Transit Zone. The bill, as amended, also protects existing federally permitted activities, such as lobstering.

#### SECTION-BY-SECTION ANALYSIS OF BILL, AS AMENDED

*Section 1.* This section designates the short title of the bill as the “EEZ Transit Zone Clarification and Access Act.”

*Section 2.* This section authorizes the U.S. Secretary of Commerce, in consultation with the ASMFC, to allow and regulate striped bass fishing, including rod and reel operations, in the Block Island Transit Zone. This section also includes language to ensure that the act will have no impact on federal permits in those waters.

#### COMMITTEE ACTION

H.R. 3070 was introduced on July 15, 2015, by Congressman Lee M. Zeldin (R-NY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On February 2, 2016, the Subcommittee held a hearing on the bill. On March 15, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Paul A. Gosar (R-AZ) offered an amendment in the nature of a substitute; it was adopted by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on March 16, 2016.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides

that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 21, 2016.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3070, the EEZ Transit Zone Clarification and Access Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL, *Director.*

Enclosure.

*H.R. 3070—EEZ Transit Zone Clarification and Access Act*

H.R. 3070 would authorize the Secretary of Commerce to permit recreational fishing for Atlantic striped bass between the eastern tip of Long Island and the coast of Rhode Island. That type of fishing is currently banned in that area, although the Secretary already has the authority to lift the ban. Aside from administrative costs of issuing regulations, which CBO estimates would be insignificant, there are no other budgetary consequences of maintaining or lifting this fishing ban in federal waters.

Enacting H.R. 3070 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3070 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office (CBO) has concluded that “[a]side from administrative costs of issuing regulations, which CBO estimates would be insignificant, there are no other budgetary consequences of maintaining or lifting this fishing ban in federal waters.”

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to authorize the Secretary of Commerce to permit striped bass fishing in the Exclusive Economic Zone transit zone between Montauk, New York, and Point Judith, Rhode Island.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.