

108TH CONGRESS
1ST SESSION

H. R. 2889

To direct the Secretary of Commerce to conduct a study of existing and new fishery observer data to effectively map migratory patterns, delineate wintering areas and feeding grounds of Atlantic Striped Bass in the Mid-Atlantic exclusive economic zone, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2003

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

A BILL

To direct the Secretary of Commerce to conduct a study of existing and new fishery observer data to effectively map migratory patterns, delineate wintering areas and feeding grounds of Atlantic Striped Bass in the Mid-Atlantic exclusive economic zone, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Atlantic Striped Bass
5 Protection Act of 2003”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

1 (1) To establish measures to minimize bycatch
2 and the mortality of such bycatch of Atlantic Striped
3 Bass, *Morone saxatilis*, occurring in the non-directed
4 fisheries that operate in the Mid-Atlantic exclusive
5 economic zone and encounter Atlantic Striped Bass
6 during seasonal migrations.

7 (2) To direct the Secretary of Commerce to
8 conduct a study of existing and new fishery observer
9 data, to effectively map migratory patterns, delin-
10 eate wintering areas, and feeding grounds of Atlan-
11 tic Striped Bass in the Mid-Atlantic exclusive eco-
12 nomic zone.

13 (3) To delineate areas of highest Atlantic
14 Striped Bass discard and bycatch associated with
15 mobile net gear on a seasonal-, spatial-, temporal-,
16 and gear-specific basis in the waters off the Mid-At-
17 lantic coast of the United States.

18 (4) To identify, through analysis of historical
19 and forthcoming at sea observer data, gear types,
20 and fisheries that experience high levels of Atlantic
21 Striped Bass discard and bycatch.

22 (5) To protect the historical opportunities of
23 the recreational Atlantic Striped Bass fishery, to
24 protect the various businesses and economic niches
25 that are wholly or partly dependent upon the rec-

1 recreational Atlantic Striped Bass fishery, to protect
2 the seasonal aggregations of Atlantic Striped Bass
3 that occur on wintering feeding grounds, to protect
4 the seasonal migrations of Atlantic Striped Bass
5 that occur in the Mid-Atlantic exclusive economic
6 zone, to amass an understanding of the bycatch of
7 Atlantic Striped Bass in the non-directed commer-
8 cial fisheries.

9 (6) To protect the historical opportunities of
10 the recreational Striped Bass fishery to ensure the
11 maintenance of the Atlantic Striped Bass stock and
12 will help achieve the conservation goals.

13 **SEC. 3. FINDINGS.**

14 The Congress finds the following:

15 (1) Once primarily a coastal, near shore fishery,
16 increasing numbers of Atlantic Striped Bass are oc-
17 cupying the Mid-Atlantic exclusive economic zone as
18 management measures have rebuilt stock levels to
19 unprecedented levels.

20 (2) Variations in weather and oceanographic
21 patterns have allowed Atlantic Striped Bass to ex-
22 pand their range farther offshore into the Mid-At-
23 lantic exclusive economic zone.

24 (3) Extensive coastal migrations of Atlantic
25 Striped Bass, which tend to be age- and sex-depend-

1 ent, occur annually in the Mid-Atlantic exclusive eco-
2 nomic zone.

3 (4) Atlantic Striped Bass also aggregate on bot-
4 tom features that tend to hold forage fish, including
5 herring, mackerel, menhaden, and utilize these areas
6 as winter-feeding grounds.

7 (5) These life history characteristics make large
8 numbers of Atlantic Striped Bass vulnerable to com-
9 mercial fishing gear.

10 (6) Commercial fishing efforts coinciding with
11 coastal migrations of Atlantic Striped Bass and that
12 occur on winter-feeding grounds is creating a by-
13 catch problem.

14 (7) A Federal moratorium on harvesting of At-
15 lantic Striped Bass in the Mid-Atlantic exclusive
16 economic zone was implemented in 1990 and it im-
17 posed possession and harvest prohibitions by both
18 recreational and commercial fishermen. This con-
19 servation measure contributed to the eventual recov-
20 ery of the Atlantic Striped Bass stock and continues
21 to keep Atlantic Striped Bass fishing mortality rate
22 below the applicable target. Yet the bycatch problem
23 in the Mid-Atlantic exclusive economic zone by the
24 non-directed fisheries is having a negative effect on
25 these benefits and further is in violation of the na-

1 tional standard set forth in section 301(a)(9) of the
2 Magnuson-Stevens Fishery Conservation and Man-
3 agement Act.

4 (8) As the bycatch of Atlantic Striped Bass in-
5 creases, it may increase the fishing mortality rate of
6 Atlantic Striped Bass above the 0.30 target as dic-
7 tated in Amendment 6 of the Interstate Fishery
8 Management Plan for Atlantic Striped Bass. Provi-
9 sions in Amendment 6 further attempt to increase
10 the number of larger Atlantic Striped Bass in the
11 population and develop a fuller age structure. Pre-
12 liminary reports indicate that the growing stock of
13 Atlantic Striped Bass in the Mid-Atlantic exclusive
14 economic zone is largely composed of older fish,
15 which would compromise the conservation goals of
16 Amendment 6 which attempts to increase the per-
17 centage of the larger Atlantic Striped Bass. This Act
18 will initiate data collection to better understand this
19 issue and move forward with the necessary manage-
20 ment measures.

21 **SEC. 4. STUDY OF ATLANTIC STRIPED BASS IN THE MID-AT-**
22 **LANTIC EXCLUSIVE ECONOMIC ZONE.**

23 (a) IN GENERAL.—The Secretary of Commerce shall
24 conduct a study—

1 (1) to use data gathered by observers on fishing
2 vessels to effectively map migratory patterns, win-
3 tering areas, and feeding grounds of Atlantic Striped
4 Bass in the waters of the Mid-Atlantic exclusive eco-
5 nomic zone—

6 (A) including—

7 (i) data from observer trip records
8 from 1992 through 2002; and

9 (ii) data regarding fisheries using an-
10 chored sink gillnets, drift sink gillnets,
11 small mesh trawls, large mesh trawls, mid-
12 water trawls, and pair trawls; and

13 (B) paying particular attention to trips
14 targeting monkfish, herring, mackerel, spiny
15 dogfish, weakfish, croaker, summer flounder,
16 and loligo;

17 (2) use data referred to in paragraph (1) to—

18 (A) identify and map, on a spatial and
19 temporal scale, locations in which deployed gear
20 caught or discarded Atlantic Striped Bass in
21 excess of 10 percent of the target species land-
22 ed on that trip; and

23 (B) identify gear types that result in catch
24 or discard of bycatch of Atlantic Striped Bass

1 in excess of 10 percent of the total of target
2 species landed;

3 (3) confirm data referred to in paragraph (1),
4 using observers on—

5 (A) fishing vessels operating in areas and
6 during times identified under paragraph (2)(A);
7 and

8 (B) fishing vessels using gear identified
9 under paragraph (2)(B).

10 (b) REPORT.—

11 (1) IN GENERAL.—Not later than 3 years after
12 the date of the enactment of this Act, the Secretary
13 shall submit to the Congress a report on the findings
14 and conclusions of the study under this section.

15 (2) CONTENTS.—The report shall include the
16 following:

17 (A) The months of the year during which
18 Atlantic Striped Bass are most abundant in the
19 Mid-Atlantic exclusive economic zone.

20 (B) The areas in the Mid-Atlantic exclusive
21 economic zone that are wintering grounds for
22 Atlantic Striped Bass.

23 (C) The areas in the Mid-Atlantic exclusive
24 economic zone that are feeding grounds for At-
25 lantic Striped Bass.

1 (D) The areas in the Mid-Atlantic exclu-
2 sive economic zone where the core of the annual
3 coastal migration of Atlantic Striped Bass is lo-
4 cated on a weekly basis.

5 (E) The estimated biomass, age structure,
6 and sex ratio of the annual coastal migration of
7 Atlantic Striped Bass.

8 (F) The months each year in which the
9 coastal migration of Atlantic Striped Bass expe-
10 riences elevated levels of bycatch in the non-di-
11 rected commercial fisheries.

12 (G) The gear types that account for the
13 highest amounts of Atlantic Striped Bass by-
14 catch.

15 (H) A description of how the actions of the
16 non-directed Atlantic Striped Bass commercial
17 fisheries in Mid-Atlantic exclusive economic
18 zone—

19 (i) affect recreational opportunities in
20 the fishery; and

21 (ii) affect the Atlantic Striped Bass
22 stock as one management unit.

23 **SEC. 5. MANAGEMENT MEASURES.**

24 (a) IN GENERAL.—Not later than 1 year after the
25 date the Secretary submits the report under section 4(b),

1 the Secretary shall promulgate regulations under section
2 9 of the Atlantic Striped Bass Conservation Act (16
3 U.S.C. 1851 note) that are based on the findings of the
4 study under section 4 of this Act and that establish con-
5 servation and management measures (as that term is used
6 in the Magnuson-Stevens Fishery Conservation and Man-
7 agement Act (16 U.S.C. 1801 et seq.) to minimize the by-
8 catch and mortality of bycatch of Atlantic Striped Bass
9 caught in non-directed commercial fishing in the Mid-At-
10 lantic exclusive economic zone.

11 (b) TEMPORARY CLOSURES.—

12 (1) IN GENERAL.—Regulations under this sec-
13 tion shall include temporary closure of any area
14 identified in the study under section 4 as a location
15 in which there is a particularly high level of Atlantic
16 Striped Bass in non-directed commercial fishing,
17 under which the deployment of net, finfish trap, or
18 longline gear by any vessel fishing under a Federal
19 fishing permit shall be prohibited.

20 (2) DURATION AND LOCATION.—The Secretary
21 shall—

22 (A) base the duration and location of any
23 temporary closure on the findings of an analysis
24 of observer data; and

1 (B) design the period of such closure to co-
2 incide with periods in which there are high lev-
3 els of Striped Bass interactions in the exclusive
4 economic zone.

5 (c) POSSESSION REGULATIONS.—Regulations under
6 this section shall not affect regulations in effect on the
7 date of the enactment of this Act under section 9 of the
8 Atlantic Striped Bass Conservation Act (16 U.S.C. 5158)
9 governing possession of Atlantic Striped Bass in the Mid-
10 Atlantic exclusive economic zone.

11 **SEC. 6. PEER REVIEW.**

12 Before issuing any final report under section 4 or
13 final regulations under section 5, the Secretary shall sub-
14 mit the report or regulations, respectively to peer review
15 by the Northeast Fishery Science Center of the National
16 Marine Fisheries Service.

17 **SEC. 7. DEFINITIONS.**

18 In this Act:

19 (1) MID-ATLANTIC EXCLUSIVE ECONOMIC
20 ZONE.—The term “Mid-Atlantic exclusive economic
21 zone” means waters of the exclusive economic zone
22 along the Atlantic coast of the United States located
23 between 41°5′ North latitude and 35°10′ south lati-
24 tude.

1 (2) EXCLUSIVE ECONOMIC ZONE.—The term
2 “exclusive economic zone” has the meaning given
3 that term is section 3 of the Magnuson-Stevens
4 Fishery Conservation and Management Act (16
5 U.S.C. 1802).

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of Commerce.

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