

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42 Changes to Striped Bass Slot Limit

CONCISE SUMMARY: On May 18, 2023, DMR adopted an emergency rule to come into compliance with the Atlantic Striped Bass Fishery Management Plan at the Atlantic States Marine Fisheries Commission (ASMFC). DMR is adopting the change to the striped bass slot limit as part of its regular rules. This rule implements a 31-inch maximum size limit in the striped bass recreational fishery. As a result, it is unlawful to take or possess striped bass unless they are between 28-inches and 31-inches, inclusive. This action ensures continued compliance with the ASMFC fishery management plan.

ADOPTED RULE NUMBER:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

EFFECTIVE DATE:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

AGENCY CONTACT PERSON:

Deirdre Gilbert

AGENCY NAME:

Department of Marine Resources

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Augusta, Maine 04333

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Please approve bottom portion of this form and assign appropriate MFASIS number.

APPROVED FOR PAYMENT					DATE:
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
10	13A	1120	10	4946	regulations

Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta

DEPARTMENT OF MARINE RESOURCES

CHAPTER 42: STRIPED BASS

42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

2. Size Restrictions

It is unlawful to take or possess striped bass which are less than 28 inches long, or ~~equal to or greater than 35~~ 31 inches long, in total length. It is unlawful to possess striped bass unless the fish are whole with head on, and are between 28 inches and 31 inches, inclusive. ~~equal to or greater than 28 inches and less than 35 inches long.~~

Basis Statement

On May 18, 2023, DMR adopted an emergency rule to come into compliance with the Atlantic Striped Bass Fishery Management Plan at the Atlantic States Marine Fisheries Commission (ASMFC). DMR is adopting the change to the striped bass slot limit as part of its regular rules. This rule implements a 31-inch maximum size limit in the striped bass recreational fishery. As a result, it is unlawful to take or possess striped bass unless they are between 28-inches and 31-inches, inclusive. This action ensures continued compliance with the ASMFC fishery management plan.

Summary of Comments

On June 21, 2023, the rule was posted on DMR’s website. Notice was also published on June 21, 2023, in the five major daily newspapers by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR’s rulemaking and aquaculture notices. A public hearing was held both in-person and remotely at 4:30 p.m. on July 12, 2023. The in-person hearing was held at DMR’s Augusta office, and the remote component was held via Microsoft Teams. No members of the public attended in-person. The comment period closed July 24, 2023.

The hybrid hearing was attended by the following individuals:

Name	Affiliation
Patrick Keliher, Megan Ware, Deirdre Gilbert	Maine Department of Marine Resources
Peter Fallon	Maine Charterboat Captains Association
Will Poston	American Saltwater Guides Association
Brian Butterfield	

Marshall White, South Berwick received via email, June 21, 2023

Hello and thank you for offering the opportunity to make a comment on Chapter 42 - slot limit emergency change. I am 100% in favor of This and would be in favor of an even more conservative moratorium. Supporting the weak year classes to increase overall healthy stocks of all sizes is a win for everyone- even six pack captains businesses. The science must be accepted by both sides regardless of what it portends. Thank you

Peter Fallon, July 12, 2023, Public Hearing

My name is Peter Fallon, Phippsburg Maine. I'm a for-hire operator. I'm in favor of the proposal and I hope the Advisory Council will approve it. I am also the President of the Maine Association of Charterboat Captains, and while we did not poll our Members about the change in regulation, I can tell you that I heard from a number of folks, other for-hire operators in Maine, following the ASMFC meeting where the emergency action was implemented and everybody that I heard from was in favor of that emergency action and since that time I've not heard from any of our Members who are opposed to the current regulation. So I hope the Advisory Council will make quick work of it and approve.

Will Poston, July 12, 2023, Public Hearing

I'm with the American Saltwater Guides Association, and would love to echo Peter Fallon's comments. The American Saltwater Guides Association has always supported the emergency action measure and any action and actions to ensure that we rebuild this stock by 2029 and commend Maine for their strong leadership for conserving this essential stock.

Sam Adams, Small Point, received via email, July 15, 2023

I am writing to support the proposed rulemaking regarding Chapter 42.01 Changes to Striped Bass Slot Limit to bring this in line with the ASMFC emergency size limit.

As a lifelong striped bass recreational fisherman in midcoast Maine, and current Registered Maine Tidewater Guide, I have seen this species through dramatic cycles of abundance and decline. Each cycle of decline has been brought about by overfishing of this species along the Atlantic coast, particularly of the large breeding fish disproportionately responsible for maintaining the stock. These so called "trophy" fish are essential to maintaining the overall presence of the species on our coast, yet they have been removed in disproportionate numbers. It is obvious that this is the driver of the current decline in stripers above 31 inches witnessed by recreational fishers all along our coast. My fishing friends and I have noted a sharp decline in larger fish over the last three years in particular, while schoolie-sized fish ranging up to the top of the slot limit have been relatively abundant.

The loss of larger stripers is not Maine's doing alone. By the time these fish arrive in Maine they have been through a gauntlet of bad fishing practices in other states. It pains me to see photographs of large dead breeding-stock stripers piled in the docks of marinas in states to our south and west. But Maine can do something about this loss by protecting medium and large striped bass that enter our waters. This will help stem the decline of the species and help preserve fishing opportunities for Maine citizens and those who come to our shores. Adopting the 31 inch maximum limit will thus promote both environmental and economic benefits.

I urge you to adopt the emergency limit of a maximum of 31 inches for all striped bass, with the slot limit of 28-31 inches for fish taken or possessed.

Thank you.

Germain Cloutier, Small Point, received via email, July 24, 2023

Hello,

After reviewing a lot of info, I would like to add my Public Comment. As far as the Current Emergency Slot of 28-31". It would be GREAT to see this continue. I think Maine should lead the way in Conservation of Striped Bass and also speak to surrounding states such as Massachusetts to have Gamefish status put on Striped Bass.

As far as the Saco River area being closed, this was an amazingly awesome move by the State of Maine to try and stop the poaching, mishandling and so much more that happens in that area. It may even be worth it for the State to look at Banning the use of Live Alewives/River Herring. I sure hope that Maine continues to put the Striped Bass first.

Also a final thought, the recent event in the news about the Large Gill Net that was Killing lots of striped Bass and Sturgeon should be look at as well. This should NOT be allowed going

forward. It was clear from the pictures and videos that the gill net holes were large and meant to kill larger fish, these practices are unacceptable. Thank you for your time and I hope that Maine will continue to Speak up for striped bass at the ASMFC meetings and not sell out looking for menhaden quota transfers.

Thank you,
Germain Cloutier

DMR response: Thank you for your comment and concerns about impacts on striped bass. As regards the specific gill net referenced, early media reports were not well informed by the facts of the situation and have since been corrected. The initial reports of significant numbers of dead striped bass and sturgeon were not accurate.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6553; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 42.01 Changes to Striped Bass Slot Limit

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): July 12, 2023, 4:00 p.m., DMR Offices, Room 118 Marquardt Building (32 Blossom Lane, Augusta ME), with an option to participate remotely via Microsoft Teams. For information on how to join the hearing, please visit: www.maine.gov/dmr. Instructions will be posted on DMR's homepage under meetings and events.

COMMENT DEADLINE: July 24, 2023

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

This proposal is intended to manage the striped bass fishery in compliance with the fishery management plan at the Atlantic States Marine Fisheries Commission.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

This proposal would decrease the maximum size limit for striped bass, reducing the sizes of striped bass which can be harvested. This is anticipated to reduce recreational harvest of striped bass in Maine and support rebuilding of the stock.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]:

This proposal considered action taken at the May 2, 2023 Atlantic Striped Bass Board meeting, including technical analysis on updated probabilities of rebuilding, motions made at the meeting, and discussion had by the Board.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.