

NOTICE OF AGENCY EMERGENCY RULE-MAKING**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 42: Striped Bass

CONCISE SUMMARY: This emergency rule is necessary to come into compliance with the Atlantic States Marine Fisheries Commission's Striped Bass Fishery Management Plan. This rule defines the types of bait with which circle hooks must be used, identifies what happens if a striped bass is incidentally caught while targeting other species with non-circle hooks with bait, and maintaining Maine's exemption for rubber and latex tube rigs. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the circle hook requirements in the striped bass recreational fishery in accordance with 12 MRS §6171(3)(C). The Department will follow this emergency rule with a regular rulemaking, which will provide an opportunity for public comment.

EFFECTIVE DATE: June 1, 2021

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DEPARTMENT OF MARINE RESOURCES

CHAPTER 42: STRIPED BASS

42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

1. **Method of Taking**

- A. It is unlawful to fish for or take striped bass in territorial waters, except by hook and line. It is unlawful to use a gaff to land any striped bass.
- B. It is unlawful to use multiple (more than two) barbed or barbless treble hooks on any artificial lure or flies while fishing for striped bass in territorial waters.
- C. It is unlawful to use treble hooks when using bait.

~~The following becomes effective January 1, 2013:~~

It is unlawful to use any hook other than a circle hook when using bait. For purposes of this chapter the definition of circle hook means "a non-offset hook with a point that points 90° back toward the shaft of the hook". Striped bass incidentally caught on any unapproved hook type must be returned to the water immediately without unnecessary injury.

For the purposes of this section, bait is defined as any marine or freshwater organism live or dead, whole or parts thereof, and earthworms, including but not limited to, night crawlers (*Lumbricus terrestris*).

Exception: Rubber or latex tube rigs will be exempt from the circle hook restriction as long as they conform with the following: the lure must consist of a minimum of 8" of latex or rubber tubing with a single hook protruding from the end portion of the tubing where bait may be attached. Use of treble hooks is not allowed with these rigs.

- D. Any striped bass legally taken from the territorial waters shall be immediately released alive into the water from which it was taken, or killed at once. Any striped bass killed becomes part of the daily bag limit in accordance with Chapter 42.02.

Basis Statement

The Commissioner adopts this emergency rule to come into compliance with the Atlantic States Marine Fisheries Commission (ASMFC). Specifically, the emergency rule identifies a definition of 'bait' for the circle hook requirement and specifies what happens if striped bass are incidentally caught when targeting other species with non-circle hooks with bait attached.

Striped bass are managed by ASMFC. As a part of Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, the use of circle hooks is required when recreationally fishing for striped bass with bait. As states along the Atlantic coast worked to implement this regulation, many questions arose including how bait should be defined, does the requirement apply to artificial lures with bait attached, and what happens if an angler incidentally catches a striped bass with a non-circle hook. At a March 2021 meeting, the Atlantic Striped Bass Management Board approved clarifications to the striped bass circle hook requirement. This included defining bait and specifying that striped bass incidentally caught with non-circle hooks with bait attached must be released. The Board also exempted artificial lures with bait attached from the circle hook requirement, allowing Maine to maintain its current exemption for rubber and latex tube rigs.

ME DMR must modify its striped bass regulation to come into compliance with the ASMFC Striped Bass Interstate Fishery Management Plan. Further, establishing additional information on the required use of circle hooks will provide clarity to recreational anglers and support Maine Marine Patrol efforts. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the circle hook requirements in the striped bass recreational fishery in accordance with 12 MRS §6171(3)(C). ME DMR will follow this emergency rulemaking with regular rulemaking to provide for public comment.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: Chapter 42: Striped Bass

STATUTORY AUTHORITY: 12 M.R.S. 6171(3)(C)

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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

This rule provides greater detail regarding the required use of circle hooks in the striped bass recreational fishery, as outlined by the Atlantic States Marine Fisheries Commission. It ensures compliance with the Atlantic Striped Bass Fishery Management Plan.

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

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

This rule identifies situations where the use of circle hooks are required in the striped bass recreational fishery. This rule will provide clarity to both anglers and Maine Marine Patrol.

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 rule considered Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan as well as the meeting of the Atlantic Striped Bass Management Board on March 16, 2021.

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

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

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.