

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42.01 Striped Bass Slot Limit

CONCISE SUMMARY: This rulemaking responds to emergency action taken by the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Striped Bass Board to reduce the maximum size limit in the recreational striped bass fishery to 31-inches. This action was taken in response to a significant increase in 2022 recreational removals which substantially reduced the probability of rebuilding the stock by 2029. As a result, a 28-inch to 31-inch slot limit should reduce harvest, provide greater protection to the 2015 year-class, support a higher probability of rebuilding, and maintain compliance with the ASMFC fishery management plan. For these reasons, the Commissioner hereby adopts an emergency action to modify Maine's striped bass slot limit to be 28-inches to 31-inches, inclusive, as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: May 18, 2023

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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

The Commissioner adopts this emergency rulemaking to modify the striped bass slot limit to come into compliance with recent action taken at the Atlantic States Marine Fisheries Commission (ASMFC). Striped bass are managed by the Atlantic Striped Bass Management Board (Board) at ASMFC. At its May 2 meeting, the Board voted to approve an emergency action to implement a 31-inch maximum size limit in the recreational striped bass fishery where a higher, or no, maximum size limit currently exists. Given Maine's existing slot limit is 28-inches to less than 35-inches, Maine must amend its regulations to come into compliance with this emergency action.

At its May 2 meeting, the Striped Bass Board reviewed 2022 catch information which showed a significant increase in recreational harvest as the 2015 year-class moved into the existing slot limit. As a result of this higher level of fishing mortality, updated projections showed significant declines in the stock's probability of rebuilding by 2029, dropping from 97% under the lower 2021 fishing mortality rate to less than 15% if the higher 2022 fishing mortality rate continues each year. Based on this information and the potential for high recreational harvest again in 2023, the Board took emergency action for the 2023 fishing year to implement a 31-inch maximum size limit in the recreational fishery where a higher (or no) maximum size limit currently exists. This action is intended to provide greater protection to the 2015 year-class as it moves through the ocean recreational fishery and support a higher probability of rebuilding by 2029.

Importantly, this action ensures compliance with the ASMFC fishery management plan for striped bass. It also provides greater protection to the striped bass stock which is overfished and in a 10-year rebuilding plan. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the slot limit for striped bass to be 28-inches to 31-inches, inclusive, with 12 MRS §6171(3)(C).

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: Chapter 42.01 Striped Bass Slot Limit

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 action 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 ___ X NO [§8056(1)(B)]

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

This rule will decrease the maximum size limit for striped bass, thereby 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 rule 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 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.