

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 42 Striped Bass

Currently, it is unlawful for any person to take or possess striped bass which are less than 28 inches in total length. This rule modifies the existing regulatory requirement by adding a maximum size limit, such that it is also unlawful for any person to take or possess striped bass which are 35 inches in total length or longer. This rule is needed to come into compliance with the Atlantic States Marine Fisheries Commission’s Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, which is intended to address the overfishing status of the stock.

**ADOPTED RULE NUMBER:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**

**EFFECTIVE DATE:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573  
**AGENCY NAME:** Department of Marine Resources  
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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	
010                      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

##### 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".

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.

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

#### 42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for, take or possess striped bass in or from territorial waters, except for personal use. The sale of wild striped bass caught for personal use or by commercial fisheries in other States or jurisdictions is prohibited in the State of Maine.

It is unlawful for any person to take or possess more than one (1) striped bass each day ~~which may be 28 inches in total length or greater.~~

Exception for Hybrid Striped Bass:

This Section shall not apply to the possession and sale of hybrid striped bass under the following conditions:

- 1. Hybrids (*Morone saxatilis* x *Morone chrysops*). Whole aquaculture raised striped bass shall have a tag or label affixed to each fish container holding fish.
- 2. Fillets. Fillets from aquaculture-raised hybrid striped bass shall have the skin attached.

3. Tags and Labels. All tags and labels affixed to containers of whole aquaculture-raised hybrid striped bass and filets from aquaculture-raised hybrid striped bass shall be clearly marked "Hybrid Striped Bass" and provide the following information:
  - a. State of origin
  - b. Name and address of shipping and receiving dealers
  - c. Permit number of shipping and receiving dealers
  - d. Date shipped
  - e. Net weight of container
  
4. Nomenclature. It is unlawful for any person to market, promote, advertise, or sell whole hybrid striped bass or hybrid striped bass fillets as "striped bass." Only the term "hybrid striped bass" shall be used when marketing, promoting, advertising, or selling at retail hybrid striped bass and hybrid striped bass fillets.

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 42 Striped Bass

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

DATE AND PLACE OF PUBLIC HEARING(S):

6:00 PM, January 27, 2020, DMR Augusta Office, Room 118, 32 Blossom Lane, Augusta, ME 04333

6:00 PM, January 30, 2020, Yarmouth Town Hall - Log Cabin, 196 Main Street, Yarmouth, ME 04096

COMMENT DEADLINE: February 10, 2020

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

This regulation is intended to modify the size limit requirements for striped bass by adding a maximum size limit, above which all striped bass must be released. As a result of this regulation, it will be unlawful for any person to take or possess striped bass which are less than 28 inches in total length as well as striped bass which are equal to, or greater than, 35 inches in total length.

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 require all persons to release striped bass which are less than 28 inches in total length, or are equal to or greater than 35 inches in total length.

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]: The Department considered the Atlantic States Marine Fisheries Commission's Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan which was approved in October 2019, and input from Maine striped bass anglers provided at two meetings held in October 2019.

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.

***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.*

**Basis Statement**

Currently, it is unlawful for any person to take or possess striped bass which are less than 28 inches in total length. This rule modifies the existing regulatory requirement by adding a maximum size limit, such that it is also unlawful for any person to take or possess striped bass which are 35 inches in total length or longer. This rule is needed to come into compliance with the Atlantic States Marine Fisheries Commission’s Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, which is intended to address the overfishing status of the stock.

Based on the comments received, the Department is not making any changes.

**Summary of Comments**

Notice of this proposed rulemaking appeared on January 8, 2020 in the five major daily newspapers as published by the Secretary of State. On January 8, 2020, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. Public hearings were advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and were held as follows: 6:00 PM, January 27, 2020, DMR Augusta Office, Room 118, 32 Blossom Lane, Augusta, ME 04333; 6:00 PM, January 30, 2020, Yarmouth Town Hall - Log Cabin, 196 Main Street, Yarmouth, ME 04096. The comment period closed February 10, 2020.

**I. Augusta Public Hearing**

<b>Members of the Public</b>	<b>DMR Staff</b>
Barry Gibson, Larry Grimard, Peter Fallon, and David Pecci	Deirdre Gilbert and Megan Ware

**II. Yarmouth Public Hearing**

<b>Members of the Public</b>	<b>DMR Staff</b>
Peter Fallon, John Coppola, Ben Whalley, Jeff Reardon, Eric Wallace, Mike Roy, Carle Hildreth, Link Stevens, John Coffin, Corey Walker, Vic Trodella, Rich Pschirrer, Robin Thayer, Shaun Baggitt, Patrick Wahlig, Nick Praver, Zach Whitener, Ben Burns, Jacob Bourdeau, Jon Allen, Aaron Laundry, Dana Eastman, Peter Anderson, and Luis Tirado	Patrick Keliher, Megan Ware, and Amanda Ellis

**Note:** ASMFC is the abbreviation for the Atlantic States Marine Fishery Commission  
CE refers to conservancy equivalency(ies)

**Marc Lamothe, received via email, January 26, 2020**

I am in support of a plan to add a 35" maximum to our 28" minimum limit for striped bass. I also support continuing with a one fish limit. My operation, Keeper Charters, fishing out of the Saco River mouth, landed hundreds of small bass last season....400+ on 25 trips. I filleted two striped bass for customers during the entire 2019 season. My operation landed one 39" striped bass that was released, and perhaps a dozen 28"-30" bass. All the rest were short of the 28" limit. My customers rarely are interested in keeping a striped bass, and for those that are on the fence, I coax them down as best I can. Most stay in motels/hotels and don't have a means of storing or cooking their catch, so that helps as well. I do fish mostly in a way that targets quantity vs. quality (chunk baits on circle hooks), but my feeling is we have a shortage of striped bass that are mature enough to reproduce.

**Dave Pecci, received via email, January 27, 2020**

In September 2019 The Maine Association of Charterboat Captains (MACC) has surveyed its 52 members regarding addendum VI to the striped bass management plan. The results were:

- 54% of our members supported 1 fish @ 28"-35" slot
- 26% supported 1 fish @ 35" minimum
- 20% supported 1 fish @ 32"-40" slot

Based on this survey (MACC) supports the DMR's proposed 28" - 35" one fish slot limit. It is important to know that the 46% of our members who did not support a 28"-35" slot would have preferred a more restrictive bag limit. Our members greatly value our striped bass resource and want to conserve the stock and correct the overfishing situation. In closing MACC is extremely concerned with other states attempts to harvest striped bass at unsustainable levels. We urge Maine's representative at ASMCF to do all that is possible to see that true conservation of striped bass takes place.

**Dave Pecci, Augusta public hearing, January 27, 2020**

Mr. Pecci read the comment included above at the Augusta hearing. He also provided the following remarks in his capacity as a member of the ASMFC striped bass Advisory Panel (AP). I am one of Maine's two members on the AP, been on it for many years. The AP itself is quite interesting because it is split right down commercial and recreational lines. There is a lot of anxiety over the new numbers on the AP. For a long time when we had they survey we thought the recreational fishery was underreported and it was much larger. Now with the new survey its almost like we've gone the other way a bit. I think at some point this may shake out and it may come back. The fact that recreational sector now owns 88% of the fishery is incredible, but it puts a lot of responsibility on the rec fishery. We all struggle with the high catch and release factor of that. A lot of the folks on the AP on the recreational side where setback by the 40% of mortality due to catch and release, not harvest. Its going to take a good amount of public education for people to wrap their mind around that. I hope the state can help with education efforts around that. I want to applaud the Department for sticking with circle hook regulations. It would have been ugly to repeal that and then put it back in. Personally, and as a charter boat captain, what you are proposing is going to have the least amount of impact on my clientele. We can fish as we were.

**Barry Gibson, Augusta public hearing, January 27, 2020**

I've run a charter boat out of Boothbay Harbor for the last 49 years with the last 20 or so being for striped bass fishing. I am also the New England Regional Director for the Recreational Fishing Alliance (RFA). We, the RFA, and I personally support the slot. We feel it allows a reasonable level of harvest while protecting large females. We think it will keep anglers engaged with striped bass fishing in Maine. I've talked to a lot of people and everyday anglers about this and most of them said that if the minimum size got to be 35 or whatever they probably won't fish as much anymore. I think this will keep people fishing, because there is a reasonable prospect of catching a keeper. I think we're also concerned about

smaller fish being taken in Chesapeake Bay. I think that needs to be reexamined at some point. Also, the bycatch in the winter trawl fisheries in North Carolina and Virginia. There are still credible reports of striped bass bycatch in those fisheries.

**Sam Lambert, received via email, January 30, 2020**

As a resident angler of the State of Maine I would like to state a need that *Morone Saxatilis*, Striped Bass, be managed in a holistic approach to preserve and grow the stocks as a whole population from an ecosystem-based approach. We need to increase the number of large reproductive females and biomass overall. We need to work with other states to ensure the protection of our native stocks in our rivers. I trust that baitfish and the whole assemblage of Atlantic Fisheries be managed in a way to grow stocks of fish to a sustainable level again. It is quite evident that stocks are down a bit on the Kennebec River. Baitfish are exploding with great alewife restoration. Hopefully we find a balance to increase forage species like the Striped Bass. Thank you for working on gaining a more balanced approach to Striped Bass Management along the East Coast. It's time for a change to help overfishing be more balanced for the good and preserve the endangered striped Bass. I was unable to make the meeting tonight but know it's an important topic for the Fish & Lots of MAINE residents. Thanks for being Commissioner.

**Dana Eastman, Yarmouth public hearing, January 30, 2020**

I own a tackle shop in Portland. I get that the 22' would never fly and a moratorium would never fly. Even though it would work, it would never fly. Id like to see the state go to something much more conservative. Id love to see just a 2-inch slot at the bottom end of it if we had to, that way we are allowing big breeding fish to live. Ultimately that is the future and without that we have nothing. I say that as a fisherman, not a tackle shop owner.

**Rocco Androzzi, Yarmouth public hearing, January 30, 2020**

Id go the same as Dana 28 to 30 and then also asking regions south of us to impose a maximum 30, but 35 would be a nice start for places like Rhode Island, Connecticut, and New York.

**Jacob Bourdeau, Yarmouth public hearing, January 30, 2020**

I've been fishing here for probably 15 years or so. The east coast from Maryland up to here for striped bass. I take umbrage with the recreational kill rate we talked about earlier. I think it is a lot lower in Maine, so I would like that to be evaluated in Maine with more resources in the future. I'd like to see the slot limit reduced and larger fish protected.

**Eric Wallace, Yarmouth public hearing, January 30, 2020**

I would like to oppose what I hear New Jersey is trying to do 24 to 28 and a trophy tag. I hope Maine would oppose that.

**John Coppola, Yarmouth public hearing, January 30, 2020**

Going by observed signs of fish that we caught last year, I don't think this will reduce our take. I think we are actually going to see an increase because all those 25 to 27 inch fish are going to move up and we'll actually be taking more fish by keeping the 28 to 35. I would like to see a smaller slot. I would like to see a decrease and narrower slot.



**Peter Anderson, Yarmouth public hearing, January 30, 2020**

I would like to see things more conservative. I would like to see a higher change for fish to live rather than kill. I don't know why we simply look at 18%. Let's consider the species. We need a more conservative slot limit.

**George Stevens, Yarmouth public hearing, January 30, 2020**

The proposal as it stands is not aggressive enough to protect our declining fishery. I'd like to see a more aggressive stance in the State of Maine. I would be happy with a zero-keeper rule. Short of that, something more aggressive to protect breeding years and breeding stock.

**Ben Burns, Yarmouth public hearing, January 30, 2020**

I agree with what everyone has said. I mostly agree with Dana, I don't think anyone should be able to keep any fish in the State of Maine. I know that's unattainable, so I would like a more conservative effort and smaller slot limits.

**Jon Alen, Yarmouth public hearing, January 30, 2020**

I'd like to see Maine take a more conservative approach to the slot. I think we should move towards a population of excess than just management. I think if Maine takes a more aggressive stance and gets the population really huge, like it was 20 years ago, we could be real leaders. If there is a slot, I like a 28 to 30-inch slot.

**Robin Thayer, Yarmouth public hearing, January 30, 2020**

I encourage much more conservative measures and certainly a smaller slot. As a charter captain I think we all need to do what we can. I am going on the record as for 100% catch and release moving forward.

**John Coombs, Yarmouth public hearing, January 30, 2020**

I am not opposed to the slot limit here, but I would like to see catch and release season from April to the beginning of June and from September to the end of October, where this slot limit is only keeping fish from June, July, August and not the rest of the year.

**Peter Fallon, Augusta public hearing, January 27, 2020**

While I had advocated for one fish greater than 35 inches, I am pleased to see Maine supporting the decision of the ASMFC striped bass board to move to a coastwide slot limit of one fish between 28 and 35 and not submitting a conservation equivalency proposal to the technical committee. In the course of many conversations since the October meeting most people I have talked with under the perception this rule will be in effect across all of the Atlantic states. It sounds like that is going to be true for the coastal waters. However, few know that the NJ is expected to push their conservation equivalency proposal that would have them harvesting fish between 24 and either 28 or 29 inches. The various sub options presented by the council to the public as part of the recent addendum process were developed on a coastwide level, as stated by Max Applebaum at the October ASMFC meeting. He went on to say that the intent would be that all states would implement the selected sub options in order to achieve the intended reduction. Striped bass board Chair, Mike Armstrong, followed by saying one of the goals we voted on in amendment 6 is uniform rules along the coast and to have each state craft their own rules would be against what we voted for in the last amendment. Listening the May 2019 striped bass board meeting, I came away with the sense that the majority sentiment was to implement one set of rules for the entire coast. Recently I've heard New York, Connecticut, and Rhode Island intend to advocate for the striped bass board to hold to their stated objective in regard to the conservation equivalencies proposals submitted by New Jersey that involve harvesting fish smaller than 28 inches. How many

people are talking about the need to see the 2015-year class spawn at least once? How will we be able to effectively evaluate the success or failure of the coastwide slot limit for striped bass if the state with one of the largest harvests is targeting fish between 24 and 28 inches long? New Jersey has consistently landed large numbers of striped bass. They have incredible shore and boat access and draw large numbers of out of state anglers every season. Will we really reach intended reductions in mortality if the board lets them fish the smaller slot limit? This addendum was built with the understanding that the new regulations would be effective coastwide. It was presented to the public in the same way. ASMFC has significant issues with credibility and trust among stakeholders and the public. Multiple striped bass board members raised their concerns with this failing at the October board meeting. The road to repair begins with exercise the option to approve or disapprove conservation equivalencies that meet or don't meet the objectives of the board, stakeholders and needs of the fishery. Maine has often been a leader in striped bass management and conservation. Our adoption of circle hook management before any ASMFC requirement is but one example of such example of forward thinking. I hope Maine will continue to lead by holding New Jersey to the decision of the board and expectations of the overwhelming majority of stakeholders.

**Peter Fallon, Yarmouth public hearing, January 30, 2020**

While I had advocated for one fish greater than 35 inches, I am pleased to see Maine supporting the decision of the ASMFC striped bass board to move to a coastwide slot limit of one fish between 28 and 35 and not submitting a conservation equivalency proposal at this time. Although based on the discussion here tonight I would certainly in the future be excited about more conservation measures. The current striped bass management system is broken. We should have better fishing, much better fishing, more bass, and much larger bass. We would if ASMFC had been responsibly managing this fishery. The current use of conservation equivalency or CEs is one fatal flaw. ASMFC has repeatedly stated that they want consistent regulations on the Atlantic Coast and Chesapeake Bay. Yet, they continue to approve conservation equivalency that result in a mish-mash of regulations and overfishing. States get to do what they want and there are zero consequences when they overfish and they do overfish. No payback, no required adjustment to size, bag, or season limits. No required constraints on future CE proposals from those states. Recreational anglers in New Jersey harvested almost 5.5 million pounds of fish in 2016. To put that in perspective the recreational harvest in Massachusetts that year was just over 2 million pounds and in Maine about 125,000 pounds. New Jersey has a huge impact on this fishery and now they want to target fish 24 to 29 inches which includes the important 2015-year class and they want to target fish over 40 inches for their trophy tag program. Have we forgotten what happened to the once robust 2011-year class as the result of an ill-conceived CE from Maryland, a habitual offender when it comes to overfishing? Now New Jersey is about to decimate the 2015-year class, if they are allowed to set their slot limit to take fish starting at 24 inches. Is Maine okay with that? Maryland is also pushing a proposal that includes a continuation of their trophy fishery for bass over 35 inches and a 2 fish a day allowance for charter and party boat anglers both of which go against the board at the October meeting. One fish a day at 18 inches for all of Chesapeake Bay was also supported by 84% of the public comment. Some CE proposals look good on paper but fall short of meeting the desired results. All of these CEs have met the requirement of the striped bass technical committee, but so have all of the past proposals and many have been a disaster. The technical committee has said that there is a high degree of uncertainty that these plans will meet mortality reduction goals. They even say that they have no idea how much overall striped bass mortality will be reduced by such disparate regulations. This entire plan to reduce striped bass mortality by 18% was built with the assumption that the new regulations would be effective coastwide and bay wide. It was presented to the public in the same way. It was supported by a huge percentage of the public input and approved by the ASMFC striped bass board this fall. Its no wonder that so many people have lost confidence in ASMFC. Maine

has often been a leader in striped bass management and conservation. Our adoption of circle hook management before any ASMFC requirement is but one example of such example of forward thinking. I hope the Maine board members and ASMFC Chair, Patrick Keliher, will continue to lead by holding New Jersey, and Maryland to the decision of the board and expectations of the overwhelming majority of stakeholders. At next Tuesday's ASMFC meeting, I urge Maine to approve only those CEs that would give us one consistent slot limit coast wide and one consistent slot limit for Chesapeake Bay.

**Zachary Whitener, Yarmouth public hearing, January 30, 2020**

I support the Departments rulemaking to try to be consistent across the coast. The best we can do is have a common denominator and conservation equivalencies undue all of that. I very much support the Maine delegation voting down other conservation equivalencies.

**Jeff Reardon, Yarmouth public hearing, January 30, 2020**

At the ASMFC meeting, I want Maine's delegation to be able to say that everybody who spoke to us asked for either a coastwide standard limit as conservative as possible or stronger. I don't think it matters much what Maine does for its limit given the number of fish and number of anglers here compared to what's on the coast. It almost doesn't matter what we do. It doesn't matter to me what you do. Make the fishery catch and release, leave it as it is. I've harvested two fish in 26 years that I've been fishing for striped bass in Maine. Those were the only fish I harvested, because they were going to die anyway. I don't have any particular philosophical objection to killing fish but managing striped bass the way we do is crazy. The model we have for managing migratory critters is what we have for waterfowl, which is there is a set of rules that apply state wide to the entire population as it flies up and down the entire coast. Maine doesn't get to have a differ set of rules because more black ducks breed in Maine than Maryland. We shouldn't be doing that with striped bass. I urge you to work with other conservation minded states to get as conservative of a rule as you can.

**Chris Grill, Yarmouth public hearing, January 30, 2020**

I support what you guys are going to do. I am glad people are thinking about a smaller slot. I think that is a good call, but you guys have to do what you got to do first. I am behind you on that.

**Doug Jowett, Yarmouth public hearing, January 30, 2020**

I would like to go on record supporting everything that Jeff Reardon said.

**Mike Roy, Yarmouth public hearing, January 30, 2020**

I appreciate that we are taking steps to protect this fishery as best as we can. I feel that we've established that our contribution to the dead loss is minimal. I feel that the biggest impact we can have is by using out influence to speak up to the other states like New Jersey and Maryland who have much higher participation and more laxed regulations.

**Aaron Landry, Yarmouth public hearing, January 30, 2020**

I am in favor of the tightest or most conservative regulations that you would have. Maybe develop a more conservative regulation. I would second the idea of really pushing against any of the conservation equivalencies.

**Richard Pschirrer, Yarmouth public hearing, January 30, 2020**

I would like to see the slot limit as proposed enforced from Maryland north. Conservation equivalencies are a loop hole that should be tied up.

**Ben Whalley, Yarmouth public hearing, January 30, 2020**

I support what you are proposing and I hope our reps can work with other states to get rid of CE proposals.

**Luis Tirado, received via email, February 2, 2020**

In regards to Tuesday's meeting for Striped Bass 2020 regulations. I would like to make my approval of the 28-35" size limit public knowledge. I would also like to make my disapproval of the conservation equivalencies made by New Jersey and Maryland. These two states in particular are. It putting the best interest of the fish in mind. Their proposals are only self-serving and are clearly biased and bought by financial interests. I beg that the three board members from Maine do whatever it takes to get other likeminded states to vote against the CE's proposed and put the fishes best interest at the fore front.

I do not want to see this fishery crash again. I depend on the fishery, and I want it to be there for generations to come. We put you guys in charge and have put our faith in you to do the right thing and make the necessary decisions even when they are hard and unpopular. This is where we are at. We all will have to deal with and feel the "pain" of years of abuse and neglect. We need to make this important fishery healthy again and allow it to thrive. I am willing to do whatever it takes. I hope you are too.

**Larry Grimard, Augusta public hearing, January 27, 2020**

I was fishing for striped bass when I was in high school then I stopped. I am prepared to support this slot. We are struggling now to take a fish home. I am analytical, so I want to know the scientific basis for the 28, so I am at my keyboard doing research. There has to be some scientific basis for the number. Why is the number 28? I went on to the internet website, I said what is the catch for 2017. The 2017 catch (in numbers of fish), indicated in the Marine Recreational Information Program (MRIP) query is 2,738,103 fish.  $18\% \text{ of } 2,738,103 = 482,858$ . We are already at the 18%. Why are we even bothering? I am just trying to make sense of this. Then I look at the catch limits for the states below us. Delaware and Pennsylvania allow 2 fish, Maine allowed one fish. What's the scientific rationale for the one fish? We know people say that Maine is the end of the run. What we do to the population is irrelevant, but we can't really say that, right? But that's my scientific basis. Why are we using a release mortality of 9% when the studies show it is less than 1%? So, then Maine goes, okay everyone use circle hooks for bait. What does that do to the release mortality? To this inquisitive person looking to the science, heck, that reduces the release mortalities. Ross Perot said "lead, follow, or get out of the way." I am thinking that there are indications that Maine DMR is starting to lead, I fully support that.

**Larry Grimard, received via email, February 5, 2020**

Maine Department of Marine Resources intends to reduce the annual number of striped bass caught in Maine waters by 18% of the 2017 catch. This is to be accomplished by changing the catch limit to a minimum of 28 inches in length, with a maximum of 35 inches.

A decrease in striper catch in order to meet intended reductions is not necessary in Maine because we already meet the intended catch targets proposed.

The 2017 catch (in numbers of fish), indicated in the Marine Recreational Information Program (MRIP) query is 2,738,103 fish.

$18\% \text{ of } 2,738,103 = 482,858$ .

2,738,103 - 482,858 = 2,255,245

Reducing the 2017 catch by 482,858 = **2,255,245** fish as the new targeted catch limit for year 2020.

The annual bass catch for year **2018** was **2,190,455**, ...already below the new proposed limit.

The intended 18% target reduction has already been met; we have already met the goal.

There is, therefore, no need to apply further reductions to recreational striped bass catch limits.

What data will ASMFC and Maine DMR use to assess the 'catch' for 2020? How will we know if we met the proposed 18% reduction? If DMR uses the Fishing Effort Survey data, which is determined to be 2.3 times higher, the resulting 2020 catch will likely not show any 18% reduction.

Further review of the scientific basis of this new striped bass regulation raises other questions. The assumed **release mortality** used by ASMRC and Maine DMR is 9%, in spite of the fact that use of circle hooks, (which result in reduced deep-hooking), have been required in Maine for several years. This affects the total assumed number of recreational removals of striped bass (F).

*Overall deep-hooking frequency in 2000 was nearly three times lower when non-offset circle hooks were used (5.6%) instead of J-style bait hooks (15.0%; Figure 8). A four-fold reduction in deep hooking rates was documented during the 1999 study by the use of circle hooks (3.4%) compared to J-style bait hooks (17.2%). Deep hooking rates of striped bass declined from 46% with J-style bait hooks to 11% with non-offset circle hooks on two consecutive days in June 1997 (Lukacovic and Uphoff 1997). In 1996, striped bass were deep hooked 24% of the time with standard bait hooks compared to 4% with non-offset circle hooks (K.Lockwood, Maryland Fisheries Service, personal communication).*

See also:

Source: <http://www.dnr.state.md.us/fisheries/fishingreport/crsb.html> **Overall, 9.1% of the striped bass caught on conventional hooks died whereas only 0.8% of the fish caught on circle hooks died. In the 1999 Study, we determined that 9.1% of the fish caught on conventional hooks died, but only 0.8% of the fish caught on circles hooks died.**

Why is ASMFC using a release mortality of 9%? Maine is at the far Northern end of the striped bass summer migration and any impact of bass extraction is insignificant for a migratory fish species spanning from Maine to North Carolina. That impact has been well understood by fisheries biologists for some time and was reinforced during the recent attempt by Maine DMR to remove the Maine requirement for circle hooks when using bait for striped bass.

*“A circle hook restriction limited to Maine waters exclusively is not an effective management measure for a migratory fish species spanning from Maine to North Carolina along the Atlantic coast.”*

This begs another question: What is the scientific basis for limiting the catch of striped bass in Maine to 1 fish per day?

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*This rule change is needed to come into compliance with the Atlantic States Marine Fisheries Commission’s Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, which is intended to address the overfishing status of the stock.*

Do all of the states in ASMFC.....need to come into compliance with Amendment 6? Referencing the handout from the recent hearing in Yarmouth; page 11 indicates the bag limit for Delaware (2019) is 2 fish/day. Why is Maine at 1 and De at 2 if the intent is to have all states have the same rules per Addendum VI? Pennsylvania: downstream of Calhoun St. Bridge.....2 fish at 21 – 25 during April 1 to May 31. NJ 1 fish at 28 to <43, and..... and.....1 fish>=43. What is the scientific basis for establishing 1 fish for Maine? It appears that the data for striped bass catch (F) is up in the air, and the scientifically based status of the stock is not known. The fabrication of the saltwater fishing license intended to create the phone survey method for gathering trip information did not work. The transition to the mailing of surveys known as the Fishing Effort Survey (FES) is not being used for reasons that are not very clear. So, if ASMFC does not trust the trip data enough to estimate catch, and end up using the 2017 catch data, and then declares the stock is “overfished” why should we accept that premise? The scientific integrity of the striped bass management is being called into question. If 2017 catch data is to be used as the best scientific data available, then use the catch limits that were in force in year 2017.

#### **Department Response to Comments:**

##### **Stock status**

One commenter questioned if the status of the striped bass stock is truly known. The 2018 benchmark stock assessment for striped bass represents the best available scientific information on the coastwide status of the striped bass stock and was independently peer-reviewed by a panel of experts. Data incorporated into the stock assessment model included life history parameters, commercial and recreational catch, fishery-independent surveys, and tagging data. The stock assessment concluded that striped bass are both overfished and overfishing is occurring. Striped bass are not listed as endangered under the Endangered Species Act.

##### **Recreational catch data**

One commenter asked how striped bass recreational catch has, and will be, counted. Recreational catch and effort data incorporated into the stock assessment are collected through the Marine Recreational Information Program (MRIP). This program uses surveys to annually estimate the number of recreational fishing trips and associated fish caught per trip. In 2018, MRIP changed methodology, moving from a phone-based survey to a mail-based survey in order to better estimate recreational catch and effort. As a result, recreational catch estimates for many species significantly increased. For example, striped bass recreational catch estimates are 2.3 times higher using the new MRIP methodology. To account for this change in methodology and results, historical recreational catch estimates were recalibrated to provide

a complete timeframe of recreational catch so changes in catch estimates can be monitored from year to year. The 2018 stock assessment is the first striped bass stock assessment to use the new MRIP numbers.

### **Release mortality rate**

Two commenters asked about the scientific basis for the assumed 9% release mortality rate in the stock assessment and if this value is too high for Maine. The striped bass stock assessment evaluated a series of release mortality studies. Ultimately, a 9% release mortality rate was chosen based on a study by Diodati and Richards (1996), which looked at release mortalities which resulted from a range of hook types, hooking location, and angler experience. The stock assessment notes that release mortality can be affected by factors such as temperature, salinity, hook type, hook location, and angler experience. As a result, it is possible that conditions and regulations in Maine, such as the existing circle hook requirement, result in a different release mortality rate for striped bass. It is important to note that the striped bass stock is evaluated on a coastwide basis; striped bass stock assessments are not conducted on a state-by-state basis.

### **Impact of circle hooks on release mortality**

One commenter asked about the impact of circle hooks on the release mortality for striped bass. The use of circle hooks while targeting striped bass with bait has been identified as a way to reduce release mortality because they lower the rate of gut-hooking and reduce organ damage if the hook is swallowed. As stated above, many factors can impact the survival of a striped bass that is returned to the water. These include water temperature, salinity, hooking location, and experience of the angler.

### **Baseline for required reduction**

One commenter asked why a change in management measures is needed if 2018 striped bass landings were lower than those in 2017. 2017 represents the terminal year of the striped bass stock assessment and is the basis for the determination that the striped bass stock is overfished and overfishing is occurring. Coastwide 2018 striped bass recreational landings were significantly lower than 2017. Importantly, this decrease in landings was experienced across all recreational fisheries and occurred under the same suite of striped bass management measures. This large fluctuation in catch highlights the impact that external factors, such as year class strength, can have on total removals in the recreational fishery.

### **Existing minimum size and bag limit**

One commenter asked about the basis for the current 28" minimum size and one fish bag limit. Maine's current 28" minimum size was implemented in 2015 in response to the ASMFC Addendum IV. The Addendum implemented a 25% reduction in harvest (including estimated dead discards) in the coastal recreational fishery. As a result, Maine moved from a 20-26" slot limit, with the option for a fish greater than 40", to a 28" minimum size limit. Under both the 20-26" slot limit and the 28" minimum size limit, Maine has had a one fish bag limit.

### **Variation in regulations from state to state**

One commenter asked why some states have had a two fish bag limit, as opposed to Maine's one fish bag limit. In previous striped bass addenda, as well as the current Addendum VI, the Striped Bass Board has voted on a set of measures for the ocean and Chesapeake Bay fisheries. Through conservation equivalency, states have the flexibility to adopt a different suite of measures while still achieving the same level of conservation. As a result, some states have chosen to implement a higher bag limit and,

via conservation equivalency, achieve their reduction in removals through seasons and/or changes to the size limit.

### **Protection to breeding females**

Many commenters supported measures which provide protection to large, breeding females. DMR agrees that protecting breeding females is an integral part of rebuilding the striped bass stock. Adopting a maximum size limit aligns with this goal.

### **Conservative approach to Maine regulations**

Many commenters supporting a more conservative approach to striped bass management in Maine, either through a smaller slot limit (28"-30"), catch and release seasons, or a year-round catch and release fishery. Through ASMFC, a state can always choose to be more conservative than the requirements in the fishery management plan. As a result, the adoption of a more conservative management approach is an option that ME DMR can consider in a future rulemaking.

### **Maintaining 2017 management measures**

One commenter noted that if 2017 represents the best available data, the management measures in place for 2017 should continue to be applied. The 2018 benchmark stock assessment concluded that, as of 2017, the striped bass stock is overfished and overfishing is occurring. Per the ASMFC striped bass fishery management plan, the Striped Bass Board is required to take action to end overfishing and rebuild the striped bass stock. Addendum VI, and the associated 28-35" slot limit, is intended to end overfishing and is a first step to rebuild the striped bass stock.

### **Conservation equivalency in other states**

Many commenters expressed concern about the conservation equivalency proposals submitted by other states, in particular those submitted by New Jersey and Maryland. These commenters remarked that conservation equivalency proposals undermine the ability to end striped bass overfishing because they prevent consistency and accountability between states. ME DMR staff agree with the concerns expressed about the application of conservation equivalency in Addendum VI, especially that the volume and variety of conservation equivalency proposals could result in a lower reduction in total removals than required in the Addendum. These concerns prompted the Department not to pursue conservation equivalency in this rule-making. Further, at the February Striped Bass Board meeting, Maine commissioners advocated for additional bounds on the conservation equivalency proposals submitted and for a review to ensure projected reductions are being met.

### **Compliance with ASMFC**

One commenter asked if all states must come into compliance with the Addendum VI, particularly given the variety of existing regulations. All states within the striped bass management unit, which includes the states of Maine through North Carolina, must come into compliance with Addendum VI. More specifically, reductions in total removals are required throughout the coastwide and Chesapeake Bay fisheries and, as a result, all states will be amending their existing regulations to meet the new requirements of the Addendum.

### **Assessing success of new measures**

One commenter asked how it will be determined whether the new regulations meet the expected reduction in coastwide total removals. States are required to implement new management measures by April 1, 2020. As a result, the new measures will impact the upcoming fishing year. Following this fishing year, analysis by the ASMFC Striped Bass Technical Committee can be conducted to determine whether



the new measures achieve an 18% reduction in total removals relative to 2017 levels. This analysis can be completed once catch numbers for the 2020 fishing year are finalized.

### **Ecosystem-based management**

One commenter supported a holistic, ecosystem-based approach to managing striped bass and other species. At present, the ASMFC Atlantic Menhaden Board is working to analyze and adopt ecosystem reference points. These reference points will consider the biomass of prey species, such as Atlantic menhaden and Atlantic herring, and resulting impacts on predator species, such as striped bass, bluefish, spiny dogfish, and weakfish. An example ecosystem reference point presented to the Atlantic Menhaden Board in February considered the specific relationship between Atlantic menhaden and striped bass abundance.