

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 55.99 Gear Restrictions, Saco River

CONCISE SUMMARY: This rulemaking is in response to increased recreational fishing catch and release mortality on the Saco River below the Cataract Dam. Anglers are reporting large amounts of dead striped bass below this area and the DMR has concluded that this is directly linked to targeting fish in a confined area with no way to properly release fish without causing a high discard mortality. The striped bass is in a rebuilding stage due to a significant increase in 2022 recreational removals which substantially reduced the probability of rebuilding the stock by 2029. This emergency rule is part of a larger regulatory framework to ensure this stock rebuilds and is required to avoid unusual damage to the striped bass resource. For these reasons, the Commissioner hereby adopts an emergency action to modify Maine's Gear Restriction Regulation, Chapter 55.99, as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: June 10, 2023

AGENCY CONTACT PERSON: Patrick Keliher (207-624-6553)
AGENCY NAME: Department of Marine Resources
ADDRESS: State House Station 21
Augusta, Maine 04333-0021
WEB SITE: <http://www.maine.gov/dmr/rulemaking/>
E-MAIL: Patrick.Keliher@maine.gov
FAX: (207) 624-6024
TTY: (888) 577-6690 (Deaf/Hard of Hearing)

DEPARTMENT OF MARINE RESOURCES

CHAPTER 55 GEAR RESTRICTIONS

55.99 Fishing in the Saco River above the ~~footbridge~~ Route 9/Main Street bridge between Saco and Biddeford

It shall be unlawful to fish ~~on~~ the waters of the Saco River ~~from the~~ upstream side of the ~~footbridge~~ Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, ~~upstream~~ to the head of tide, commonly known as the "Cataract Dam".

Basis Statement

The Commissioner adopts this emergency rulemaking to modify an area of the Saco River closed to fishing in order to protect the striped bass resource. Recently there has been a dramatic increase in recreational catch and release mortality on the Saco River below the Cataract Dam. Anglers are reporting large numbers of dead striped bass below this area and DMR has concluded that this is directly linked to targeting fish in a confined area with no way to properly release fish without causing a high discard mortality. This area must be closed to all fishing in order to effectively protect the striped bass resource.

Striped bass are managed by the Atlantic Striped Bass Management Board (Board) at ASMFC. 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 was 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.

This emergency rule is part of the larger regulatory framework to ensure this stock rebuilds, and this action is necessary to prevent unusual damage to the striped bass resource. For these reasons, the Commissioner hereby adopts an emergency action to modify Maine's Gear Restriction Regulation, Chapter 55.99 to close the waters of the Saco River upstream of the Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, to the head of tide, as authorized by 12 M.R.S. §6171(3)(A).

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) 592-9311; E-mail: Deirdre.Gilbert@maine.gov, web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 55.99 Emergency Rulemaking Fishing in the Saco River

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

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 prevent unusual damage to the striped bass resource that will damage the likelihood of rebuilding, and 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 expand an existing area that is closed to all fishing in order to prevent unusually high catch and release mortality to striped bass. This action is necessary to 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 recent information on current fishing pressure and observed mortalities provided by anglers and Maine Marine Patrol, as well as information presented 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.