

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

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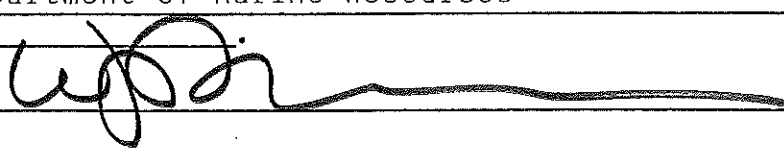
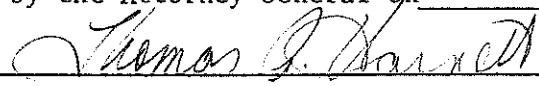
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JUN - 6 1990

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90-221

DEPT. OF MARINE RESOURCES
SECRETARY OF STATE

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Striped Bass Regulations
4. Number assigned to the rule(s): 42.01, 42.02, 42.03
5. Date(s)/method(s) of notice: Secretary of State, Notice of Agency
Rule-Making Proposal April 4, 1990,
COMMERCIAL FISHERIES NEWS May, 1990 edition
6. Date(s)/place(s) of hearing(s): April 23, 1990 - Ellsworth
April 24, 1990 - Brunswick
April 25, 1990 - Saco
7. Type of rule: ☒ new rule ☐ amendment of existing rule ☐ suspension of existing rule
☐ repeal of existing rule ☐ emergency rule
8. Name/phone of agency contact person: Lewis N. Flagg 289-5275
9. Certification Statement: I, WILLIAM J. BRENNAN, hereby
certify that the attached is a true copy of the rule(s) described above and
lawfully adopted by Department of Marine Resources
on May 31, 1990
Signature 
Printed Name & Title WILLIAM J. BRENNAN, Commissioner
10. Approved as to form and legality by the Attorney General on June 6, 1990
Signature 
Printed Name Thomas A. Harnett

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

PROPOSED RULE

1. Was this rule listed on the last or previous regulatory agendas? NO
2. Date of Notification of: Anyone on mailing list 3/26/90
 Any trade, industry or
 professional group 3/26/90
 Any trade publications 3/26/90
3. Date Notice of Rulemaking Proposal sent to Secretary of State 3/26/90
4. Date fact sheet sent to Exec. Dir. of Legislative Council 3/26/90
5. Date of Publication in Secretary of State's Rulemaking Ad 4/4/90
 *3 hearings: 4/23/90
6. Date of Hearing: 4/24/90 Was it continued? NO Until when? NA
 4/25/90
7. Comment Deadline: 5/7/90 Was it extended? NO Until When? NA
 Was notice of the extension of the comment
 period published in the rulemaking ad, NA Date? NA

ADOPTED RULE:

8. Was rule adopted within 120 days from comment deadline? YES
9. Is rule consistent with what was proposed? YES
 (If not, please address the changes in the Summary of Comments).
10. Was the comment period reopened because of numerous changes to
 the proposed rule? NO
10. Is Basis Statement included? YES Is Summary of Comments included? YES
11. Is the person signing Certification Statement (MAPA-1 #9) authorized
 by statute to adopt the rule for the department? YES
12. Was the rule approved & signed by the Attorney General's Office? YES
 Within 150 days from comment deadline? _____
13. Date adoption notice was published in the Secretary of State's
 rulemaking ad unknown

42.01 Striped Bass Minimum Size and Harvest Methods

Method of Taking

It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line.

Minimum Size

It is unlawful to take or possess striped bass which are less than 36 inches in total length. It is unlawful to possess striped bass unless the fish are whole with head on and are 36 inches or more in total length.

42.02 Striped Bass - Limits, Personal Use

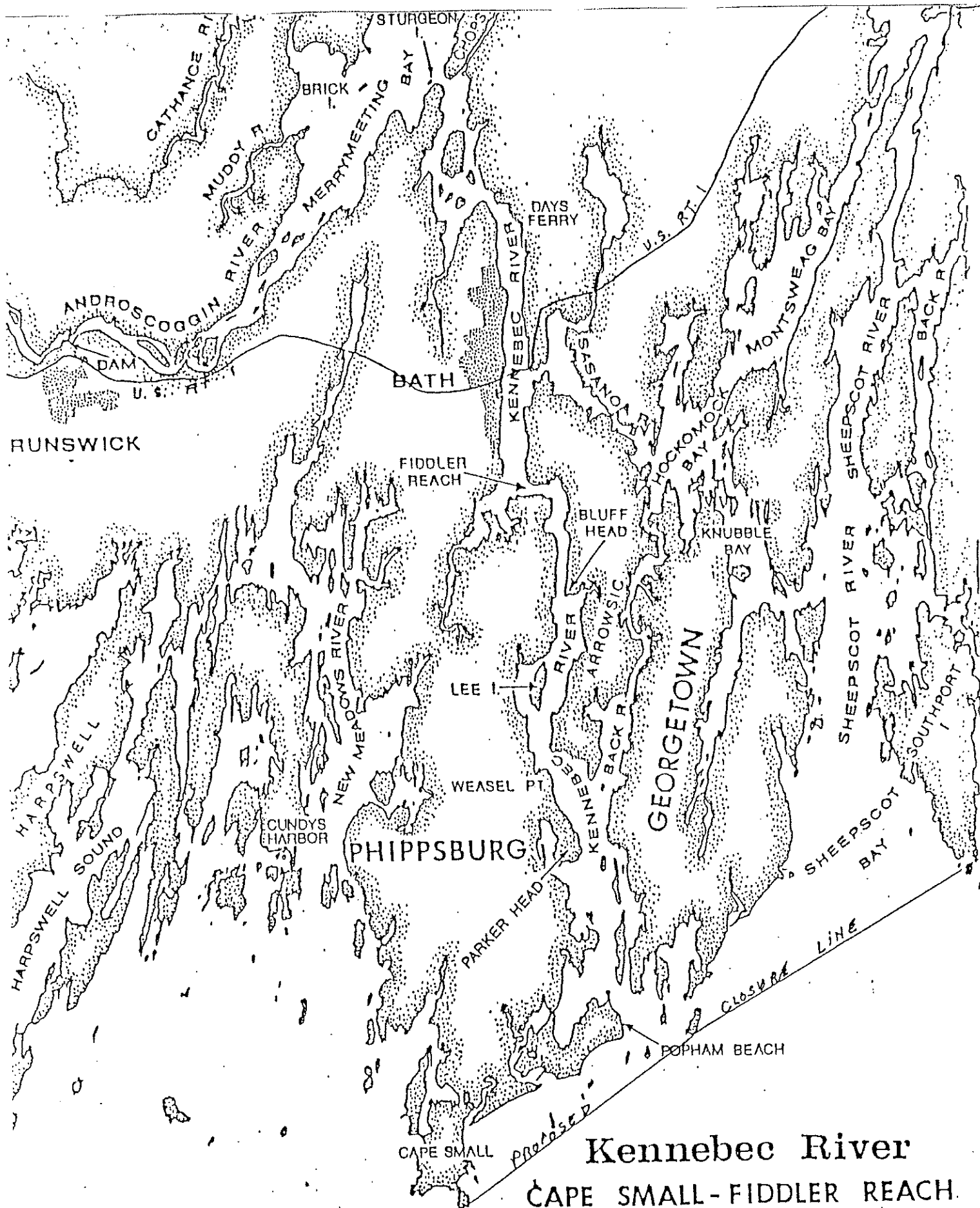
It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than one (1) striped bass each day.

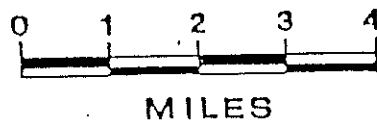
42.03 Striped Bass - Closed Area and Closed Season

From December 1 to June 30, inclusive, it is unlawful for any person to take and retain any striped bass from the tidal waters of the Kennebec River inside and upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island, thence to the outer extremity of Cape Newagen and including Merrymeeting Bay and tributaries, the tidal waters of the Sheepscot River, Androscoggin River, Sasanoa River, and all other tidal tributaries of the Kennebec River.

Any striped bass caught in the above described waters during the closed season (December 1 through June 30) shall be immediately released and returned alive, without further injury, to the waters from which they were taken.



Kennebec River CAPE SMALL - FIDDLER REACH



Rules 42.01, 42.02, and 42.03 Striped Bass Regulations

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§6171 and 6556-A, the Commissioner of the Maine Department of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts and amends these rules governing the taking of striped bass in the coastal waters of Maine.

Regulation 42.01 establishes the method of taking (hook and line only) and the minimum size (36 inches total length) for striped bass harvested from the coastal waters of Maine. The restriction to hook and line harvest is for the purpose of preventing overharvest by commercial fishing gear. The minimum size of 36 inches total length protects striped bass until most of the females have a chance to spawn at least once before they are harvested.

Regulation 42.02 establishes by rule a daily limit of one (1) fish and prohibits the sale of striped bass taken from Maine coastal waters. The one-fish daily limit is imposed to prevent overharvest of striped bass by the hook and line fishery. The prohibition sale is to reduce the fishing effort on striped bass by eliminating economic incentives to exploit the resource.

Regulation 42.03 establishes a closed season and closed area in the lower Kennebec/Androscoggin/Sheepscot estuaries to protect native spawning striped bass in the spawning areas and before and during the spawning season.

The above rules are necessary to assure that Maine is in compliance with federal law which requires that all states from Maine through North Carolina pass laws/regulations consistent with the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass. Maine's proposed rules have been approved by the ASMFC's Striped Bass Scientific Committee. Since October 1, 1986, state management of striped bass has been subject to federal law (P.L. 99-432) under the Atlantic Striped Bass Conservation Act. This legislation provides for the imposition of a federal moratorium on striped bass fishing in any state's waters if that state fails to comply with the Interstate Striped Bass Management Plan. Promulgation of these proposed regulations will keep Maine in compliance with federal law and assist in the coordinated coastwide management efforts for striped bass.

1990 STRIPED BASS REGULATIONS
Public Hearing Comment Summaries

April 23, 1990 - Holiday Inn - Ellsworth 7:00PM

This meeting was attended by only one member of the public, Dennis Smith of Otter Creek. Following review of the proposed regulations by Lewis Flagg of DMR, Mr. Smith concurred with and supported the proposed regulations as presented.

April 24, 1990 - Atrium Convention Center - Brunswick 7:00PM

There were 18 members of the public who attended this meeting. Ken Honey, DMR, opened the meeting and gave a brief summary of the regulatory process, including the public comment period and role of the DMR Advisory Council in the review and approval of the proposed regulations. Lew Flagg of DMR then presented the proposed regulations, stating the conservation implications for striped bass and the fact that the proposed regulations were consistent with federal law and the Interstate Striped Bass Management Plan. Several questions were asked about what other states south of Maine were proposing for striped bass regulations. ME, NH, MA, and CT are all proposing a one fish daily limit and 36-inch minimum size. Others, including RI, NY, NJ, DE, MD, VA, and NC will have a 28-inch minimum size and one fish daily limit. There was general support from the public in attendance for the one fish limit and 36-inch minimum size. No one was opposed to the daily limit and size proposal. General support and no opposition was raised to the closed season and closed period, nor to the no sales provision and hook and line restriction.

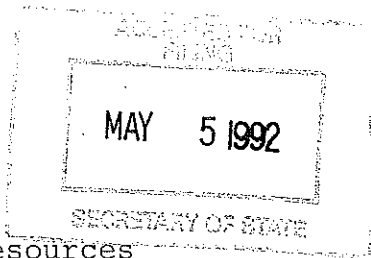
Pete Matthews of South Portland voiced some criticism of the lack of enforcement of striped bass laws. Dan Morris, Marine Patrol Officer, reviewed the manpower shortage and how DMR was attempting to address enforcement issues within current manpower constraints. Brad Burns of Falmouth expressed interest in a DMR/public striped bass tagging program. Lew Flagg, DMR, explained that a joint state/federal tagging program was ongoing and would produce meaningful information for management purposes.

April 25, 1990 - Maine Aquarium - Saco 7:00PM

There were 26 attendees at this meeting. Ken Honey, DMR, reviewed the regulatory process and turned the meeting over to Lew Flagg who presented the DMR proposed regulations. Bob Boilard of Biddeford asked what other states were doing for conservation measures. Flagg responded that all of the Gulf of Maine and south of Cape Cod will have a one fish daily limit and 36-inch minimum size. States which were allowed to have commercial fisheries would have established quotas on harvest and a very restrictive fishery which would be closely monitored. Following several additional comments and questions from

the public, all those in attendance generally favored the proposed regulations. There were none opposed to the regulations as proposed. The hearing closed at 8:30PM.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333



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RECEIVED
92-188A
MAY - 8 1992

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Striped Bass Regulations

4. Chapter Number Assigned to the rule(s) Chapter 42

5. Date(s)/method(s) of notice: Secretary of State Notice of Agency
Rule-Making, March 25, 1992

6. Date(s)/place(s) of hearing(s): April 15, 1992 8:30PM
Atrium Inn & Convention Center, Cooks Corner, Brunswick, ME

7. Type of rule: ☐ new rule ☒ amendment of existing rule ☐ suspension of existing rule
☐ repeal of existing rule ☐ emergency rule

8. Name/phone of agency contact person: Lewis Flagg (207) 287-5275

9. Certification Statement: I, ... WILLIAM J. BRENNAN ..., hereby
certify that the attached is a true copy of the rule(s) described above and
lawfully adopted by the Department of Marine Resources
on April 30, 1992

Signature 

Printed Name & Title WILLIAM J. BRENNAN, Commissioner

10. Approved as to form and legality by the Attorney General on May 4, 1992

Signature 

Printed Name Thomas A. Harnett

*For instructions on completing this cover sheet see "A Guide to Rule-making for
State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES

Chapter 42 - Striped Bass

42.01 Striped Bass Minimum Size and Harvest Methods

- A. **Method of Taking.** It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line. It is unlawful to use a gaff to land any striped bass.
- B. **Minimum Size.** It is unlawful to take or possess striped bass which are less than 36 inches in total length. It is unlawful to possess striped bass unless the fish are whole with head on and are 36 inches or more in total length.

42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than one (1) striped bass each day.

42.03 Striped Bass - Closed Area and Closed Season

- A. Except as provided in 42.03(B), from December 1 to June 30, inclusive, it is unlawful for any person to take and retain any striped bass from the tidal waters of the Kennebec River inside and upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island, thence to the outer extremity of Cape Newagen and including Merrymeeting Bay and tributaries, the tidal waters of the Sheepscot River, Androscoggin River, Sasanoa River, and all other tidal tributaries of the Kennebec River.

~~Any striped bass caught in the above described waters during the closed season (December 1 through June 30) shall be immediately released and returned alive, without further injury, to the waters from which they were taken.~~

- B. **Special Hook and Release Season/Area.** From May 1 to June 30, it shall be lawful to fish for striped bass in the waters described in 42.03(A) with a hook and line and single hooked artificial lures. Any striped bass caught during this special season/area fishery shall be immediately released and returned alive, without further injury, to the waters from which they were taken.

BASIS STATEMENT

As authorized by 12 M.R.S.A., Sections 6171, 6191 and 6556A, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts these amendments to Rules 42.01 and 42.03 of existing striped bass regulations.

These amendments provide increased protection for striped bass (no gaffing provision) while allowing additional fishing opportunity (May and June catch and release fishing in spawning rivers) for recreational fishermen. The amendments are also consistent with the Interstate Fishery Management Plan for Striped Bass which was adopted by the Atlantic States Marine Fisheries Commission in 1981.

Existing enforcement personnel will monitor compliance during their routine patrols.

SUMMARY OF COMMENTS

See attached minutes of public hearing meeting of April 15, 1992. In addition, seven (7) letters were received following the public hearing. Of the seven, two (2) opposed and five (5) favored continuation of the 36 inch minimum size; one (1) opposed and three (3) favored the single hooked artificial lure restriction in the spawning areas during the spawning season; five (5) supported the no gaff position while the other two (2) had no comment on the gaff prohibition.

PUBLIC HEARING

April 15, 1992

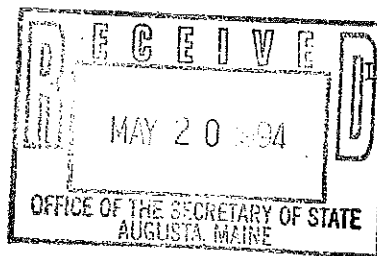
**Atrium Inn & Convention Center
Brunswick, Maine
8:15PM**

STRIPED BASS RULES

The Department of Marine Resources proposes to: 1) prohibit the harvest or landing of striped bass taken from Maine coastal waters by use of a gaff and, 2) allow for catch and release fishing of striped bass with single hooked artificial lures only in the Kennebec, Sheepscot and Androscoggin Rivers during May and June. These waters are striped bass spawning rivers. The statewide minimum size of 36 inches, daily and possession limit of one fish and no sale of Maine-caught striped bass will continue to remain in effect.

The Atlantic States Marine Fisheries Commissioner, of which Maine is a member, adopted an Interstate Fisheries Management Plan for Striped Bass in 1981. The goal of the Interstate Plan, which covers all states from Maine through North Carolina, is to promote equitable allocation of the resource among states and maintain striped bass stocks in fishable abundance throughout their range. These proposed regulations would prevent injury to undersized fish by prohibiting gaffing and allow additional fishing opportunity for fish in spawning rivers. The one fish daily limit and 36-inch minimum size will also assure continued recovery of coastal migratory striped bass of Hudson River and Chesapeake Bay origin. Chesapeake Bay fish have begun to recover from overfishing and poor reproductive success in the 1980s. However, although a good recruitment of young occurred in Chesapeake Bay in 1989, the 1990 and 1991 production was poor. Due to this poor recruitment in the past two consecutive years, states need to maintain, at a minimum, the regulations in effect in 1991. A 36" minimum size assures that at least 95% of females of a given year class will spawn at least once before being harvested. This minimum size is essential to continue the striped bass restoration effort in the Kennebec/Androscoggin Rivers estuary. From 1982-91 over 263,000 juvenile striped bass of Hudson River origin have been stocked in the Kennebec/Androscoggin estuary. Wild young-of-the-year have been captured in the estuary each consecutive year from 1987-91, indicating successful spawning of adult fish. Continued protection of adult spawners is essential to assure the restoration of native spawning striped bass to the State of Maine.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333



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94-214

1. Agency: * DEPARTMENT OF MARINE RESOURCES
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): STRIPED BASS RULE

4. Chapter Number Assigned to the rule(s) CHAPTER 42

5. Date(s)/method(s) of notice: Secretary of State Notice of Agency
Rule-Making; February 2, 1994

6. Date(s)/place(s) of hearing(s): February 22, 1994 - 7:00PM
Dept of Marine Resources Laboratory, Conference Room
West Boothbay Harbor, ME

7. Type of rule: ☐ new rule ☒ amendment of existing rule ☐ suspension of existing rule
☐ repeal of existing rule ☐ emergency rule

8. Name/phone of agency contact person: LEWIS N. FLAGG 207-624-6340

9. Certification Statement: I, E. PENN ESTABROOK, hereby
certify that the attached is a true copy of the rule(s) described above and
lawfully adopted by the Department of Marine Resources
on May 10, 1994

Signature

Printed Name & Title E. PENN ESTABROOK, DEPUTY COMMISSIONER

10. Approved as to form and legality by the Attorney General on 5-20-94

Signature

Printed Name

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: DEPARTMENT OF MARINE RESOURCES

CHAPTER NUMBER AND TITLE: CHAPTER 42 - STRIPED BASS RULES

ADOPTED RULE NUMBER:

LEAVE BLANK-WILL BE FILLED IN BY
SECRETARY OF STATE

CONCISE SUMMARY:

This amended rule prohibits the possession and use of bait (any live or dead marine organism or part thereof) on the tidal waters of the Sheepscot, Kennebec, or Androscoggin Rivers and tidal tributaries during the months of May and June. The Department of Marine Resources is restoring spawning populations of striped bass in the Kennebec, Androscoggin, and Sheepscot Rivers. This amended rule will protect spawning striped bass from excessive hooking mortality associated with bait fishing during the striped bass spawning season.

EFFECTIVE DATE:

TO BE FILLED IN BY SECRETARY OF
STATE

AGENCY CONTACT PERSON: LEWIS N. FLAGG

ADDRESS:

Dept of Marine Resources
State House Station #21
Augusta ME 04333-0021

PHONE NUMBER:

207 624-6340

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT

Authorized Signature

DATE:

5/16/94

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	1300	012			

DEPARTMENT OF MARINE RESOURCES

This amendment to striped bass rules prohibits the use or possession of bait (any live or dead marine organism or part thereof) from May 1 to June 30 on the tidal waters of the Kennebec, Sheepscot, or Androscoggin Rivers or tidal tributaries upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island thence to the outer extremity of Cape Newagen. This rule protects spawning striped bass from excessive hooking mortality associated with bait fishing during the striped bass spawning season.

CHAPTER 42 - Striped Bass

42.01 Striped Bass Minimum Size and Harvest Methods

- A. **Method of Taking.** It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line. It is unlawful to use a gaff to land any striped bass.
- B. **Minimum Size.** It is unlawful to take or possess striped bass which are less than 36 inches in total length. It is unlawful to possess striped bass unless the fish are whole with head on and are 36 inches or more in total length.

42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than one (1) striped bass each day.

42.03 Striped Bass - Closed Area and Closed Season

- A. Except as provided in 42.03(B), from December 1 to June 30, inclusive, it is unlawful for any person to take and retain any striped bass from the tidal waters of the Kennebec River inside and upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island, thence to the outer extremity of Cape Newagen and including Merrymeeting Bay and tributaries, the tidal waters of the Sheepscot River, Androscoggin River, Sasanoa River, and all other tidal tributaries of the Kennebec River.
- B. **Special Hook and Release Season/Area.** From May 1 to June 30, it shall be lawful to fish for striped bass in the waters described in 42.03(A) with a hook and line and single hooked artificial lures. Any striped bass caught during this special season/area fishery shall be immediately released and returned alive, without further injury, to the waters from which they were taken.

C. Waters Seasonally Closed to the Use of Bait. From May 1 to June 30, inclusive, it is unlawful to possess or use bait while hook and line fishing for any finfish species in waters described in 42.03(A). During this closed season (May 1 to June 30), possession of hook and line fishing gear and bait on waters described in 42.03(A) is prima facie evidence of violating this regulation. For purposes of this section, "bait" is defined as any live or dead marine organism, or part thereof.

BASIS STATEMENT

As authorized by 12 M.R.S.A., §§6171 and 6191, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, amends Rule 42.03 concerning striped bass closed area and closed season.

This rule amendment prohibits the possession or use of bait (any live or dead marine organism or part hereof) on the tidal waters of the Kennebec, Androscoggin, and Sheepscot Rivers and their tidal tributaries during the months of May and June. This rule is adopted to protect spawning striped bass from excessive hooking mortality associated with bait fishing during the striped bass spawning season. The Department of Marine Resources has stocked young striped bass in these waters and restored a spawning population of striped bass. This bait prohibition will provide increased protection for this newly restored resident stock of striped bass.

Existing enforcement personnel will monitor compliance with this regulation during their routine patrols.

SUMMARY OF COMMENTS

STRIPED BASS HEARING MINUTES

Conference Room - 7:00PM

Marine Resources Boothbay Harbor Laboratory

February 22, 1994

The hearing was chaired by Ken Honey, DMR Hearings Officer, who explained how the administrative process allowed for public input. There were 31 people in attendance. The DMR proposed to reduce the minimum size of striped bass from 36" to 34" total length and prohibit the use of bait in striped bass spawning areas during the spawning season. The proposed rule was published in the **KENNEBEC JOURNAL** and **PORTLAND PRESS HERALD** on February 2, 1994, in the Secretary of State's Notice of Proposed Rule-Making. The deadline for comments following the hearing was March 4, 1994.

Lew Flagg explained the history of interstate management of striped bass and how the proposed rules related to Atlantic coast management of striped bass. Pat Keliher of Freeport, a striped bass guide on the Kennebec, spoke in favor of the proposal presented and also requested the audience to support a current bill in the Maine Legislature to ban all gill netting in the Kennebec River. Others urged the DMR to support federal legislation (HR393-Pallone Bill) to make striped bass a game fish on the Atlantic seaboard. Harold Nickerson of Topsham had serious objections to including earthworms in the proposed bait fish ban. Yellow and white perch recreational fisheries in the Eastern, Cathance, Abagadasset, and Androscoggin Rivers would be adversely affected by banning use of earthworms during May and June. Dean Krah and other striped bass fishermen noted that earthworms are not used as bait to fish for striped bass and that bass were rarely caught with them. Many of the sport-fishermen present expressed concern about the large harvest of menhaden which are an important bait fish for large striped bass, as well as bluefish. Some recommended that DMR should prohibit the large boat menhaden fisheries and allow only small boat fisheries to accommodate the lobster bait market. Almost all present (27 out of 31) were opposed to lowering the striped bass minimum size from 36" to 34". All were in favor of the bait restriction on the Sheepscot, Kennebec, and Androscoggin Rivers, but did not feel that earthworms should be excluded from these waters because their use had virtually no impact on striped bass. Several fishermen hoped the DMR could continue and expand studies on the Kennebec River population of striped bass. The meeting was adjourned at 9:15PM.

Based on public hearing comments and the Department's scientific analysis, the DMR decided the following:

- Earthworms would be excluded from the bait prohibition rule because their use had no adverse impact on striped bass. Earthworms are not marine organisms and the language of the adopted rule does not prohibit their use.
- The proposed minimum size reduction from 36" to 34" was not adopted. The Department determined that the existing 36" minimum size is allowable under the Interstate Striped Bass Plan and is consistent with current size limits in New Hampshire and Massachusetts. The 36" size limit also affords additional protection to native striped bass stocks in the Kennebec and Androscoggin Rivers.

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

MEMORANDUM

DATE: 18January94

TO : Sarah Tubbesing, Legislative Council #115

FROM: *Lew Flagg* Lew Flagg Marine Resources #21

SUBJ: Fact Sheet for Agency Rule-Making Proposal

=====

Pursuant to Section 7, 5 M.R.S.A., §8057A, I am submitting information regarding a Department of Marine Resources rule change. The Department proposes this regulation under the authority of 12 M.R.S.A. §6171.

1. Rule Title. Striped Bass Regulations
2. Concise Summary of the Proposed Rule. The Department proposes to amend existing striped bass regulations (Chapter 42) by reducing the minimum length limit from 36 inches to 34 inches. In addition, this regulation would prohibit the use of bait in Maine striped bass spawning areas during the spawning season (May 1 through June 30).
3. Regulatory Goals and Objectives. The minimum size reduction will bring Maine's regulations into conformity with other Atlantic coast states. This proposed liberalization is desired because of the strong recovery of stocks of striped bass that migrate from Chesapeake Bay spawning areas to Maine. This regulation further provides for increased protection for a weak resident striped bass stock that spawns in the Kennebec/Androscoggin/Sheepscot River complex. Striped bass caught with bait are usually deeply hooked and many die when released. The bait prohibition during the spawning season provides added protection to resident striped bass spawning stocks.
4. Estimated Economic Impact on Small Business. Allowing for a reduced minimum size will stimulate the striped bass recreational fishery because smaller fish may be caught and kept. There will be no impact on commercial fishing because the sale of striped bass has been prohibited in the State of Maine since 1984. Prohibiting the use of bait in the Kennebec/Androscoggin/Sheepscot River complex in May and June will have minimal impacts on bait dealers because all other coastal

Sarah Tubbesing
18Jan94
Page 2

waters are open year around to bait fishing and the affected waters are only closed for two months of the year.

5. Estimated Fiscal Impact of the Proposed Rule. Enforcement of these rule changes will not require much additional enforcement activity. Existing enforcement personnel will monitor compliance during their routine patrols.

LNF/jcw
cc Ken Honey, DMR

ADMINISTRATIVE PROCEDURES ACT

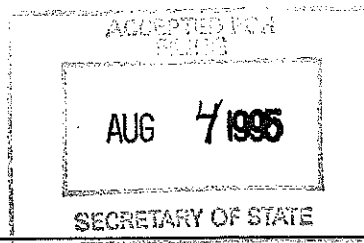
CHECKLIST

AGENCY: DEPARTMENT OF MARINE RESOURCES

CHAPTER # AND TITLE OF RULE: CHAPTER 42 - STRIPED BASS

1. Was this rule listed on the last regulatory agenda? YES
2. Date of Notification of:
 - Anyone on mailing list JANUARY 18, 1994
 - Any trade, industry or professional group JANUARY 18, 1994
 - Any trade publications JANUARY 18, 1994
3. Date Notice of Rulemaking Proposal sent to Secretary of State: JANUARY 18, 1994
4. Date fact sheet sent to Exec. Dir. of Legislative Council: JANUARY 18, 1994
5. Date of Publication in Secretary of State's Rulemaking Ad: FEBRUARY 2, 1994
6. Date of Hearing: FEBRUARY 22, 1994 7. Comment Deadline: MARCH 7, 1994
8. Was comment deadline extended or comment period reopened? NA
If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? NO
(If not, please address the changes in the Statement of Comments).
10. Is the person signing the Certification Statement (MAPA-1 #9) authorized to do so as stated in your statutes or by 5 M.R.S.A., Chapter 71 which defines major policy-influencing position? YES
11. Was rule adopted within 120 days from the comment deadline? YES
12. Was the rule approved & signed by the Attorney General's Office within 150 days from comment deadline? YES
13. Is Basis Statement included? YES Is Statement of Comments included? YES
Is copy of fact sheet included? YES

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333



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95-310

1. Agency: Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Striped Bass Regulation
4. Chapter Number Assigned to the rule(s) 42.02
5. Date(s)/method(s) of notice: April 12, 1995 - Secretary of State Notice of
Agency Rule Making Proposal
May, 1995 Issue of COMMERCIAL FISHERIES NEWS
6. Date(s)/place(s) of hearing(s): Monday, May 1, 1995, 7:00 p.m.
Atrium Inn & Convention Center, Brunswick
7. Type of ☐ new rule ☒ amendment of existing rule ☐ suspension of existing rule
☐ repeal of existing rule ☐ emergency rule
8. Name/phone of agency contact person: Ken Honey 633-9500
9. Certification Statement: I.....ROBIN ALDEN....., hereby certify that the attached is a true copy of the rule(s) described and lawfully adopted by the Department of Marine Resources on August 2, 1995
Signature Robin Alden
Printed Name & Title Robin Alden Commissioner
10. Approved as to form and legality by the Attorney General on August 4, 1995
Signature Thomas A. Harnett
Printed Name THOMAS A. HARNETT AAG.

*For instructions on completing this cover sheet see "A Guide to Rule-Making for State Agencies", pp.8-10.

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42 - Striped Bass Regulations

ADOPTED RULE NUMBER:

LEAVE BLANK-WILL BE FILLED IN BY
SECRETARY OF STATE

CONCISE SUMMARY:

These Amendments specify a procedure allowing for the possession and sale of hybrid striped bass (Morone saxatilis x Morone chyrops) in Maine.

EFFECTIVE DATE:

TO BE FILLED IN BY SECRETARY OF
STATE

AGENCY CONTACT PERSON:

NAME: Ken Honey
ADDRESS: Department of Marine Resources
P. O. Box 8
West Boothbay, Maine 04578
PHONE NUMBER: 633-9500

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT

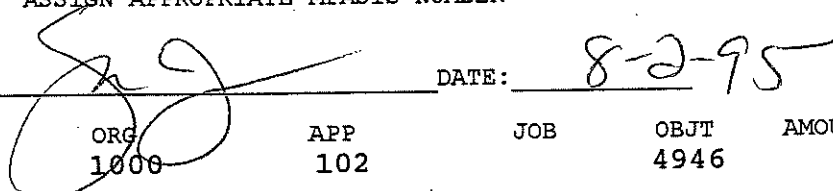
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A large handwritten signature is written over the signature line. To the right of the signature, the date "8-2-95" is handwritten.

42.02 Striped Bass - Limits, Personal Use.

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than one (1) striped bass each day.

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 fillets 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.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §6171, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to existing striped bass regulations.

These amendments specify a procedure allowing for the possession and sale of hybrid striped bass (Morone saxatilis x Morone chrysops) in Maine. These regulations are consistent with provisions of Resolution IV, adopted by the Atlantic States Marine Fisheries Commission at their 48th annual meeting on October 25, 1989.

SUMMARY OF COMMENTS

No one attending the striped bass hearing offered any comment on the commercial sale of aquaculture-reared striped bass and this was not an issue of concern to any of the fishermen present.

Prior to the initiation of the public hearing process, the Department received a request from the General Manager of the Portland Fish Exchange to change current regulations to allow for the sale of aquaculture-reared striped bass hybrids in Maine.

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

MEMORANDUM

DATE: August 2, 1995

TO : Sarah Tubbesing, Dept Legislature #115

FROM: *Lewis Flagg*
Lewis Flagg, DMR #21

SUBJ: Fact Sheet for Agency Rule-Making Proposal

=====

Pursuant to Section 7, 5 M.R.S.A. §8057-A, the following is submitted regarding a Department of Marine Resources rule change. The Department proposes this regulation under the authority of 12 M.R.S.A. §6171.

1. **Rule Title.**
Striped Bass Regulations
2. **Concise Summary of the Proposed Rule.**
The Department proposes to reduce the minimum size of striped bass from 36 inches to 28 inches, retain the existing one fish daily limit, expand the catch and release only fishery in the Kennebec, Androscoggin, and Sheepscot Rivers, and allow for the sale of aquaculture-reared hybrid striped bass in Maine.
3. **Regulatory Goals and Objectives.**
The Commission proposes these changes to allow for more liberal striped bass harvests consistent with the Atlantic States Marine Fisheries Commission Interstate Fisheries Management Plan for Striped Bass. The regulations to allow the sale of hybrid striped bass is consistent with provisions of Resolution IV, adopted by the Atlantic States Marine Fisheries Commission at their 48th Annual Meeting on October 25, 1989.
4. **Estimated Economic Impact on Small Business.**
These rules, which allow for more liberal harvest of striped bass and the sale of hybrid striped bass, will have a small but positive economic impact on small business.
5. **Estimated Fiscal Impact of the Proposal Rule.**
Enforcement of these rules will not significantly add to enforcement activity. Existing enforcement personnel will monitor compliance during their routine patrols.

LNF/jcw

cc Carol Thibodeau, Administration DMR
Ken Honey, Liaison

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

AGENCY: Department of Marine Resources

CHAPTER # AND TITLE OF RULE: Chapter 42 - Striped Bass Regulations

1. Was this rule listed on the last regulatory agenda? yes
2. Date of Notification of:
 - Anyone on Mailing list March 29, 1995
 - Any trade, industry or Professional group March 29, 1995
 - Any trade publications March 29, 1995
3. Date Notice of Rule Making Proposal sent to Secretary of State: March 29, 1995
4. Date fact sheet sent to Exec. Dir. of Legislative Council: March 29, 1995
5. Date of Publication in Secretary of State's Rulemaking Ad: April 12, 1995
6. Date of Hearing May 1, 1995 Comment Deadline: May 12, 1995
8. Was comment deadline extended or comment period reopened? No

If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? Yes
(If not, please address the changes in the Statement of Comments).
10. Is the person signing the Certification Statement (MAPA-1 #9) authorized to do so as stated in your statutes or by 5 M.R.S.A, Chapter 71 which defines major policy-influencing position? Yes
11. Was rule adopted within 120 days from the comment deadline? Yes
12. Was the rule approved & signed by the Attorney General's Office within 150 days from comment deadline? Yes
13. Is Basis Statement included? Yes Is Statement of Comments included? Yes
14. Is copy of fact sheet included? Yes

Rule-Making Cover Sheet

1. **Agency:** Department of Marine Resources
2. **Agency umbrella and unit number:** 13-188A
3. **Title of Rule:** Striped Bass
4. **Chapter number assigned to rule:** Chapter 42
(must be 3 digits or less)
5. **Date(s)/method(s) of notice:** Secretary of State Notice of Agency Rule Making,
July 16, 1997, 30 day comment period closed August 14, 1997
6. **Date(s)place(s) of hearing(s):** None.

7. **Type:** new rule ☒ partial amendment(s) of existing rule
repeal of rule ☐ emergency rule
repeal and replace; complete replacement of existing chapter, with former
version simultaneously repealed.

8. **Name/phone of agency contact person:** Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Tel: (207) 633-9584

9. **If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:**
Provisional adoption (prior to Legislative review) ☐ Final adoption ☐

10. **Certification Statement:** I, Robin Alden, hereby certify that
(name of official empowered to adopt rules)

the electronic text identified as follows: dmrChapter42.lwp 37KB 9-8-97 9:43
is a true copy of the rule(s) described above. I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on September 10, 1997.
(name of agency) (date)

Signature: Robin Alden
(original signature, personally signed by the head of agency)

Printed Name & Title: Robin Alden, Commissioner

11. **Approved as to form and legality by the Attorney General on** September 19, 1997.
(date)

Signature: Thomas G. Harnett, Assistant Attorney General
(original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Thomas Harnett, Assistant Attorney General

Chapter 42 Striped Bass

42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

Method of Taking.

It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line. It is unlawful to use a gaff to land any striped bass.

Size Restrictions.

It is unlawful to take or possess striped bass which are less than 20 inches long or greater than 26 inches total length but less than 40 inches total length. It is unlawful to possess striped bass unless the fish are whole with head on and are between 20 and 26 inches total length or 40 inches and greater total length.

Closed Season.

It is unlawful to take or possess striped bass from the waters of the state between the sixteenth ~~first~~ day of October and the ninth day of the following June.

42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than two (2) striped bass each day of which no more than one striped bass may be between 20 and 26 inches on total length and no more than one striped bass may be 40 inches or greater in total length.

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.

42.03 Striped Bass - Closed Area and Closed Season

- A. Except as provided in 42.03(B), from the 16th day of October ~~December 4~~ to June 30, inclusive, it is unlawful for any person to take and retain any striped bass from the tidal waters of the Kennebec River inside and upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island, thence to the outer extremity of Cape Newagen and including Merrymeeting Bay and tributaries, the tidal water of the Sheepscot River, Androscoggin River, Sasanoa River, and all other tidal tributaries of the Kennebec River. From July 1 through October 15, statewide regulations apply to this area.
- B. Special Hook and Release Season/Area.
- From May 1 to June 30, it shall be lawful to fish for striped bass in the waters described in 42.03(A) with a hook and line and single hooked artificial lures. Any striped bass caught during this special season/area fishery shall be immediately released and returned alive, without further injury, to the waters from which they were taken.
- C. Waters Seasonally Closed to the Use of Bait.
- From May 1 to June 30, inclusive, it is unlawful to possess or use bait while hook and line fishing for any finfish species in waters described in 42.03(A). During this closed season (May 1 to June 30), possession of hook and line fishing gear and bait on waters described in 42.03(A) is prima facie evidence of violating this regulation. For purposes of this section, "bait" is defined as any live or dead marine organism, or part thereof.

Basis Statement

As authorized by 12 M.R.S.A. section 6171, The Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, amends rules 42.01 and 42.03 concerning striped bass. These amended striped bass rules are being adopted to allow for liberalization of the season in which striped bass may be legally harvested. The current statewide season is extended 15 days (from June 10 through September 30 to June 10 through October 15). The harvest season in striped bass spawning areas (Kennebec-Androscoggin-Sheepscot Rivers estuaries) is also extended 15 days (from July 1 through September 30 to July 1 through October 15.) These changes are consistent with the Interstate Fisheries Management Plan for Striped Bass and have been reviewed and approved by the Atlantic States Marine Fisheries Commission. This extended season will allow more opportunities to harvest striped bass which have become very abundant in recent years. The increased harvest opportunities will have no adverse impact on the health of the striped bass stock.

EFFECTIVE DATE: September 15, 1997

Summary of Comments

There was no hearing held and no written comments were received during the public comment period.

**ADMINISTRATIVE PROCEDURE ACT
CHECKLIST**

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 42 Striped Bass

1. Was this rule listed on the last regulatory agenda? yes
2. Date of notification of:
 Anyone on mailing list July 16, 1997
 Any trade, industry or professional group July 16, 1997
 Any trade publications July 16, 1997
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: July 8, 1997
4. Date Fact Sheet sent to Executive Director of Legislative Council: July 8, 1997
5. Date of publication in Secretary of State's rulemaking ad.: July 16, 1997
6. Date of hearing(s): none 7. Comment deadline: August 14, 1997
8. Was comment deadline extended or comment period reopened? no
9. Is adopted rule consistent with what was proposed? yes
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9) authorized to do so as stated in your statutes or in 5 MRSA, c.71? yes
11. Was the rule adopted within 120 days of the comment deadline? yes
12. Was the rule approved and signed by the Office of the Attorney General within 150 days of the comment deadline? yes
13. Is a Basis Statement included? yes Is a copy of the Fact Sheet included? yes
 Are comments, with names and organizations, and your responses included? yes

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Lewis N. Flagg, Department of Marine Resources, 21 State House Station, Augusta, Maine
04333-0021 Telephone: (207) 624-6341

CHAPTER NUMBER AND RULE:

Chapter 42 Striped Bass

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

DATE AND PLACE OF PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: August 14, 1997

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

This 15-day extension of Maine's striped bass season has been approved by the Atlantic States Marine Fisheries Commission Striped Bass Board and meets the conservation requirements of the Interstate Management Plan for the Atlantic coast striped bass. This amended rule allows for a more liberal harvest of striped bass which have experienced a dramatic increase in population abundance over the past five years. The modest striped bass harvest through this 15-day extension will have no adverse impacts on the health of the striped bass stocks.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

These rules apply to all recreational striped bass anglers.

FISCAL IMPACT OF THE RULE:

Enforcement of the proposed change will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

(File 20 copies with the Executive Director of Legislative Council, attn. S. Tubbesing, Rm 115, within 1-2 days after filing with SOS.)

NOTICE OF AGENCY RULE-MAKING ADOPTION**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 42 Striped Bass**ADOPTED RULE NUMBER:**(LEAVE BLANK - ASSIGNED BY
SECRETARY OF STATE)

CONCISE SUMMARY: These amended striped bass rules allow for a 15-day extension of the striped bass season to October 15. The **statewide retention season** is proposed to run from June 10 through October 15; the **retention season in striped bass spawning areas** is proposed to run from July 1 through October 15.

EFFECTIVE DATE: September 16⁵, 1997
(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Laurice U. Churchill
AGENCY NAME: Department of Marine Resources
ADDRESS: 21 State House Station
Augusta, Maine 04333-0021

TELEPHONE: (207) 633-9584

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

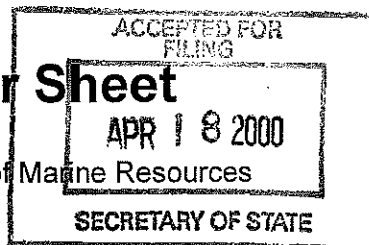
APPROVED FOR PAYMENT



DATE: 9/10/97

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A100	102		4946	

Rule-Making Cover Sheet



2000-142

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: **Striped Bass:**
Chapter 42.01 **Statewide Striped Bass Size Restrictions, Harvest Methods,**
Chapter 42.02 **Striped Bass - Limits, Personal Use, and**
Chapter 42.03 **Striped Bass - Closed Area and Closed Season**
4. Chapter number assigned to rule: **Chapter 42.01, 42.02, 42.03**
5. Date(s)/method(s) of notice: March 8, 2000 ed., Sec. of State Notice of Agency Rulemaking column
6. Date(s)place(s) of hearing(s): None, held, none requested
7. Type: ☐ new rule ☒ partial amendment(s) of existing rule
☐ repeal of rule ☐ emergency rule
☐ repeal and replace; complete replacement of existing chapter, with former version simultaneously repealed.
8. Name/phone of agency contact person: **Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Tel: (207) 633-9584**
9. If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:
☐ Provisional adoption (prior to Legislative review) ☐ Final adoption
10. Certification Statement: I, George D. Lapointe, hereby certify that
(name of official empowered to adopt rules)
the electronic text identified as follows: DMRchapter42.doc Size Date Time
is a true copy of the rule(s) described above. I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on 12 April 2000
(name of agency) (date)

Signature: _____

(original signature, personally signed by the head of agency)

Printed Name & Title: George D. Lapointe, Commissioner

11. Approved as to form and legality by the Attorney General on April 14, 2000
(date)

Signature: _____

(original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Thomas A. Harnett, Assistant Attorney General

File with the APA Office, Secretary of State, 101 State House Station, Augusta, ME 04333

DEPARTMENT OF MARINE RESOURCES

Chapter 42 - Striped Bass

42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

Method of Taking.

It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line. It is unlawful to use a gaff to land any striped bass.

Size Restrictions.

It is unlawful to take or possess striped bass which are less than 20 inches long or greater than 26 inches total length but less than 40 inches total length. It is unlawful to possess striped bass unless the fish are whole with head on and are between 20 and 26 inches total length or 40 inches and greater total length.

~~Closed Season.~~

~~It is unlawful to take or possess striped bass from the waters of the state between the sixteenth day of October and the ninth day of the following June.~~

42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than one (1) ~~two (2)~~ striped bass each day of ~~which no more than one striped bass which~~ may be between 20 and 26 inches in total length and ~~no more than one striped bass may be~~ or 40 inches or greater in total length.

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.

42.03 Striped Bass - Closed Area and Closed Season

- A. Except as provided in 42.03 (B), from the 1st day of December ~~16th day of October~~ to June 30, inclusive, it is unlawful for any person to take and retain any striped bass from the tidal waters of the Kennebec River inside and upstream of a line drawn from the outer extremity of Cape Small to the outer extremity of Salter Island, thence to the outer extremity of Cape Newagen and including

Merrymeeting Bay and tributaries, the tidal waters of the Sheepscot River, Androscoggin River, Sasanoa River, and all other tidal tributaries of the Kennebec River. From July 1 through ~~November 30~~October 15, statewide regulations apply to this area.

- B. Special Hook and Release Season/Area. From May 1 to June 30, it shall be lawful to fish for striped bass in the waters described in 42.03(A) with a hook and line and single hooked artificial lures. Any striped bass caught during this special season/area fishery shall be immediately released and returned alive, without further injury, to the waters from which they were taken.
- C. Waters Seasonally Closed to the Use of Bait. From May 1 to June 30, inclusive, it is unlawful to possess or use bait while hook and line fishing for any finfish species in waters described in 42.03(A). During this closed season (May 1 to June 30), possession of hook and line fishing gear and bait on waters described in 42.03(A) is prima facie evidence of violating this regulation. For purposes of this section, "bait" is defined as any live or dead marine organism, or part thereof.

Basis Statement

These regulations are based upon evidence, presented by the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board and Technical Committee, that the target fishing mortality rate on age 8 (28 inches) and older striped bass is being exceeded. The proposed rule will reduce fishing mortality, on age 8 and older fish, by 14%. This reduction in mortality meets the conservation requirements and policy of the ASMFC striped bass interstate management plan.

The regulations reduce the striped bass creel limit from two to one fish daily and changes the daily allowance to retention of one fish between 20 and 26 inches total length or 40 inches or greater in size. Due to the reduction in the daily creel limit, it is no longer necessary to continue to restrict the statewide fishing season. Striped bass may be taken year round in most coastal waters. However, current Kennebec River season and gear restriction regulations remain the same as in 1999 except that the one fish daily limit applies from July 1 through November 30. The Kennebec River is closed to striped bass fishing from December 1 through April 30 annually. Kennebec River catch and release only fishing regulations, and a bait prohibition, continue in effect during the months of May and June.

These changes to the striped bass regulations are approved with the advice and consent of the Department's Advisory Council.

Summary of Comments

A written comment in support of the proposed regulation was received during the comment period from the Coastal Conservation Association based in Yarmouth, Maine.

ADMINISTRATIVE PROCEDURE ACT CHECKLIST

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 42 Striped Bass:

Chapter 42.01 Statewide Striped Bass Size Restrictions, Harvest Methods,

Chapter 42.02 Striped Bass - Limits, Personal Use, and

Chapter 42.03 Striped Bass - Closed Area and Closed Season

1. Was this rule listed on the last regulatory agenda? Yes

2. Date of notification of: Anyone on mailing list: March 8, 2000
Any trade, industry or professional group March 8, 2000
Any trade publications March 8, 2000

3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: Feb. 29, 2000

4. Date Fact Sheet sent to Executive Director of Legislative Council: February 29, 2000

5. Date of publication in Secretary of State's rule-making ad: March 8, 2000

6. Date of hearing(s): None held, none requested 7. Comment deadline: April 7, 2000

8. Was comment deadline extended or comment period reopened? No

9. Is adopted rule consistent with what was proposed? Yes

(If not, please address the changes in the comments and responses section of your filing.)

10. Is the person signing the Certification Statement (MAPA-1, #9) authorized to do so as stated in your statutes or in 5 MRSA, c.71? Yes

11. Was the rule adopted within 120 days of the comment deadline? Yes

12. Was the rule approved and signed by the Office of the Attorney General within 150 days of the comment deadline? Yes

13. Is a Basis Statement included? Yes Is a copy of the Fact Sheet included? Yes

Are comments, with names and organizations, and your responses included? Yes

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine
04333-0021 Telephone: (207) 633-9584

CHAPTER NUMBER AND RULE: Chapter 42 Striped Bass:

- 42.01 Statewide Striped Bass Size Restrictions, Harvest Methods,
- 42.02 Striped Bass - Limits, Personal Use, and
- 42.03 Striped Bass - Closed Area and Closed Season

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

DATE AND PLACE OF PUBLIC HEARING: None

COMMENT DEADLINE: Friday, April 7, 2000

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The Department of Marine Resources proposes to reduce the striped bass creel limit from two to one fish daily, to meet the Atlantic States Marine Fisheries Commission striped bass interstate management plan requirements and to reduce mortality on striped bass age 8 (28 inches) and older.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

These rules would apply to all recreational striped bass anglers.

FISCAL IMPACT OF THE RULE:

Enforcement of the proposed changes will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

*(File 20 copies with the Executive Director of Legislative Council, attn. S. Tubbesing, Rm 115,
within 1-2 days after filing with SOS.)*

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

The Department of Marine Resources has adopted regulations to reduce the striped bass creel limit from two to one fish daily to meet the Atlantic States Marine Fisheries Commission striped bass interstate management plan requirements and to reduce mortality on striped bass age 8 (28 inches) and older. Because of the reduction in the daily creel limit, it is no longer necessary to continue to restrict the fishing season. Therefore, outside the Kennebec River system, there is no season restriction and one fish per day may be retained year round. The one fish daily allowance may be either a fish between 20 and 26 inches total length or 40 inches or greater in size. Current Kennebec River regulations remain the same as in 1999 except that the one fish daily limit applies from July 1 through November 30 (catch and release only fishing and a bait prohibition continue in effect during the months of May and June). The Kennebec River is closed to striped bass fishing from December 1 through April 30 annually.

EFFECTIVE DATE:

(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Laurice U. Churchill
AGENCY NAME: Department of Marine Resources
ADDRESS: 21 State House Station
Augusta, Maine 04333-0021

TELEPHONE: (207) 633-9584

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

APPROVED FOR PAYMENT *Rochelle Guano* DATE: 4/12/00

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A100	102		4946	

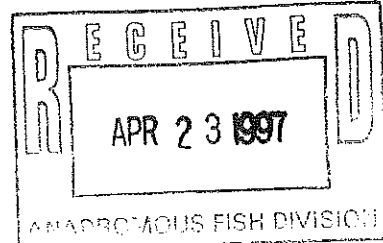
Rule-Making Cover Sheet

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.

APR 15 1997

97-124

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: Striped Bass
4. Chapter number assigned to rule: Chapter 42
5. Date(s)/method(s) of notice: Secretary of State Notice of Agency Rule-Making,
March 5, 1997
6. Date(s)place(s) of hearing(s):
March 24, 1997, 7:00pm, Atrium, Cooks Corner, Brunswick
March 25, 1997, 7:00pm, Samoset Resort, Rockport
March 26, 1997, 7:00pm, Saco Elks Club, Saco
7. Type: ☐ new rule ☒ partial amendment(s) of existing rule
☐ suspension of existing rule ☐ repeal of rule ☐ emergency rule
☐ repeal and replace; complete replacement of existing chapter, with former
version simultaneously repealed.
8. Name/phone of agency contact person: Lewis N. Flagg / Tel: 624-6341



9. Certification Statement: I, Robin Alden
hereby certify that the attached is a true copy of the rule(s) described above and
lawfully adopted by the Department of Marine Resources on April 15, 1997.

Signature: _____

Robin Alden

Printed Name & Title: Robin Alden, Commissioner

10. Approved as to form and legality by the Attorney General on April 15, 1997

Signature: _____

Thomas Harnett

Printed Name & Title: Thomas Harnett, Assistant Attorney General

DEPARTMENT OF MARINE RESOURCES

Chapter 42 - Striped Bass

42.01 Striped Bass ~~Minimum~~ Size Restrictions, ~~and~~ Harvest Methods

Method of Taking

It is unlawful to fish for or take striped bass in the waters of the state, except by hook and line. It is unlawful to use a gaff to land any striped bass.

~~Minimum~~ Size Restrictions

It is unlawful to take or possess striped bass which are ~~less than 36 inches in total length.~~ less than 20 inches long or greater than 26 inches total length but less than 40 inches total length. It is unlawful to possess striped bass unless the fish are whole with head on and are ~~36 inches or more in total length.~~ between 20 and 26 inches total length or 40 inches and greater total length.

Closed Season

It is unlawful to take or possess striped bass from the waters of the state between the first day of October and the ninth day of the following June.

42.02 Striped Bass - Limits, Personal Use

It is unlawful for any person to fish for or take striped bass in the waters of the state, except for personal use.

It is unlawful for any person to take or possess more than ~~one (1)~~ two (2) striped bass each day of which no more than one striped bass may be between 20 and 26 inches on total length and no more than one striped bass may be 40 inches or greater in total length.

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.

EFFECTIVE DATE: *April 21, 1997*

Basis Statement

As authorized by 12 M.R.S.A., Section 6171, the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, amends Rules 42.01 and 42.02 concerning striped bass. These amended striped bass rules are being adopted to allow for liberalization of recreational creel limits and size restrictions on striped bass. The allowable harvest of two striped bass per day (one between 20-26 inches total length and one 40 inches or greater in length) replaces the current limit of one fish per day and the 36 inch total length minimum size. A season of June 10 through September 30 is established to prevent overharvest of fish in the 20-26 inch size range. These changes are consistent with the *Interstate Fisheries Management Plan for Striped Bass* and have been reviewed and approved by the Atlantic States Marine Fisheries Commission. The liberalization of striped bass harvest is allowable because the Atlantic coast migratory population of striped bass has improved dramatically over the past five years and is now restored. The Commissioner is adopting these regulations to allow for increased utilization of the restored striped bass migratory population on the Atlantic coast.

Existing enforcement personnel will monitor and enforce compliance of these amended rules during their routine patrols.

Summary of Comments

Three public hearings were held in Brunswick, Saco and Rockport to receive comment on the striped bass proposal to liberalize the bag limit from one to two fish (one between 20-26 inches total length and one 40 inches or greater total length), adjust the current minimum size of 36 inches total length to the aforementioned dual size limits, and adjust the current year 'round season to June 10 through September 30.

A total of 272 people attended the three hearings. Nine people spoke for the proposal and 12 people spoke against the proposal. Jeff Bellemore of Warren, representing 500 members of the Maine Guides Association, spoke in favor of the proposal. Pat Keliher, representing 600 members of the Coast Conservation Association, Maine Chapter, spoke in favor. Fourteen letters were received following the hearings, seven of which were for and seven of which were against the proposal. Letters from the Sportsmen's Alliance of Maine (12,500 members) and Coast Conservation Association (600 members) were two of the seven in favor of the proposal. A petition of 47 names from the York and Cumberland County area was received in favor of the proposal.

The 12 people who spoke in opposition to the proposal were as follows:

- Eight people were opposed to changing the current size limit and were concerned about overfishing of the fish in the 20-26 inch range proposed size limit. **DMR response:** The striped bass stock has increased dramatically in the past five years. Juvenile recruitment in the Chesapeake Bay spawning areas in 1993 and 1996 are the highest on record for the past 47 years. There is a large stock surplus to spawning needs that can be safely harvested. Overharvest of fish in the 20-26 inch range is constrained by a one fish daily limit and a season of June 10 through September 30.
- Three people did not feel Maine, which takes only a small part of the Atlantic coast striped bass harvest, should be required to have a season. **DMR response:** The season is necessary to prevent overharvest of smaller fish and keep down the fishing mortality rate. Maine has to comply with the *Interstate Striped Bass Management Plan* which requires a season if it has the 20-26 inch size limit. The seasonal size limits and season allow for more than 66% of the fish vulnerable to harvest to escape the fishery annually.

Of the seven letters received in opposition, the rationale for opposition was as follows:

- Three people felt that the smaller size allowance would result in overfishing. **DMR Response:** See above
- Two people opposed the 40" size as too restrictive. **DMR response:** Striped bass between 26 and 40 inches are the prime female breeding fish. This protection allows females that exceed 26 inches to spawn at least four times before they are vulnerable to harvest as 40 inch fish. This is an important conservation measure for the resource and is necessary for stock protection.
- One opponent felt the season was too restrictive. **DMR response:** See above
- One opponent was concerned about the June 10 open season when Kennebec River native striped bass are spawning. **DMR response:** The Kennebec River has a July 1 open season which will not change. This special regulation on the Kennebec/Sheepscot/Androscoggin estuary will remain in effect and the new size and bag limits will be in effect in

this special area beginning July 1 of each year. Fish outside the Kennebec River system in June are migratory striped bass from the Chesapeake Bay and Hudson River that have already spawned in their home rivers before migrating to Maine.

LIST OF COMMENTERS:

Proponents

Amy Stocks, Pine Point
Tim Delaney, Portland
Merrill Robbins, Scarborough
Jim Triance, Waterboro
Pat Keliher, Freeport
Doug Jowett, Brunswick
Irene Lynch, Poland
Robert Sargent, Poland
Jeff Bellemore, Warren
George Smith, Mt. Vernon
Stephen Elliot, North Monmouth
Gene McKeever, Camden
Daniel Mitchell, Portland

Opponents

Bob Booth, Augusta
John Harmon, Scarborough
Mike DiAnni, Springvale
Lionel Lucas, Kennebunk
Dick Roberge, Springvale
Mike Wojtiuk, Wells
Amy Strout, Kittery
Dan Miller
Tom Harrington, Saco
Roger Marceaux, Ashland
Lendell Tarr, Ashland
Ted K., Kennebunk
Francis Simmons, Phippsburg
Renard Voisine, Sidney

**ADMINISTRATIVE PROCEDURE ACT
CHECKLIST**

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 42 Striped Bass Rules

1. Was this rule listed on the last regulatory agenda? YES
2. Date of notification of:
 Anyone on mailing list March 5, 1997
 Any trade, industry or
 professional group March 5, 1997
 Any trade publications March 5, 1997
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: Feb. 24, 1997
4. Date Fact Sheet sent to Executive Director of Legislative Council: Feb. 24, 1997
5. Date of publication in Secretary of State's rule-making ad.: March 5, 1997
6. Date of hearing(s): March 24,25,26, 1997 7. Comment deadline: April 7, 1997
8. Was comment deadline extended or comment period reopened? NO
9. Is adopted rule consistent with what was proposed? YES
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9)
authorized to do so as stated in your statutes or in 5 MRSA, c.71? YES
11. Was the rule adopted within 120 days of the comment deadline? YES
12. Was the rule approved and signed by the Office of the
Attorney General within 150 days of the comment deadline? YES
13. Is a Basis Statement included? YES Is a copy of the Fact Sheet included? YES

Are comments, with names and organizations, and your responses included? YES

STATE OF MAINE

Inter-Departmental Memorandum

To Sarah Tubbesing

Date February 24, 1997

Dept Legislative Council #115

From Brian Swan

Dept Marine Resources

Subject Fact Sheet for Agency Rule Making Proposal

Pursuant to Section 7, 5 M.R.S.A., §8057-A I am submitting information regarding a Department of Marine Resources rule proposal. The Department is proposing this regulation under the authority of 12 M.R.S.A., §6171.

1. Rule Title Striped Bass Minimum Size Harvest Methods and Closed Season

2. Concise Summary of the Proposed Rule

This proposed regulation amendment establishes a season of June 10 through September 30 for the legal harvest of striped bass from Maine waters, and amends the allowable size of possessed fish to those between 20 and 26 inches and/or greater than 40 inches in total length.

3. Regulatory Goals and Objectives

This proposed regulation seeks to protect and increases the population of striped bass in Maine waters.

4. Estimated Economic Impact on Small Business

This regulation may have some beneficially economic impact on small business.

5. Estimated Fiscal Impact of the Proposed Rule

None.

NOTICE OF AGENCY RULE-MAKING PROPOSAL

AGENCY: Department of Marine Resources

RULE TITLE OR SUBJECT: Striped Bass Minimum Size, Harvest Methods, and
Closed Season

PROPOSED RULE NUMBER:

CONCISE SUMMARY: (SHOULD BE UNDERSTANDABLE BY AVERAGE CITIZEN)

This proposed regulation amendment establishes a season of June 10 through September 30 for the legal harvest of striped bass from Maine waters, and amends the allowable size of possessed fish to those between 20 and 26 inches and/or greater than 40 inches in total length.

THIS RULE WILL _____ WILL NOT X HAVE A FISCAL IMPACT ON MUNICIPALITIES.

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

PUBLIC HEARINGS: Three public hearings on this proposal will be held at:

- 1) On Monday, March 24, 7p.m. at the Atrium Inn and Convention Center, Cooks Corner, Brunswick.
- 2) On Tuesday, March 25, 7p.m. at the Penobscot Room, Samoset Resort, Rockport.
- 3) On Wednesday, March 26, 7p.m. at the Saco Elks Club, 769 Portland Road, Saco.

DEADLINE FOR COMMENTS: April 7, 1997

AGENCY CONTACT PERSON:

NAME: Lewis N. Flagg
ADDRESS: Department of Marine Resources
State House Station #21
Augusta, Maine 04333

PHONE NUMBER: 624-6340

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT _____ DATE: _____

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A120	102		4946	

STATE OF MAINE

Inter-Departmental Memorandum

To Sarah Tubbesing

Date February 24, 1997

Dept Legislative Council #115

From Brian Swan

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Subject Fact Sheet for Agency Rule Making Proposal

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1. Rule Title Striped Bass Limits, Personal Use

2. Concise Summary of the Proposed Rule

This proposed regulation amendment allows a daily creel limit on striped bass of 2 fish. No more than one fish may be between 20 and 26 inches, and no more than one fish may be 40 inches or greater in total length.

3. Regulatory Goals and Objectives

This proposed regulation increases the allowable number of striped bass that can be possessed from one fish per day to two fish per day while at the same time protecting the resource.

4. Estimated Economic Impact on Small Business

This regulation may have some beneficially economic impact on small business.

5. Estimated Fiscal Impact of the Proposed Rule

None.

NOTICE OF AGENCY RULE-MAKING PROPOSAL

AGENCY: Department of Marine Resources

RULE TITLE OR SUBJECT: Striped Bass Limits, Personal Use

PROPOSED RULE NUMBER:

CONCISE SUMMARY: (SHOULD BE UNDERSTANDABLE BY AVERAGE CITIZEN)

This proposed regulation amendment allows a daily creel limit on striped bass of 2 fish. No more than one fish may be between 20 and 26 inches, and no more than one fish may be 40 inches or greater in total length.

THIS RULE WILL _____ WILL NOT X HAVE A FISCAL IMPACT ON MUNICIPALITIES.

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

PUBLIC HEARINGS: Three public hearings on this proposal will be held at:

- 1) On Monday, March 24, 7p.m. at the Atrium Inn and Convention Center, Cooks Corner, Brunswick.
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DEADLINE FOR COMMENTS: April 7, 1997

AGENCY CONTACT PERSON:

NAME: Lewis N. Flagg
 ADDRESS: Department of Marine Resources
 State House Station #21
 Augusta, Maine 04333

PHONE NUMBER: 624-6340

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
 ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT *Gabe Biloch* DATE: 2/24/97

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A120	102		4946	

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42 Striped Bass

ADOPTED RULE NUMBER: 42.01, 42.02

*(LEAVE BLANK - ASSIGNED BY
SECRETARY OF STATE)*

CONCISE SUMMARY: These amended striped bass rules establish a new season, new bag limits and new size restrictions on the striped bass recreational fishery. The current minimum size of 36 inches is changed to 20-26 inches and 40 inches or greater in length. It is illegal to take or possess striped bass less than 20 inches long or greater than 26 inches total length but less than 40 inches total length. The daily bag limit is increased from one to two fish per day, of which no more than one may be 20-26 inches total length and no more than one may be 40 inches or greater in total length. A season of June 10 through September 30 is established during which time fish in these approved size ranges may be kept by anglers. Catch and release fishing for striped bass is allowable outside the June 10 through September 30 season. From the first day of October through the ninth day of the following June, it is illegal to take or possess striped bass from Maine waters.

EFFECTIVE DATE: April 21, 1997

*(TO BE FILLED IN
BY SECRETARY OF STATE)*

AGENCY CONTACT PERSON: Lewis N. Flagg
AGENCY NAME: Department of Marine Resources
ADDRESS: 21 State House Station
 Augusta, Maine 04333

TELEPHONE: 624-6341

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

APPROVED FOR PAYMENT *Robert Beloch* **DATE:** 4/15/97

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A100	102		4946	