

TO: Atlantic Striped Bass Management Board

FROM: Patrick Keliher, Commissioner, Maine Department of Marine Resources
Daniel McKiernan, Director, Massachusetts Division of Marine Fisheries

DATE: January 21, 2021

RE: A Proposal to Study the Tube Rig Fishery and Consider Its Exemption from the Circle Hook Provision

Overview

The Maine Department of Marine Resources (ME DMR) and the Massachusetts Division of Marine Fisheries (MA DMF) are submitting a proposal to collect data on the recreational striped bass baited tube rig fishery. Goals of this study are to assess the prevalence of baited tube rigs in the fishery and their incidence of deep hooking. To enable this study, ME and MA are requesting an allowance for the continued use of traditional baited tube rigs (with a J hook) in the recreational striped bass fishery. This allowance, either for ME and MA alone or coastwide, would terminate after the two-year study unless additional action is taken by the Board to extend or permanently approve the use of tube rigs in the fishery.

Background

At its October meeting, the Atlantic Striped Bass Management Board (Board) voted to prohibit any exemptions to the Addendum VI provision specifying the use of circle hooks when recreationally fishing for striped bass with bait. In order to come into compliance with this provision, ME DMR adopted an emergency regulation on December 16, 2020 which removed the state's previous exemption for those fishing with baited latex and rubber tube rigs. Similarly, MA DMF initiated rule-making to remove the state's exemption for those fishing with any artificial lure to which natural bait is attached (which allowed for baited tube rigs among other terminal tackles including an artificial lure) prior to the fishery's onset.¹

In response to these regulatory actions, ME DMR and MA DMF heard from a wide assortment of stakeholders expressing concern, frustration, and confusion with these changes. Many individuals, while supportive of measures to protect the striped bass resource, were surprised by this management outcome, given an understanding that Addendum VI's circle hook requirement was meant to address simple hook-on-a-line tackle—the type of baited hook configurations for which studies have shown a difference in deep hooking rates between J hooks and circle hooks. In particular, they did not understand the purpose of prohibiting a tube rig with a J hook given their experience that this terminal tackle rarely, if ever, results in deep hooking. Because they did not see a conservation benefit in requiring the use of circle hooks with a tube rig, they worried that such a measure would unintentionally erode public support for circle hooks. Others indicated that it is not possible to fish a tube rig with a circle hook because the circle hook will not set in the fish when the bait is being trolled or cast through the water;

¹ Massachusetts' regulation also exempted anglers aboard for-hire vessels; this part of the exemption will be eliminated without further Board guidance, and is not a focus of this proposal.

hence, the circle hook requirement effectively prohibits this popular terminal tackle for striped bass fishing. Members of Maine's worming industry highlighted resulting economic impacts to their business given worms are often attached to the tube rig when fishing.

In response to these concerns, ME DMR and MA DMF have developed this proposal to collect data on the use of tube rigs in the recreational striped bass fishery. While agency staff and industry anecdotally describe the low incidence of deep hooking with a tube rig, to our knowledge, a study focused on this terminal tackle has not occurred. Further, given the MRIP survey does not collect information on terminal gear, the population of those using tube rigs is unknown. Given this dearth of information, there are key questions regarding the size of the fishing population impacted by the removal of the tube rig exemption as well as the relative biological impact of fishing this type of gear. Given the goal of the Addendum VI circle hook provision is to reduce the discard mortality of striped bass in the recreational fishery, should tube rigs already result in a low incidence of deep hooking, the net benefit of requiring circle hooks may be negligible. Said another way, a narrow exemption for tube rigs may not undermine the goal of the circle hook provision.

Description of a Tube Rig

Tube rigs are a traditional method of recreational fishing. As a part of this terminal gear, a section of latex or rubber tubing encircles the mainline with the hook protruding from the end of the tubing. Bait, such as worms, can be attached to the hook. The gear is actively monitored while fished, whether it is cast into a current or trolled at low speeds behind a boat or kayak. Under Maine's prior regulation, tube rigs exempt from the circle hook requirement were required to have a tube measuring at least 8 inches long and were restricted to having a single hook protruding from the end to which bait is attached.²

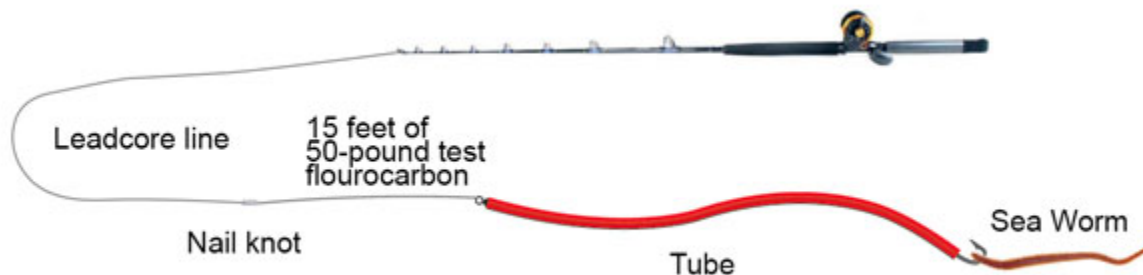


Image from: www.onthewater.com/best-striped-bass-trolling-rigs

Proposed Tube Rig Study

ME DMR and MA DMF are proposing a two-year study (2021/2022) to gather information on the use of tube rigs in the recreational striped bass fishery. The two primary management objectives of this work are:

- Understand the size of the fishing population which participates in the use of tube rigs
- Understand where tube gear hooks on a fish (lip, gills, gut, etc.)

² ME exemption language: 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.

In addition, ME DMR is interested in understanding the potential impacts of the circle hook requirement on Maine's worming industry.

To make this study possible, ME DMR and MA DMF are requesting that Maine's previous circle hook exemption for those fishing with a tube rig be authorized for the two-year duration of the study, either a) in Maine and Massachusetts alone by way of Board approval of an exemption request; or b) coastwide by way of Board action to delay Addendum VI's circle hook implementation date for this particular terminal tackle. This authorization is necessary to allow ME DMR and MA DMF staff, in collaboration with recreational anglers and for-hire operators, to collect pertinent information on the use of tube rigs in the fishery, including participation rates and incidence of deep hooking. It is ME DMR and MA DMF's intent that this allowance for traditional baited tube rigs would expire after two years, unless additional Board action is taken to extend or permanently approve their use.

The proposed study has several components for collecting data including: 1) an angler survey (ME & MA); 2) an angler logbook (ME only); and 3) at-sea data collection (ME & MA).

Angler Survey

In both Maine and Massachusetts, the population of striped bass fishermen using a baited tube rig is unknown. As a result, it is unclear how large of a population is impacted by the Board's recent decision to prohibit a circle hook exemption for tube rigs.

As a first step, both states plan to administer an online survey to recreational fishery participants—both private anglers and for-hire vessel operators—through the use of their respective angler databases (whether that be for recreational permit holders or those in a saltwater registry). Collecting participation information from a broad set of recreational anglers will provide insight into the proportion of the recreational community that uses tube rigs. Questions in the survey would ask private anglers about their knowledge of tube rigs, level of engagement in recreational striped bass fishing, frequency of using tube rigs in the striped bass fishery, and choice of bait; for-hire captains would be asked to provide similar information of the anglers they have taken fishing.

Angler Logbook

As a second component to this study, ME DMR plans to utilize its Volunteer Angler Logbook (VAL) program to collect data on the use of tube rigs in the fishery. The VAL program is primarily aimed at striped bass fishermen in order to collect additional length as well as catch and effort data. In 2021, ME DMR will be expanding the VAL program to include an electronic logbook which recreational anglers will be able to complete online or through an App. Not only does this electronic logbook provide ME DMR the flexibility to easily modify the questions asked, but Maine also believes it will expand the population of recreational anglers who provide data. For reference, a copy of the existing logbook is attached to this proposal. A preliminary list of questions ME DMR plans to add to the VAL program, and their associated management objective, are shown below in Table 1.

ME DMR plans to conduct extensive outreach on the new electronic VAL program in order to promote strong engagement and participation by the recreational sector. Methods of outreach will include list-serve mailings, an announcement on ME DMR's website, outreach at tackle shops, and collaboration with industry associations.

In combination with the broader recreational industry survey, the VAL program should provide important information on the tube rig fishery. As efforts are taken to publicize the new electronic

logbook, ME DMR is conscious that those participating in the VAL program may not represent a balanced cross-section of the recreational fishing community. This may be particularly true if those who fish with tube-and-worm gear are eager to collect data on their fishing practices. The online survey administered by ME DMR will allow for a comparison between the subset of individuals who participate in the VAL program and the broader recreational community. Moreover, the survey results will help ME DMR to understand whether those who participate in the VAL program represent a small or large portion of fishermen who use baited tube rig gear. These two sources of information should also help ME DMR to draw conclusions about the broader impacts of the tube rig fishery.

Table 1: Management objectives and the corresponding preliminary questions to be added to Maine’s Volunteer Angler Logbook under ME DMR’s proposed study.

Management Objective	Corresponding Questions in Logbook
Understand size of population which participates in the tube-and-worm fishery	Did you use a baited latex or rubber tube rig when fishing? [options for “yes” or “no”]
Understand impacts to the worming industry	If yes, what bait did you use on the tube rig? [options for “seaworm” “artificial including synthetic” and “other”]
Understand where tube and worm gear hooks on a fish (lip, gut, etc.)	Number of fish caught using tube rig Where was the hook set? [options for “lip” “interior mouth” “gill teeth” “other”]

At-sea Data Collection

While logbooks are a cost-effective way (and safe way during Covid) to gather large amounts of data and engage industry, a potential criticism of logbook data is that they are self-reported. To address this concern, ME DMR and MA DMF are developing plans to conduct at-sea sampling of tube rig fishing. Data similar to what is proposed in the VAL program would be recorded, including the number of fish caught, the location of where the hook set on the fish, and the condition of the fish when discarded. Further, the agencies will manufacture/obtain and fish with tube rigs with circle hooks to understand the impact on catch given industry’s assertion that the circle hook will not set in the fish. Collecting this second stream of data will provide greater insight into the data collected through Maine’s VAL program; the data collected by agency staff will either highlight discrepancies with the data collected in the angler logbooks or it will ground truth what is reported in the logbooks.

MA DMF plans to utilize its own staff and fleet of research vessels to conduct dedicated striped bass fishing trips for at-sea data collection on tube rigs. By employing DMF staff and vessels (rather than collaborating with the for-hire industry as Maine intends), the agency plans to perform this activity in year 1 of the study. Depending on Covid-related impacts to field sampling activities, additional data collection in year 2 may be required to acquire a robust dataset. This research into tube rigs will build upon MA DMF’s ongoing Striped Bass Terminal Tackle Study begun in 2020 to evaluate discard mortality rates between circle hooks and J hooks. It is anticipated that the information collected on the hook setting location associated with tube rigs will be able to be compared to that collected on circle hooks and j hooks in that study, as well as prior published studies.

ME DMR has identified a set of funds with which the agency plans to hire charter boat captains to go tube rig fishing and collect the at-sea data. ME DMR plans to focus this on-the-water work in year 2 of the study, largely due to Covid-19. Covid presents many challenges for safely conducting collaborative research, particularly at a time when Covid rates are high and the timeline of the vaccine is uncertain. It is much more likely that in-person collaboration with fishermen will be possible by 2022. Another advantage of partnering with charter boat captains in year 2 is that, based on information from the angler survey and the VAL program, ME DMR may have identified a broader pool of industry members with which to collaborate.

Analysis

Following the two years of the study, ME DMR and MA DMF will analyze the results and compile them in a report. We anticipate that this research program will: 1) estimate the size of the angling public in our states using tube rigs and the frequency and reason for their use; 2) evaluate the incidence of deep hooking associated with traditional baited tube rigs, and compare this to other terminal tackle configurations; and 3) demonstrate whether a circle hook could be used on a tube rig with equivalent success of catch and hook set properties.

The agencies intend to provide this report to the Striped Bass Technical Committee (TC) for their review and comment by the fall of 2022. Following this TC review, ME DMR and MA DMF would present the results to the Board for their consideration at the 2022 Annual Meeting. With this information, the Board can decide whether to take action to extend the exemption for the use of tube rigs for the 2023 fishery or allow the exemption to sunset.



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor


KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Emilie Franke, ASMFC Atlantic Striped Bass Plan Coordinator

FROM: Daniel McKiernan, Director 

DATE: January 20, 2021

SUBJECT: Revised MA Implementation Plan for Striped Bass Addendum VI Circle Hook Requirement

This memorandum serves to provide the Atlantic Striped Bass Management Board with the Massachusetts Division of Marine Fisheries' revised plan for compliance with the circle hook provision of Addendum VI to Amendment 6 of the Interstate Fishery Management Plan for Atlantic Striped Bass. On October 22, 2020, the Board approved the states' implementation plans, with the caveat that no exemptions to Addendum VI's requirement for the use of circle hooks when fishing with bait would be permitted. Massachusetts exemptions in 2020 included one for anglers fishing aboard for-hire vessels as well as for anglers using an artificial lure.

As expected of us, MA DMF has begun its rulemaking process to remove the exemptions in our state regulations. However, in the interim MA DMF and Maine Department of Marine Resources have collaboratively developed a proposal to study the tube rig fishery (refer to the Board's briefing materials for its February 3, 2021 meeting). If approved, this proposal would temporarily allow for continued baited tube rig fishing (with a single J hook) in Massachusetts, with the potential for future authorization subject to Board action. Consequently, DMF presents herein two sets of regulatory language dependent on the outcome of Board discussion and possible action on that proposal; under one of them, MA DMF would apply the same language as in ME DMR's prior tube rig exemption. In all cases, the exemptions for anglers aboard for-hire vessels and using artificial lures in general will be struck.

In addition, MA DMF will be making a clarification to the term "natural bait" as used within our circle hook regulation (previously undefined). Our review of the states' proposed or implemented regulations demonstrates a lack of consistency between the states with regards to the definition of "bait" (Table 1). Our intended usage of the term fits within this range of interpretations of Addendum VI's language. DMF will include in its final regulations that "natural bait" excludes pork rind attached to an artificial lure. This is based on the fact that a pork rind is neither "natural" nor "bait" when used in this manner. It is highly processed and entices predation due to its action in the water as opposed to producing an olfactory attraction; it thus comprises part of the artificial lure. There is no discernable difference for the conservation of the striped bass resource between using a pork rind or synthetic strip on a jig.

MA DMF will also add language to address another question we have received from stakeholders: what is required to be done with a striped bass that is unintentionally caught on a baited hook that is other than a circle hook. We are modeling this language after what New York has proposed, to say that such a fish must be immediately released without unnecessary injury.

MA DMF would like to stress that the agency is a strong supporter of the resource conservation intended to be achieved through the mandatory use of circle hooks for baited striped bass fishing. We have been a pioneer in discard mortality studies, an advocate of voluntary circle hook use, and an early adopter of mandatory circle hook use. However, we contend that Addendum VI's mandate was never intended to apply to artificial lures, such as tube & worm and bucktail jigs. Studies that have demonstrated a reduction in gut-hooking and/or post-release mortality for circle hooks—upon which Addendum VI's mandate is founded—have done so with traditional “bait fishing”; a hook on a line, not an artificial lure. Mandates without justification pose a risk to the public's confidence in and adoption of our management. I urge the Board to consider this fact when reviewing this implementation plan and the joint MA DMF/ME DMF tube rig study proposal.

These revisions to our circle hook implementation plan will not change our anticipated implementation date of May 1, 2021, prior to the fishery's onset in our state waters.

Regulatory Language

Existing Language¹

322 CMR 6.07: Striped Bass Fishery (*Morone Saxatilis*)

(2) Definitions. For purposes of 322 CMR 6.07, the following words shall have the following meanings:

Circle Hook is defined as a fishing hook designed and manufactured so that the barb of the hook is not offset from the plane of the shank and bend and is turned perpendicularly back towards the shank to form a circular or oval shape.

(5) Recreational Management Measures. For purposes of conservation and management of the resource, the following measures shall apply to recreational fishermen who harvest, catch, take or possess or attempt to harvest, catch, take or possession any striped bass:

(f) Mandatory Use of Circle Hooks. Recreational fishermen fishing from shore or private vessels shall use circle hooks when fishing for striped bass with whole or cut natural baits. This shall not apply to any artificial lure designed to be trolled, cast and retrieved, or vertically jigged with natural bait attached.

Alternative 1 Revisions: Assumes Board Approval of ME DMR/MA DMF Tube Rig Proposal

(f) Mandatory Use of Circle Hooks. Recreational fishermen shall use circle hooks when fishing for striped bass with whole or cut natural baits. This shall not apply to rubber or latex tube rigs 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 natural bait may be attached. Use of treble hooks is not allowed with these rigs. For the purpose of this regulation, “natural baits” shall exclude pork rind attached to an artificial lure. Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury.

Alternative 2 Revisions: Assumes Board Denial of ME DMR/MA DMF Tube Rig Proposal

(f) Mandatory Use of Circle Hooks. Recreational fishermen shall use circle hooks when fishing for striped bass with whole or cut natural baits. For the purpose of this regulation, “natural baits” shall exclude pork rind attached to an artificial lure. Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury.

¹ Relevant language included; full text available at www.mass.gov/regulations/322-CMR-600-regulation-of-catches

Table 1. Definitions of “Bait” in State Striped Bass Circle Hook Rules (as identified by MA DMF)


State	Current/Proposed Regulatory Language
ME (in effect)	It is unlawful to use any hook other than a circle hook when using bait [for striped bass]. <i>“Bait” is elsewhere defined in the striped bass regulations as “any live or dead marine organism, or part thereof.”</i>
NH (proposed)	Any person taking striped bass with bait from the waters of the state by angling shall only use corrodible non-offset circle hooks.
MA (proposed)	Recreational fishermen shall use circle hooks when fishing for striped bass with whole or cut natural baits .
RI (in effect)	The use of circle hooks is required by any vessel or person while fishing recreationally with bait for striped bass.
CT (in effect)	No person shall engage in angling for striped bass with whole, cut, or live natural bait unless such person uses an inline circle hook.
NY (proposed)	A non-offset circle hook...is required when fishing for striped bass when using any natural bait, as defined ... Striped bass caught on any other type of hook baited with natural bait must be returned to the water immediately without unnecessary injury. ‘Natural bait’ means all baits which entice or might be ingested or swallowed by fish including, but not limited to, fish (dead or alive), fish eggs, worms, shellfish, crustacea, amphibians (salamanders, frogs and toads), insects (including all stages of development as larvae, pupae, etc.), pork rinds, liver, meat, corn or other vegetable matter, tapioca, candy, cheese, bread and putty or dough-like scented baits.
NJ (in effect)	Hook and line fishermen are hereby restricted to the use of non-offset circle hooks while fishing with any natural bait .
PA (in effect)	It is unlawful to fish with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence using any hook type other than non-offset (in-line) circle hooks.
DE (proposed)	It is unlawful for any person to fish for striped bass with natural bait using any hook other than a non-offset circle hook.
MD (proposed)	When fishing for striped bass, a person recreationally angling in the Chesapeake Bay or its tidal tributaries shall only use a circle hook when using fish, crabs, or worms as bait, or processed bait . When fishing for striped bass, a person recreationally angling in the Atlantic Ocean, its coastal bays, or their tributaries shall only use a circle hook when using fish, crabs, or worms as bait, or processed bait . [Additional terminal tackle rules apply for any recreational angling in Chesapeake Bay & tributaries.] <i>“Bait” is elsewhere defined in regulation as an attractant to catch fish which includes: (1) The living or dead, whole body or part of body of an animal; or (2) A processed product from an animal or vegetative source.</i>
VA (in effect)	Any person fishing recreationally shall use non-offset, corrodible, non-stainless steel circle hooks when fishing with bait, live or chunk .
NC (in effect)	It is unlawful to fish for or possess striped bass from the Atlantic Ocean for recreational purposes using hook and line gear with natural bait unless using a non-stainless steel, non-offset (inline) circle hook, regardless of tackle or lure configuration. Natural bait is defined as any living or dead organism (animal or plant) or parts thereof.



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

TO: Emilie Franke, Atlantic Striped Bass Plan Coordinator
FROM:  Commissioner Keliher, Maine Department of Marine Resources
DATE: January 21, 2021
RE: Revised ME Striped Bass Implementation Plan for Addendum VI Circle Hook Provisions

This memorandum provides Maine's revised implementation plan for the Addendum VI circle hook provision.

At its October meeting, the Atlantic Striped Bass Management Board (Board) voted to prohibit any exemptions to the Addendum VI circle hook provision. In response to this decision, the Maine Department of Marine Resources (ME DMR) issued an emergency regulation on December 16th to come into compliance with the Addendum VI circle hook provision ahead of the January 1st implementation deadline. Specifically, ME DMR amended its regulation by removing a provision which exempted the use of circle hooks when fishing with rubber or latex tube rigs. A copy of the emergency regulation is attached to this implementation plan. In a subsequent section of Maine's striped bass regulations, the term 'bait' is defined as any live or dead marine organism, or part thereof. ME DMR will apply this definition to the circle hook requirement.

ME DMR, in collaboration with the Massachusetts Division of Marine Fisheries, has submitted a proposal to study the striped bass tube rig fishery. In order to facilitate this study, Maine and Massachusetts are requesting Maine's previous exemption for the tube rig fishery be extended for the duration of the study. The Board's decision on this proposal could impact ME DMR's regulations over the next two years. Should the Board approve the proposal, ME DMR will allow its December 16th emergency regulation to expire after 90 days, the duration of an emergency regulation. This would reinstate the previous circle hook exemption for the tube rig fishery. If the Board does not approve the proposed study, ME DMR will incorporate the emergency changes via regular rulemaking this winter, ahead of the start of Maine's striped bass fishery.

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

CONCISE SUMMARY:

In order to come into compliance with the Atlantic States Marine Fisheries Commission’s Atlantic Striped Bass Interstate Fishery Management Plan, the Department is implementing regulatory changes to expand the required use of circle hooks in the recreational striped bass fishery. Specifically, this emergency rulemaking makes it unlawful to use any hook other than a circle hook when fishing for striped bass with bait. In doing so, this emergency rulemaking removes the exception that previously exempted those fishing for striped bass with baited latex and rubber tube rigs from having to use circle hooks. In addition to coming into compliance with the Fishery Management Plan, this regulation has the potential to have positive impacts on the stock by broadening the requirement to use circle hooks in the striped bass fishery and reducing discard mortality rates.

EFFECTIVE DATE: December 16, 2020

AGENCY CONTACT PERSON: Megan Ware (207-446-0932)
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: megan.ware@maine.gov
FAX: (207) 624-6024
TTY: (888) 577-6690 (Deaf/Hard of Hearing)

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

APPROVED FOR PAYMENT _____	DATE: _____				
FUND AGENCY S-UNIT APP OBJT AMOUNT					
<i>Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta</i>					
010	13A	1120	10	4946	regulations

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.

Basis Statement

The Commissioner adopts this emergency rulemaking to modify the circle hook requirements for striped bass such that it is unlawful to use any hook other than a circle hook when fishing for striped bass with bait. This emergency rulemaking removes the exception that previously exempted those fishing for striped bass with baited latex and rubber tube rigs from having to use circle hooks. This action is necessary to come into compliance with the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Striped Bass Interstate Fishery Management Plan.

Striped Bass is managed by ASMFC. As a part of Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan, the use of circle hooks is required when recreationally fishing for striped bass with bait; this requirement goes into effect January 1, 2021. At its October 2020 meeting, the Atlantic Striped Bass Management Board reviewed state regulatory language for the circle hook requirement. As a part of this review, ME DMR submitted existing regulatory language which requires the use of circle hooks when fishing for striped bass with bait; however, this regulation also provided an exception to the circle hook requirement for those who were fishing with baited latex and rubber tube rigs. Maine was one of two states which included an exception to the circle hook requirement for a portion of the striped bass recreational fishery. Ultimately, the Atlantic Striped Bass Management Board voted to disapprove any exceptions to the requirement to use circle hooks when recreationally fishing for striped bass with bait.

ME DMR must modify its striped bass regulation in order to come into compliance with the ASMFC Striped Bass Interstate Fishery Management Plan. Further, broadening the requirement to use of circle hooks in the recreational striped bass fishery has the potential to have positive benefits for the stock given the use of circle hooks has been shown to reduce discard mortality rates. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the circle hook requirements in the striped bass recreational fishery in accordance with 12 MRS §6171(3)(C).

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Megan Ware, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 446-0932; E-mail: megan.ware@maine.gov, web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: 42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

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

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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

This action is intended to come into compliance with the Atlantic Striped Bass Interstate Fishery Management Plan and broaden the requirement to use circle hooks in the recreational striped bass fishery.

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 the required use of circle hooks in the recreational striped bass fishery. By removing the previous exception, there will be a uniform requirement in Maine to use circle hooks when fishing for striped bass with bait.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

This rule considered Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan as well as the meeting of the Atlantic Striped Bass Management Board on October 21, 2020.

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.

Correction to the 2018 Striped Bass Stock Assessment Regarding Recovery of the Various Spawning Stocks of Striped Bass

The following statement appears in the 2018 striped bass stock assessment report: “In 1995, Chesapeake Bay, Delaware Bay and Hudson River striped bass stocks were declared recovered by the Commission (the Albemarle Sound/Roanoke River stock was declared recovered in 1997)...” (page 469, CRD 19-08 66th Northeast Regional Stock Assessment Workshop (66th SAW) Assessment Report. B. STOCK ASSESSMENT OF STRIPED BASS FOR 2018.

That is an incorrect statement. In March, 1995, Amendment 5 was passed. It stated on page iii that “The Atlantic States Marine Fisheries Commission declared that the Chesapeake Bay stocks of Atlantic striped bass, which support the greatest portion of the coastal stock, was recovered as of January 1, 1995.

The Delaware and Albemarle Sound/Roanoke River stock were not declared restored until 1998. Addendum III to Amendment 5 in October 1998 was titled,

“1999- 2000 Fisheries
Albemarle/Roanoke Stock Recovery
Delaware River Stock Recovery.”

The Addendum stipulated “Specifically, the addendum outlines regulations for commercial and recreational fishermen, and codifies stock recovery in the Albemarle/Roanoke and Delaware River estuaries or 'producer' areas.

It went on to say, “In addition, the states have determined that the Roanoke River and Delaware River stocks of striped bass have recovered to historic levels of spawning biomass. The Roanoke stock has been protected under various North Carolina fishery management plans since the 1980 and computer simulation models in conjunction with field studies verify that the spawning biomass in this extreme southern stock has been restored to levels seen in the 1960s. This recovery allows North Carolina to liberalize certain regulations inside the estuary to achieve the Amendment 5 fishing mortality target. The Delaware River stock is known to mix extensively with the Chesapeake stock, and the states of Delaware, Pennsylvania, and New Jersey have been permitted to use the same target mortality rate established for the Chesapeake Bay ($F=0.31$) since the adoption of Amendment 5.

This “codification” of stock recovery for the Delaware River spawning stock was based on data presented by Kahn et al. (1998). The Delaware River stock had been considered extinct by some biologists in the mid-twentieth century, due to pollution-caused anoxia on the spawning grounds. Not until the Clean Water Act provided funding and the impetus for reducing pollution in the 1970s that pollution reduction was begun. The process of reducing industrial and sewage pollution was completed in 1987 when the last large sewage treatment plant was upgraded. There is still considerable nitrogen-based pollution in the River, but adequate oxygen was restored to allow resumption of successful striped bass spawning and larval survival. (Kahn et al. 1998, Kahn et al. manuscript in preparation).

This timeline points out the unfair aspect of the Commission’s striped bass quota allocation system. Quota are based on historical landings in the 1970s, yet there was no extant Delaware River stock in the 1970s, unlike today. The Commission essentially is penalizing states utilizing the Delaware River stock for having virtually no stock in the 1970s.

What is the current contribution of the Delaware River stock to the coastal aggregation today? Kneebone et al. (2014) conducted acoustic tagging of bass of the coast of Massachusetts in summer. They then monitored entry of these tagged bass, which were mainly female, into the various spawning grounds in the spring. They estimated the Delaware River stock comprised 15% to 20% of the coastal aggregation. That means that the recovery of this stock increased the total aggregation by 18% to 25% over levels attained before the Delaware recovery.

This estimate raises a question about the claim that the stock is overfished based on the model estimate of SSB. But yet, while the SSB estimate may be lower than the estimate for 1995, the total stock is much larger than it would have been without the Delaware recovery. In fact, as a former member of the Tagging Subcommittee (twice Chair), the Stock Assessment Subcommittee and the Technical Committee (past Chair), I am aware that the catch at age model is biased to underestimate survival and stock size, while overestimating fishing mortality, because the age data is biased by underaging older fish. This bias was established by the Technical Committee by using scales from known-age fish and conducting a careful study of ageing bias. The peer-reviewed 2013 paper by Hank Liao, Alexi Sharov, Cynthia Jones and Gary Nelson, titled “Quantifying the Effects of Aging Bias in Atlantic Striped Bass Stock Assessment” clearly showed that this ageing bias over-estimated F and underestimated SSB, yet it has been ignored by the Technical Committee.

References Cited

- Kahn, Desmond M, Roy W. Miller, Craig A. Shirey, Stephen Grabowski. 1998. Restoration of the Delaware River Spawning Stock of Striped Bass. Delaware Division of Fish and Wildlife, Dover.
- Kahn, Desmond M., Peter Himchak, Craig A. Shirey, Matthew Fisher, Thomas Baum, Russell Allen, Gregory Murphy, Michael Kaufman, Heather E. Corbett , Roy W. Miller. *Manuscript in prep.* Restoration of the Delaware River Stock of Striped Bass.
- Kneebone, J., W. S. Hoffman, M. J. Dean, D. A. Fox and M.P. Armstrong. 2014. Movement patterns and stock composition of adult striped bass tagged in Massachusetts coastal waters. Transactions of the American Fisheries Society 143:1115-1129.
- Liao, Hongshen, Alexi Shrov, Cynthia Jones and Gary Nelson. 2013. Quantifying the Effects of Aging Bias in Atlantic Striped Bass Stock Assessment. Transactions of the American Fisheries Society 142:193–207

January 26, 2021

Dear Chair David Borden,

Thank you for the opportunity to express my support for the Maine and Massachusetts proposal to study the tube rig fishery and consider its exemption from the circle hook provision. I signed onto the Dec 30th letter from fishing industry trade groups and recreational angler organizations as president of the Maine Association of Charterboat Captains but am submitting this comment as an owner/operator of a charterboat business and as a recreational striped bass angler.

I've written to this board in the past urging enactment of consistent regulations across member jurisdictions. I've urged this group to take a more conservative approach in management decisions than the bare minimum provided in recommendations by the technical committee and to deliberately err on the side of caution. I am therefore hesitant to support yet another exemption and worry that the process of gaining board approval for this proposal will result in approval of some other exemption that I would not support and that would further impede rebuilding of the striped bass stock. I've lobbied in favor of circle hook requirements for this fishery and urged adoption of same for other species. Additionally, I worry that lengthy discussion of this proposal at the winter meeting could eat into time best devoted to the more impactful work of launching the new Amendment process.

Despite my reservations, this proposal makes sense. I've heard only consensus that use of J-hooks in tube and worm rigs does not result in significant numbers of gut hook fish. This proposal would provide us with quantitative data to verify or dispute this widely held notion. The ME/MA proposal seeks to provide the needed information to make the best decision possible regarding any exemption to the circle hook requirement and appropriately includes a sunset clause as assurance that extension of any exemption is approved by this board.

Additionally, this request for reconsideration allows the Striped Bass Board to demonstrate to the angling public and the for-hire industry that it is responsive to stakeholder input. It's an opportunity for the Board to build credibility with a segment of the angling community that views this organization as disconnected with the realities and details of this fishery. It has engaged people who haven't been involved in the management process as we begin the incredibly important process of crafting a new Amendment. It prompts additional research and involvement of anglers in same. It has brought together a diverse group of industry advocates. It may have a significant impact on a segment of the marine harvesting industry here in my home state of Maine. The economic benefit to the locally owned bait and tackle shops, while currently unknown, may also be important.

This proposal makes sense and carries minimal risk. I hope the Striped Bass Board moves quickly to approve it.

Respectfully,

Capt. Peter Fallon
Gillies & Fallon Guide Service, LLC
Phippsburg, ME

From: geobrowne@comcast.net [<mailto:geobrowne@comcast.net>]

Sent: Monday, January 25, 2021 8:30 PM

To: Comments <comments@asmfc.org>

Cc: Paul Haertel <anglerpmh@aol.com>

Subject: [External] Incline circle hooks regulations

I would like to submit a few comments on the use of inline circle hooks for striped bass fishing.

I am supportive of protecting the striped bass fishery and believe the use of inline circle hooks will reduce the mortality rate for striped bass. I also think the regulations should be crafted in a way that makes them simple to comply with, simple to understand and apply, and are enforceable. From what I have seen of some states proposed regulations, those proposals accomplish none of that.

1. Any rules must be consistent, coast wide.

There should be no exceptions to the inline circle hook rule. I have seen parts of proposals from at least three northeastern states that vary in such a way they do not encourage compliance. In New Jersey and New York, pork rinds will be considered a natural bait. Is that same definition included in the proposals from other states? People follow the striper migrations and fish in different states. Maryland should not have one set of rules, while New Jersey and New York, and other states, have their own rules. Keep it simple and easy to comply with regardless of where an angler is fishing for stripers.

2. There needs to be a clear definition of natural bait.

New Jersey is going to define natural bait any whole living or dead organism (animal or plant) or parts thereof. This includes all animal products, including pork rind and other land-based animals. The New York proposal also includes "putty or dough-like scented baits" but it does not identify what the putty or dough is made from. Other states have different definitions. There is also some confusion about bucktails and flies being a natural bait (with or without a natural bait added to the hook) since they use animal parts.

Natural bait should be any whole living or dead animal organism added to a hook on a fishing device (fly, lure, rig, bare hook, and other such devices) after the finished manufacture of the device. Many striped bass anglers consistently use bucktails and teasers with great success. If the feathers or hair used to make a teaser are included in the definition for natural baits, do teasers have to be tied on an inline circle hook? How would that affect the performance of the teaser in the water? If teasers had not worked for me this past fall, I would have caught about one half of the fish (both hickory shad and striped bass) that I did. If my fishing success rate is reduced by these regulations, why fish?

3. There should be no waste of striped bass caught while actively fishing for other species.

Massachusetts and New York are talking about requiring the release of ANY striped bass caught using natural bait not caught on an inline circle hook. If an angler is fishing for bluefish or fluke with a natural bait on a J hook and they catch a striper, that would require it to be released. While this may be a way to encourage the use of inline circle hooks and catch and release, it ignores two things. First, there are people who fish as a means of putting food on their table. Sustenance anglers are targeting what they know they have the best chance of catching and keeping. If a striper is caught as a by catch while actively fishing for other species, and it is of legal size, why can't these people keep the fish? Second, if a legal size, by catch, striped bass is mortally wounded by the J hook (or other non-inline circle hook), it would be a waste of the resource to not harvest that fish. Releasing a dying fish does not improve fish mortality. People who catch striped bass while legitimately fishing for other species should not be punished for that.

4. Keep the rules simple so that a conservation officer in the field can easily identify violations.

Keep it simple so that different conservation officers in the field apply the regulations equally. Keep it simple so that the angler can buy the correct tackle at local fish and tackle shops and use it without fear of getting cited.

The goal of these regulations should be compliance. Make it simple to comply with the regulations. In cases where anglers intentionally violate the regulations, enforce the regulations.

Please feel free to distribute my comments to staff and the public.

Thank you,

George Browne

From: Marc Lamothe [<mailto:marcolamothe.keeper@gmail.com>]
Sent: Monday, January 25, 2021 1:56 PM
To: Comments <comments@asmfc.org>
Cc: Capt. PETER FALLON <pfallon@mainestripers.com>
Subject: [External] Circle Hooks for Tube and Worm

Tube and Worm fishermen do not gut hook fish. The condition of a tube and worm caught striped bass is generally quite good.

I have been fishing surgical tube lures for 50+ years and have NEVER had a fish show injury to the point where I doubted its survival after release.

I mostly fish live mackerel and chunk mackerel on my charters, and daily I injure fish, despite using circle hooks. I believe the survival rate with circle hooks is FAR greater than using J-hooks or live bait style hooks. I like circle hooks for bait fishing and applaud the switch Maine made a few years back.

J-Hooks belong on tube and worm rigs. Fish are released in good condition and the hooks are far easier to remove, resulting in less handling of the fish.

Please reconsider requiring circle hooks for tube and worm rigs.

Capt. Marco Lamothe
Keeper Charters
4 Jordan St.
Saco, Maine 04072
www.keeper-charters.com
207-286-5565

From: ncreek@comcast.net
To: [Comments](#)
Subject: [External] Striped Bass Tube and Worm Technique Comment
Date: Monday, January 25, 2021 12:07:53 PM

Good morning Mr. Borden,

I would like to provide some commentary on the Striped Bass fishing Tube and Worm technique. I am a Maine Guide and Licensed Captain and have been fishing this technique for over 30 years. I learned the technique fishing in Cape Cod when I was a kid and believe I may have been one of the first to fish the technique in Maine. I am very passionate about the technique and rely on it to consistently put fish in the boat, especially in the summer when other techniques slow down. I have caught 1000s if not tens of thousands of fish on this technique and have never once gut hooked a fish with it! I release 99.9% of my catch. I charter to a lot of families and find the simplicity of the technique helps me considerably when I have children and first timers on the boat. A lot of my repeat customers come to fish with me because of the technique, the consistency of action and they feel comfortable that their youngsters can enjoy catching fish without having to master a technique before fish are caught. In short, I have grown my business around this technique. As well, I pay local worm diggers hundreds of dollars throughout the summer and if I'm not allowed to use it, that's a lot of money not going into the (local) economy. Additionally, I buy the tubes from a local tackle shop that makes them and I buy dozens every year. My disappointment with the recent ruling change is that it was not based on the mortality of the resource but a ruling consistency issue (political) and came without any opportunity to defend it.

I greatly appreciate any efforts to reinstate use of this technique, much of my business relies on it and some of the local economy relies on it as well.

Thank you

Capt. John L. Nowinski

207-831-2922

ncreek@comcast.net