

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 55 Fishing in the Saco River

**CONCISE SUMMARY:** On June 10, 2023, DMR adopted an emergency rule to expand an existing area on the Saco River closed to fishing. DMR is adopting this same rule as regular rule-making. Consistent with the emergency rule, this rule modifies Maine’s Gear Restriction Regulation, Chapter 55.99 to close the waters of the Saco River upstream of the Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, to the head of tide. This is necessary to prevent high levels of catch and release mortality observed this season and which negatively impacts the striped bass resource.

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

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

<b>AGENCY CONTACT PERSON:</b>	Deirdre Gilbert
<b>AGENCY NAME:</b>	Department of Marine Resources
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*Please approve bottom portion of this form and assign appropriate MFASIS number.*

APPROVED FOR PAYMENT _____	DATE: _____				
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
10	13A	1120	10	4946	regulations

*Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta*

## DEPARTMENT OF MARINE RESOURCES

### CHAPTER 55 GEAR RESTRICTIONS

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

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

**Basis Statement**

On June 10, 2023, DMR adopted an emergency rule to expand an existing area on the Saco River closed to fishing. DMR is adopting this same rule as regular rule-making. Consistent with the emergency rule, this rule modifies Maine’s Gear Restriction Regulation, Chapter 55.99 to close the waters of the Saco River upstream of the Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, to the head of tide. This is necessary to prevent high levels of catch and release mortality observed this season and which negatively impacts the striped bass resource.

**Summary of Comments**

On June 21, 2023, the rule was posted on DMR’s website. Notice was also published on June 21, 2023, in the five major daily newspapers by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR’s rulemaking and aquaculture notices. A public hearing was held both in-person and remotely at 4:30 p.m. on July 12, 2023. The in-person hearing was held at DMR’s Augusta office, and the remote component was held via Microsoft Teams. No members of the public attended in-person. The comment period closed July 24, 2023.

The hybrid hearing was attended by the following individuals:

Name	Affiliation
Patrick Keliher, Megan Ware, Deirdre Gilbert	Maine Department of Marine Resources
Peter Fallon	Maine Charterboat Captains Association

**Peter Fallon, July 12, 2023, Public Hearing**

I'm a for-hire operator and I'm also the president of the Maine Charterboat Captains Association and I want to express my support for this decision and to make it a rule that lasts beyond the 90 day emergency period. I hope the Advisory Council will follow the Commissioners recommendation that this be implemented, it I heard from a number of folks, both recreational anglers, 1 tackle shop owner and a number of for-hire operators who were all impressed at the reaction of the Marine Patrol the attention to issues there in Saco and then the reaction of the Commissioner and the department to take action. We're really fortunate to live in a state where the agency is so vigilant about protecting what's really important resource to us. And I hope that the Advisory Council sees this as a meaningful, even though it's a small area, a meaningful action and approves it quickly. Thank you.

**Ron Haynes, received via email, June 22, 2023**

If your going to close this area on the Sacco river you might want to look at fish way dam behind Hathaway building in Waterville I see alot of fish caught here and alot of younger fisher people drag them out of the water to photograph them rather than cut them loose while in the water. A lot of fish stack up here because they can’t get any farther up stream.  
Thanks, a concerned fisherman Ron Haynes

*DMR Response:* Thank you for your comment. Because the proposed rule is focused on the Saco River, we could not expand the current rule-making to include an additional closure on the Kennebec River without reopening the rule for additional public comment. However, we

appreciate this information and will research this situation for consideration of future rule-making.

**Germain Cloutier, Small Point, received via email, July 24, 2023**

Hello,

After reviewing a lot of info, I would like to add my Public Comment. As far as the Current Emergency Slot of 28-31". It would be GREAT to see this continue. I think Maine should lead the way in Conservation of Striped Bass and also speak to surrounding states such as Massachusetts to have Gamefish status put on Striped Bass.

As far as the Saco River area being closed, this was an amazingly awesome move by the State of Maine to try and stop the poaching, mishandling and so much more that happens in that area. It may even be worth it for the State to look at Banning the use of Live Alewives/River Herring. I sure hope that Maine continues to put the Striped Bass first.

Also a final thought, the recent event in the news about the Large Gill Net that was Killing lots of striped Bass and Sturgeon should be look at as well. This should NOT be allowed going forward. It was clear from the pictures and videos that the gill net holes were large and meant to kill larger fish, these practices are unacceptable. Thank you for your time and I hope that Maine will continue to Speak up for striped bass at the ASMFC meetings and not sell out looking for menhaden quota transfers.

Thank you,  
Germain Cloutier

*DMR response:* Thank you for your comment and concerns about impacts on striped bass. As regards the specific gill net referenced, early media reports were not well informed by the facts of the situation and have since been corrected. The initial reports of significant numbers of dead striped bass and sturgeon were not accurate.

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6553; web address: <http://www.maine.gov/dmr/rulemaking/>

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

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): July 12, 2023, 5:00 p.m., DMR Offices, Room 118 Marquardt Building (32 Blossom Lane, Augusta ME), with an option to participate remotely via Microsoft Teams. For information on how to join the hearing, please visit: [www.maine.gov/dmr](http://www.maine.gov/dmr). Instructions will be posted on DMR's homepage under meetings and events.

COMMENT DEADLINE: July 24, 2023

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

This proposal expands an existing closure to fishing in order to prevent catch and release mortality in an area where it is not possible to properly release fish.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_  NO [§8056(1)(B)]

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

By expanding the area closed to fishing, it is anticipated that catch and release mortality on striped bass will be reduced, benefiting the striped bass resource and improving the likelihood of rebuilding.

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 proposal considered action taken at the May 2, 2023 Atlantic Striped Bass Board meeting, including technical analysis on updated probabilities of rebuilding, motions made at the meeting, input from anglers regarding observed mortalities, and input from Maine Marine Patrol.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.