



The Commonwealth of Massachusetts

Division of Marine Fisheries

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MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: March 13, 2024

SUBJECT: **Emergency Rulemaking on Striped Bass Recreational Possession and Filleting Rules**

Overview

I intend to use my emergency rulemaking authority to revise the state's striped bass recreational possession and filleting rules at 322 CMR 6.07(5) to comply with Addendum II to Amendment 7 of the Interstate Fishery Management Plan for Atlantic Striped Bass, as follows:

1. Clarify that striped bass retained in the shore or private vessel recreational modes are to be kept whole—except for evisceration, bleeding, or descaling—while on the waters of this state or any adjacent parcel of land, structure, roadway or parking lot, except if being prepared for immediate consumption;
2. Extend the allowance for for-hire captains and crew to fillet striped bass for their customers while at sea to also include while at dock prior to the customers departing the vessel;
3. Require the racks of striped bass filleted in the for-hire recreational mode to be retained in a manner that does not interfere with species identification or total length measurement until such time as the vessel has docked and all customers from that trip have departed the vessel; and
4. Replace the requirement for the striped bass fillets resulting from the for-hire filleting allowance to have skin intact with a requirement that they have at least two square inches of skin intact.

Background and Rationale

As previewed during the February 2024 MFAC business meeting¹, Addendum II—approved in January 2024 with a May 1 implementation deadline—imposes new standards for states that allow filleting in their recreational striped bass fishery: “For states that authorize at-sea/shore-side filleting of striped bass, minimum requirements will be established, including requirements for racks to be retained and possession limited to no more than two fillets per legal fish. States should consider including language about when and where racks may be disposed of, specific to each mode allowed to fillet at-sea/shore.” The intended purpose of these requirements is to enhance compliance and enforcement with recreational size and possession limits.

Accordingly, in order to maintain the state's long-standing striped bass for-hire filleting allowance, DMF must adopt a rack retention requirement (the fillet possession limit is already in place). DMF held a virtual scoping meeting on February 28 and welcomed written input on how best to adopt this requirement. Using other states' existing rules as a starting point, DMF received valuable feedback from

¹ Past meeting materials are available at: <https://www.mass.gov/info-details/marine-fisheries-advisory-commission-meeting-resources>

for-hire operators that plays heavily into the emergency regulatory action described herein. Overall, while expressing great dismay with this new requirement, for-hire operators advocated for explicit yet not overly prescriptive regulations as to when, where, and how striped bass may be filleted, and the racks retained and subsequently disposed of, so as to impose the least amount of burden. My intended rules do the following regarding the for-hire filleting allowance:

1. extend the allowance to fillet striped bass in the for-hire mode from *while at sea* to any time *prior to the customer(s) departing the vessel* for more flexibility;
2. do not specify how retained racks are stored (such as *in a separate container, unmixed with any other material* as included in some other states' rules) based on public comment that this was unnecessary and would interfere with some expected holding practices; the racks must just be retained in manner that would not interfere with enforcement personnel being able to identify the species or take a total length measurement;
3. use unambiguous language about how long racks must be retained, as recommended in public comment; the specific duration of *until the vessel has docked and all passengers have left the vessel* is the minimum amount of time needed to provide for potential shoreside enforcement inspection;
4. do not specify a time by which racks must be disposed of (such as *prior to any person beginning to fish on a subsequent trip* as included in some other states' rules) based on public comment that this would interfere with some expected disposal practices, such as retaining multiple trips' worth of racks before repurposing them for bait;
5. do not place any limit on the number of racks that may be in possession (just the number of fillets) to facilitate all possible modes of legal disposal, as identified in public comment, such as use as bait or letting the customers take them; and
6. replace the requirement for the full skin to remain intact on fillets to just 2 square inches or more, as requested in public comment; while I wouldn't support repealing the skin requirement in full, this change still provides for species identification, is consistent with groundfish filleting requirements, and provides additional benefit to for-hire operators and their customers.

Additionally, my planned changes address lingering questions about the state's rules for anglers fishing from shore or a private vessel as to how, when, and where striped bass may be processed. While intended to prohibit filleting, the current language about not mutilating a striped bass in any manner that interferes with its measurement does not address at what point retained striped bass may legally be processed, and furthermore, can be misinterpreted as immediately allowing filleting provided the rack is retained. The specified duration for how long a striped bass must be kept whole, whether caught at sea or shoreside, is intended to provide adequate time for potential shoreside enforcement of size and possession limits, consistent with the intent of the Addendum II requirement. An exemption is included for immediate consumption, such as by an angler overnighting on a vessel or staying at a shoreside campground. Were DMF to expand its carcass collection freezer program in the future, an additional exemption could be added at that time to allow for bass to be processed at filleting stations accompanying these freezers. This program is currently very limited in the number of available freezers and is focused on collecting carcasses from for-hire operators.

Emergency action is necessary to achieve a May 1 implementation date for these modifications. While MFAC approval is not required for emergency rulemaking, I seek your support for these changes to ensure continuity with the subsequent final rulemaking that will be necessary over the summer.

Enclosed
[Written public comment.](#)