

## Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 52: Atlantic Mackerel

TYPE OF RULE (*check one*):         Routine Technical         Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

### BRIEF SUMMARY:

This rulemaking proposes to establish a 20-fish per person per day recreational take and possession limit for Atlantic mackerel. Atlantic mackerel caught on a recreational, party, or charter vessel can be pooled in one or more containers; compliance with the 20-fish limit will be determined by dividing the number of Atlantic mackerel onboard by the number of persons onboard. Atlantic mackerel caught recreationally may be communally stored in dockside bait pens. Mackerel purchased from a lawful bait dealer with proof of receipt do not count towards the 20 fish possession limit. Similarly, chunked frozen mackerel do not count towards the 20 fish limit. Individuals who hold a commercial pelagic and anadromous fishing license are exempt from the possession and take limit. Further, the possession limit does not apply to several commercial licenses including lobster and crab fishing licenses, finfish licenses, and wholesale and retail licenses issued by the Maine Department of Marine Resources.

Date, time and location of PUBLIC HEARING (*if any*): September 12, 2022, 5:00 p.m., in-person at the Marquardt Building, rm 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: September 22, 2022

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

NAME: Amanda Ellis

MAILING ADDRESS: 21 State House Station, Augusta, Maine 04333-0021

E-MAIL: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)

TELEPHONE: 207-624-6573

FAX: 207-624-6024

TTY: 207-624-6500 (Deaf/Hard of Hearing)

Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at 207-624-6553.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRSA §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)

---

\* Check one of the following two boxes.

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

---

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

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
*(authorized signature)*

<b>FUND</b>	<b>AGENCY</b>	<b>ORG</b>	<b>APP</b>	<b>OBJ</b>	<b>PROGRAM</b>	<b>FUNDING Profile JVC</b>	<b>FUND Pri JVC</b>	<b>FUND Line JVC</b>
010	13A	1120	10	4946				

## **CHAPTER 52: Atlantic Mackerel**

### **52.01 Definitions**

- A. “Atlantic mackerel” means the genus and species *Scomber scombrus*
- B. "Recreational fishing" means fishing that is not intended to, nor does it result in the barter, trade, or sale of fish.

### **52.02 Atlantic Mackerel Limits**

#### **1. Recreational Fishing Restrictions**

##### **A. Possession Limit**

Except as provided in 52.02 (1)(A)(1) it shall be unlawful for an individual engaged in recreational fishing to fish for, take, or possess more than 20 Atlantic mackerel per person per calendar day.

Atlantic mackerel harvested by charter, party, or recreational fishing vessels with more than one person aboard may be pooled in one or more containers.

Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons aboard. If there is a violation of the possession limit on board a vessel carrying more than one person, the owner or operator shall be responsible for the violation

Atlantic mackerel may be communally stored in dockside bait pens.

Mackerel purchased from a lawful dealer with proof of receipt do not count towards the 20 fish mackerel possession limit.

Chunked, frozen mackerel do not count towards the 20 fish mackerel possession limit.

##### **(1) Exemptions**

The limit to fish for, take, or possess no more than 20 Atlantic mackerel shall not apply to persons who hold a commercial pelagic and anadromous fishing license (12 M.R.S §6502-A).

The possession limit shall not apply to persons who hold a commercial harvesting license under 12 M.R.S. Chapter 619 (Lobster and Crab Fishing Licenses), Chapter 621 (Finfish Licenses), or Chapter 625 (Wholesale and Retail Licenses).

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 52: Atlantic Mackerel

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

DATE AND PLACE OF PUBLIC HEARING(S): September 12, 2022, 5:00 p.m., in-person at the Marquardt Building, rm 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: September 22, 2022

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

A 2021 stock assessment found that Atlantic mackerel are overfished and overfishing is occurring. In response, the Mid-Atlantic Fishery Management Council developed a new rebuilding plan for Atlantic mackerel, which includes a 20 fish per person possession limit in the recreational fishery. Given over 90% of Atlantic mackerel recreational catch occurs in New England state waters, the Mid-Atlantic Council requested the states of Maine, New Hampshire, and Massachusetts to implement complementary Atlantic mackerel recreational measures in state waters.

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)]

This rule is expected to reduce the recreational catch of mackerel and is in response to the 2021 stock assessment which found the Atlantic mackerel stock is overfished. Calculations suggest coastwide recreational catch may be reduced by 17%. Impacts to recreational operations which need access to more than 20 Atlantic mackerel per person can be mitigated by obtaining an open access commercial pelagic and anadromous fishing license, which is exempt from the recreational take and possession limit.

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]: Information considered includes the deliberations and final vote of the Mid-Atlantic Fishery Management Council as the Mackerel Rebuilding 2.0 Amendment was developed. In addition, comments from anglers during scoping meetings and public hearings related to the Rebuilding Amendment were considered.

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.

**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.*