



## **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:

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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 \_\_\_ X 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.*

### **Basis Statement**

This rule establishes 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.

No changes were made to the proposed rule.

### **Summary of Comments**

Notice of this proposed rulemaking appeared on August 24, 2022, in the five major daily newspapers as published by the Secretary of State. On August 23, 2022, the rule was posted on the DMR website with electronic messages sent, on August 24, 2022, to individuals who subscribe to receive such notices. A public hearing was held at the date and format noted below. The comment period closed on September 22, 2022.

### **Public Hearing: September 12, 2022, 5:00 p.m. DMR's Augusta Office-32 Blossom Lane and remotely via Microsoft Teams.**

*No one attended the in-person portion of the hearing. All public participation was remote via Microsoft Teams.*

### **Attendees:**

<b>Name(s)</b>	<b>Affiliation</b>
Megan Ware and Deirdre Gilbert	DMR Staff
Bailey Bowden, Don Kleiner, Edward French, Mike Look, Bob Humphrey and Jay McGowan	Members of the Public

### **Jay McGowan**

This is the poorest mackerel fishing I've seen in years. I have been a guide for 40 years. There was a bit of downturn when bluefish were in the bays, but this year was very scarce for mackerel. At 20 fish per day, it would take them several years to come up with 3,000 metric ton. I agree with Mr. Bailey completely on his comment. It's a heritage fishery.

### **Don Kleiner**

I would encourage DMR to give some real thought to the nuance of all of this. Some of the permutation and odd ball combinations, please make sure it's all spelled out and everyone knows. I don't have any specific comments, but maybe a handout from marine wardens. This is going to be a whole new thing and I worry about people coming from out of state who may not know about this. I think we need to be lenient when the time comes for enforcement.

**Bob Humphrey, Maine Association of Charter Boat Captains, National Marine Fisheries Service Highly Migratory Species Advisory Panel, Atlantic States Marine Fisheries Commission Striped Bass Advisory Panel, and Sportman's Alliance of Maine Fisheries Committee**

I appreciate the efforts of DMR and I think this is a huge step in the right direction away from what the Mid Atlantic proposed, which was pretty scary stuff. With all due respect to the gentleman that commented on the scarcity of mackerel in Casco Bay, myself and most charter captains that I communicate with experience the same thing. Mackerel were scarce this year in the bay, but each year is different. When I was offshore, it was a completely different story. It was very difficult to put a rig down without loading it up with mackerel before you could get to the bottom and catch tuna bait. I thank the DMR. We are faced with limitations, and no one likes them. This seems like a reasonable approach, so I support your efforts.

**Mike Look**

In responding to Jay and Bob, I was out three weeks in Cobscook Bay, and you can't get 10 feet down without loading up on mackerel. They were small that day, but I don't worry about catching 100 or 200 hundred anywhere I go in Cobscook Bay. They are pretty small, but in late September they get to be a decent size. As the school board chair in East Machias, we have a program for 7<sup>th</sup> and 8<sup>th</sup> graders where we take them to the smokehouse on the river, near the school. They have a permit to dip alewives in the spring, salt them, and smoke them, and then the public comes and gets them and donates money. In the summer we go mackerel fishing and get 300 to 400 fish on average and then take them to the smoke house for salting. We'll need some kind of permit in order to be able to do this. We also take the 8<sup>th</sup> grade, on Butch Harris' wind jammer and we take them mackerel fishing on that boat, and we get a lot of fish and smoke them and give them to the public. We'd like to continue those activities. I really agree with Bailey too.

**Bailey Bowden**

I am a recreational fisherman and I oppose this rule. This is a proposal coming from Mid Atlantic fishery people and they have no jurisdiction in our water. I don't see why we're following what they are dictating. Most fish species are moving north, and they've decimated their population mostly by overfishing. The fish are moving north anyway, and the Gulf of Maine is loaded with mackerel, and they are not in southern waters. I don't know why we are rebuilding their stock. Its over for them. There's only so much of the pie we can eat and the commercial fishermen have had a massive percentage of that pie. Now the recreational fishermen are expected to take a hit along with them and I don't think that's fair. We're paying for commercial fishermen greed. The fish belong to the people of Maine and recreational fishermen have just as much right to catch the fish as commercial fishermen. I object to people with commercial licenses to be exempt from this. It's not fair to the others who come here. It's a heritage fishery that we

are throwing out the window. I've had no problem catching mackerel all summer. With this 20 fish limit, I am not going to start my smokehouse for 20 fish. I want half a bushel or 50 fish before I start my smoker. We are losing our heritage. Not being able to catch mackerel while everyone else gets an exemption is not fair. If you have to put a limit on it, it should be 50 fish. We're taking too much of a hit.

### Written Comments

*Comment period closed on September 22, 2022*

#### **Bailey Bowden, received via email, September 22, 2022**

I strongly oppose the Department's proposal to adopt Chapter 52 Atlantic Mackerel and all associated rule changes needed to implement a bag limit on the recreational mackerel fishery. This proposal is being suggested by the Mid Atlantic Fishery Management Council (MAFMC) which has no authority or jurisdiction within Maine's territorial waters. Maine's recreational fishermen are being forced to sacrifice their rights to harvest mackerel to rebuild stocks in an area that has been raped by the southern offshore commercial fleet. The MAFMC stock assessment indicates that the Gulf of Maine mackerel population is sustainable and the data is so good that it was **down-weighted** to fit the federal model (MAFMC public hearing with Jason Didden).

With warming ocean temperatures, I doubt that the southern mackerel population will ever recover no matter how restrictive all mackerel harvests levels may become. The waters under MAFMC management were over-fished for decades ( MAFMC public hearing - Jason Didden ) and now the MAFMC wants to restrict Maine's recreational fishery that harvests a miniscule amount of fish compared to commercial landings.

Recreational mackerel fishing is a quintessential, iconic, sustainable, and heritage fishery in Maine. Generations of Mainers and visitors have taken their children mackerel fishing in the summer. This rule is another nail in the coffin for the statement, *Maine – the way life should be*.

Apparently boating is a dangerous pastime as I am required to provide floatation devices for all passengers ( kids have to wear theirs ) , I need a fire extinguisher, throwable life ring, 3 signaling devices – day and night, and a horn or whistle for my 16 foot skiff. With a 20 fish limit, which I can catch in about 10 minutes, I will have to make multiple trips to satisfy my personal sustenance needs. These extra trips will force me to use more fuel and expose myself and guests to more danger on the water and while commuting to the boat launch site. More fuel will be needed for my tow vehicle as well.

It is not worth my time to fire up the smoke house for 20 fish and it will take several days to get enough fish to make it worthwhile. Tides, wind, and weather often prevents fishing on consecutive days – increasing the chances of yesterday’s catch spoiling in the fridge. Real Mainers know that fish need to be taken care of immediately. The recreational limit should be at least ½ bushel per person per day.

This small possession limit will force fishermen, that are trying to fulfill a sustenance need, to increase the number of discards – more precisely smaller fish will be thrown back and will die due to their weak mouth structure.

This rule making appears to be some sort of gimmick being used to curry favor with the MAFMC for some unknown reason. Allowing lobstermen, both commercial and recreational, to be exempt from the rule indicates that conservation is not the purpose behind this rule. From the following statement included in the Rule Making Fact Sheet, it can be inferred that money is more important than reducing the number of mackerel harvested.

*“ 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.”*

No attempt has been made to gather recreational harvest data using a DMR creel survey or DMR sponsored MRIP surveys. These are policies that should be considered before reducing recreational opportunity to participate in the harvest of a species that is plentiful in the Gulf of Maine.

It appears that one would be better off getting a non-commercial lobster license for \$65 rather than spend \$98 for the pelagic license – plus one gets to eat lobster all summer.

This rule will have a negative economic impact on small mom and pop general stores, tackle shops, and large retailers as this rule will discourage recreational fishing participation which will lead to a loss of fishing equipment and tackle sales, as well as food and beverages normally consumed for a few hours on the water – which will now be a few minutes.

It has been my experience during the summer of 2022 that there are plenty of mackerel if one can avoid the schools of menhaden. I have had no problem catching mackerel in eastern Penobscot Bay, Blue Hill Bay, Jericho Bay, and Frenchman’s Bay. If DMR continues to limit harvest opportunities for recreational harvests like rainbow smelt, alewives, cod, haddock, and pollock, our coastal motto will soon become – **Maine – the way life was.**

**Tom Atherton, received via email, September 21, 2022**

Sorry could not attend public hearing



This is a bit of a mean spirited, poorly done science, and wildly unnecessary response to commercial fishermen and federal gov't inability to regulate a fishery properly. It is the same old response to include a group of resource users in a regulation that is completely unnecessary. The science on the impact of the recreational catch of maine anglers does not really exist. You have no numbers to report that shows our states landings have led to or will lead to any sort of fishery collapse. That notion is ill-conceived.

What sort of data or anthropological findings do you have to back up this insanity. The dmr's failures are numerous and your inability to regulate fisheries in a commonsense manner just keeps on happening, i know because i am a marine biologist and lifelong recreational and commercial fishermen.

We all predicted the collapse of the mussel bar reef system up and down the coast of maine and we were right and the dmr was wrong about the health and resiliency of mussel reefs. Just go to Inner Harbor Deer Isle and see if you can find any mussel reefs in your old study site. Not there are they, hate to say we told you so.

Again you are headed down the same regulatory path with no data from rec fishermen, no checking with those that are on the water hundreds of days a year and what they see. In stead you have desk jockey scientist who have no real idea what is out there for fish. These sorts of actions are full of failures, our environment is different and no computer model or trawl survey can show the true data

Here are my professional observations and landings data and trip level observations

1. In the 60's and 70's i caught about 100 mac a trip, usually 2 to 10 times a year
- 2 This year ny 3 fishing trips have been, 80, 110 and 120 fish landed and frozen to supplement my grocery bill
- 3, My fishing methods change regularly depending on macs learning curve and ability to learn to not go after unnatural moving jigs and cut and live bait, these are numerous so i will not go into detail
4. on my early morning worming adventures in my boat on calm days you can see huge schools of mackerel on every bay i fish in, Jericho, frenchmen , penobscot, and especially blue hill bay. you see stripers, porpoises, seals and fishermen landing lots of mac and chasing lots of schools and it is easy to tell the difference between menhaden and mac as they look completely different iwhen targeted by predators, or moving as a school.
5. when fisjhing there are always hundreds of mac around and numerous fish go after the bait without being hooked, same number of chasers as always. Schools are so big you can cast in every direction and catch plenty of fish, same amount as always.
6. there is no such thing as anecdotal fishhing info, it is anthropological and needs to be gathered responsibly to see how landings are how fish are behaving, what is the size structure.
7. fish learn over time to avoid certain baits, I will not go into detail over their social structure but the y learn over time
8. Jigs and trees are less effective because we have caught many of the aggressive fish and breded a more cautionary fish into the population. I change my fishing method yearly to keep

seeing the same amount of fish in my bag.

I can keep going but it is obvious you do not have the money for a comprehensive research policy to decide if you are doing the right thing. This is a political reaction to appease ASMFC, you can't convince me otherwise. You have no reason to do this, none you are certifiably insane and should rethink what you are doing.

**Tom Atherton, received via email, September 19, 2022**

Just a few Questions regarding us recreational mac fishermen impacts on the north atlantic mac stocks

Could you please forward this as part of my written testimony, Thank You

1. What is the percentage of mac caught by maine rec fishermen of the total catch
2. What statistical significance does our landings have on the total mac landing in north atlantic
3. What percent of the of the spawning stock do maine rec fishermen land
4. What impact does the rather large striper population have on mac in maine waters
- 5 what is optimum mac size of spawning population, what size mac contributes most to recruitment and fecundity,
6. What is the probability that maine rec fishermen are being targeted by commercial fishermen or are we just a pawn to appease commercial fishing fleet. or both
7. What does increased ocean acidity do to mac egg production and overall recruitment,
8. is rebuilding fish stocks to historical levels under Mag Stevens even possible with global warming, higher acidity and changing ocean currents
9. Is ASMFC mandating that Maine do its part to protect stocks without the science to back their proposal
- 10, Is this bag limit large enough to keep people out fishing or will it damage the bait and tackle industry
11. does the state have any idea how many people actually freeze, can, pickle, smoke, etc mac and actually use it to keep spending down and as a source for incredibly healthy food.
12. what is the average and mean size of mac caught in maine
- 13 has anyone at dmr gone into maine waters for a minimum of ten years and seen how many mac are in our waters, the population is huge, water is boiling with fish, thousands of fish in thousands of schools the bays are boiling with mac year after year after year
14. Is dmr doing this on their own if so u are incredibly irresponsible and unaware of the history of mac fishing in maine
- 15 is computer modeling the main reason behind this move to bag limits
- 16 The once abundant harbor pollack are in far worse shape are u aware of this rec fishery and how scarce they are compared to mac,
17. Is trawl survey involved because fish learn how to avoid traps and lures and one must constantly adjust their fishing methods through trial and error to keep their rec landings consistent.  
therefore the trawl survey method is unreliable. You learn this out fishing for 50 years not in a lab or woods hole or bigelow or reading science literature.
18. I can keep going on but won't I do not believe you have many answers to these questions that will pass an eye test or significantly scientific test. You do not stand a chance of passing the Anthropology test of living the life

19 My landings are the same as when i was a 10 or 12 year old kid and I am now 64.

I am a marine scientist and find the methods you use to be highly questionable, There is no Mac shortage or smelts for that matter, Mac schools are very abundant

20 now the most important question , have you folks lost your minds or are you just weak minded it has to be one or the other

21 There is no way you can back this up as a common sense approach to fishery management it is a political ploy to keep the commercial sector appeased. I lived that life I know how it works

**Bob Humphrey, Chair, Sportsman's Alliance of Maine Fisheries Committee, received via email, September 19, 2022**

My purpose in writing is to provide comment on the Maine Department of Marine Resources Rule-making Proposal regarding recreational catch and possession of Atlantic mackerel. While this proposal represents a substantial improvement over preliminary proposals from the Mid-Atlantic Fishery Management Council (MAFMC), we still have concerns, which are expanded upon below.

It is unfortunate that New England states and the New England Fishery Management Council did not have more opportunity to provide input at the initial stages, particularly given that 98% of the recreational catch comes from New England states, Maine's catch being second only to Massachusetts.

There is evidence of a decline, as observed in lower mackerel landings in the mid-Atlantic and Canada. However, it has also been suggested this may be more a result of shifting stocks rather than actual decline. Though it's largely anecdotal, recreational fishermen and charter/party boat operators have not observed any shortage of mackerel in Casco Bay and nearshore waters of the Gulf of Maine. This has been the case now for several decades.

Several individuals, recreational fishing groups, charter operators associations and fisheries conservation groups have expressed concern over flaws in the data that led MAFMC to their proposals.

1) The analysis looks at catch rather than catch per unit effort. Much of the previous mackerel landings came as by-catch from the commercial herring fishery. Since the commercial herring quota has been significantly reduced, fewer mackerel are being landed due to reduced effort, as would be expected.

2) Much of the data for recreational fishing effort and catch come from the Marine Recreational Information Program (MRIP). A recent MRIP review by the National Academy of Science suggests these MRIP data need to be reassessed and revised for them to be at all reflective of the New England fishermen's catch. Specifically, a lack of dockside intercepts and/or telephone interviews necessitates flawed assumptions regarding recreational landings and distorts MRIP recreational data. NOAA Fisheries Highly Migratory Species group has already acknowledged this and is taking steps to find more reliable data sources.

3) One of the assumptions being used to drive management measures is a 100% catch and release mortality rate. While more data are needed, this seems grossly inaccurate and unrealistic.

Our greatest concern is the impact these restrictions could have on the recreational and for-hire fishing communities. Maine lacks the variety and diversity of gamefish found in other regions like the mid-Atlantic. Striped bass are the foundation of Maine's for-hire fleet and recreational saltwater fishery, with mackerel being the primary source of bait. Mackerel are also an important resource for shore-bound, casual or vacationing anglers, as well as many outdoor education programs involving children. Taking away or reducing these opportunities could be financially devastating to coastal communities that rely on them during a very short season.

We applaud the Department's efforts to address many of the nuances associated with trying to reduce the impact of recreational mortality on Atlantic mackerel. However, Maine always seems to take the biggest hit when it comes to cutbacks, despite continually being proactive and progressive when it comes to fisheries conservation.

For these reasons, we neither support nor oppose this proposal. However, we encourage the Maine DMR to be more aggressive in standing up for the State's anglers when addressing proposals handed down from the federal level.

**Randall Holman, received via email, September 16, 2022**

I am contacting you in reference to the proposed 20 fish mackerel limit for recreational fisherman. I am a recreational lobster fisherman, and I am deeply concerned on how this will affect me when it comes to catching my own bait for in my 5 recreational lobster traps? As it is right now, I primarily use mackerel I catch myself to bait my traps. Until now, I never counted the individual fish I used when baiting my traps. But when I heard of this new proposed rule, I did a count on how many mackerel I use to bait my 5 traps. I use 50 fish ( + or - depending on size ) to bait my traps, that's 10 fish per bait bag, for a week's worth of fishing. As with most recreational trap fisherman, I haul my traps once a week on the weekend. Most of the time there is very little bait left in the bait bags (if any) after a week's worth of fishing, so using any less bait because of any new regulations will render the traps unfishable for half of the weeks fishing. Restricting me to using only 20 fish for 5 traps equates to me only using 4 mackerel per trap for bait.

I see that commercial lobster fisherman are "EXEMPT" from this new rule, and I would like to know why recreational lobster trap fisherman are not exempt from the new rule also?  
I look forward to hearing from you on this issue.

As I stated previously, I am very disappointed to hear about the recreational 20 fish daily take limit as it relates to my current recreational fishing. And from what you are telling me, for me to legally take over 20 mackerel per day for my recreational lobster trap fishing, I will now be burdened with becoming a commercial fishing operation. This burden will be more than just the

cost of the license you mentioned. I will also need to bring my boat into compliance with the current USCG regulations as it pertains to commercial vessels. This will incur "THOUSANDS" of dollars to be invested for all the needed safety gear once I become a commercial fishing operation with the license you mentioned.

I would like for you to strongly consider a daily take exemption for recreational non commercial lobster license holders so I will not be forced to either BUY the bait needed for my traps, or be forced into the added financial burden that this will incur on me for the cost of becoming a commercial operation just to get bait for my recreational lobster trap fishing!

*[Mr. Holman submitted photos, which are not included as part of his written comments listed above as they were not reproducible.]*

**Bob Humphrey, received via email, August 25, 2022**

Recommend you amend 52.02 1. A. (1) Exemptions as follows:

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), Chapter 625 (Wholesale and Retail Licenses) or non-commercial Lobster/Crab Harvesting License (12 M.R.S §6421).

**DMR Response to Comments:**

**Mackerel Catch by State and Sector:**

According to MRIP data, total recreational catch of Atlantic mackerel in Maine from 2016 to 2021 ranged from 2,815,922 fish (2018) to 5,892,208 fish (2016) per year. In 2019, total catch of Atlantic mackerel from the recreational sector was 10,602,254 fish, with 53% of total catch occurring in Massachusetts and 31% of total catch occurring in Maine. Together, the states of Maine, New Hampshire, and Massachusetts accounted for 99% of total recreational catch in 2019.

Recreational catch has historically been a small portion of overall mackerel catch when compared with the commercial fishery. According to the most recent stock assessment, US recreational catch in 2019 was 2,117 mt, US commercial landings and discards were 5,579 mt, and Canadian catch was 8,626 mt. This difference between recreational and commercial catch is greater in 2018: 8,894 mt in US commercial landings and discards, 2,394 mt in US recreational catch, and 10,964 mt in Canadian catch. As a part of the Atlantic mackerel rebuilding plan voted on by the Mid-Atlantic Council, the commercial sector is taking a 79% reduction in quota from 2019 (2019 DAH =17,371 mt; 2023 DAH = 3,639 mt). As a result, the recreational sector will be a much larger proportion of US mackerel catch moving forward. The Magnuson-Stevens Act states that any harvest restrictions must be shared fairly and equitably among the commercial, recreational, and for-hire sectors. In this case, the commercial fishery has represented the majority of catch and they are taking a higher reduction in quota (79%) compared to the estimated reductions in the recreational fishery (17%).

**Mackerel Rebuilding:**

The Atlantic mackerel spawning stock biomass target is 181,090 mt. According to the 2021 stock assessment, our estimated spawning stock biomass in 2019 was 42,862 mt, or 24% of the biomass target. As a result, the stock is overfished. In 2019, total catch from all sectors was 16,322 mt (rec sector = 2,117 mt), which represents 38% (rec sector = 5%) of the 2019 spawning stock biomass. Overfishing is occurring. Regarding the ability to rebuild in changing environmental conditions, a source of uncertainty is future recruitment levels as recruitment has been lower compared to the full time series average. As a result, the Mid-Atlantic Council considered a stepwise approach to their recruitment assumptions in the rebuilding plan for mackerel. Specifically, the Council voted to assume lower recruitment, more reflective of recent years, until spawning stock biomass is above 50% of the target. Then, at a higher biomass level, recruitment is assumed to return to a level representative of the full time series. The recent stock assessments do not speak to the impact of ocean acidity on recruitment.

**Mid-Atlantic Council Jurisdiction:**

The Atlantic mackerel fishery management plan resides at the Mid-Atlantic Fishery Management Council. The Council makes recommendations to NOAA, which NOAA promulgates in federal waters. It is not uncommon for the federal management bodies to ask states to promulgate complementary measures in states waters, and vice versa. This is to improve compliance, simplify measures, and aid enforcement. Originally, the Mid-Atlantic Council asked the New England states to reduce mackerel recreational catch by 50% through a seasonal closure starting in August. After significant written comment from the New England states, the Council did not implement a seasonal closure and instead voted on a 20 fish bag limit which is estimated to reduce recreational catch by 17%. Should the New England states not adopt the 20 fish bag limit in state waters, the predicted reduction in Atlantic mackerel catch and subsequent stock rebuilding would be overestimated. A potential repercussion would be the closure of federal waters to the possession of mackerel, impacting commercial and recreational fishermen who reside in Maine and operate in federal waters.

**License Exemptions:**

There were several comments regarding the exemption of commercial permits and recreational lobster licenses from the 20 fish limit. The rulemaking exempts Maine's commercial pelagic and anadromous license from the 20 fish possession and harvest limit. This is the license used to commercially harvest and land mackerel in Maine, and the exemption would allow these license holders to fish for, take, and possess more than 20 mackerel. The rulemaking also exempts several other licenses (Chapter 619, 621, and 625 licenses) from the possession limit for mackerel; this includes lobster licenses which may use mackerel as bait and dealer wholesale licenses. Importantly, these other licenses are only given a possession exemption, not a fishing exemption. This means an individual who holds a license under Chapter 619, 621, or 625 can possess more than 20 mackerel but they could not fish for more than 20 mackerel per person per day. To be able to fish for, take, and possess more than 20 mackerel, a person would need an open access commercial pelagic and anadromous license. The recreational lobster license is included in Chapter 619 so this license would be exempt from the 20 fish possession limit. DMR has not proposed allowing the recreational lobster license to be exempt

from both the harvest and possession limits for mackerel because individuals who wish to harvest more than 20 mackerel may obtain an open access commercial pelagic and anadromous license. There are also several species which can be used as bait for lobster pots, including menhaden.

#### **Large Number of Mackerel in Maine and Shifting Stocks:**

Several comments spoke to the high volume of mackerel in Maine in recent years. This follows with trends in the stock assessment as the stock is estimated to have increased in size from about 8% rebuilt in 2014 to 24% rebuilt in 2019. Thus, the mackerel stock size is higher today than it was in 2014. A US shelf-wide egg survey has also indicated contraction of the stock over the last two decades, concentrating in western Gulf of Maine waters. This means that fishers in these areas may be experiencing a higher volume of mackerel compared to other regions. Some comments spoke to a northern shift in the mackerel stock. It is important to note that the most recent Canadian stock assessment for Atlantic mackerel found that the stock has been in the Critical Zone since 2009 and estimated spawning stock biomass in 2020 was the second lowest in the time series. Thus, the Canadian assessment does not indicate an increase in Atlantic mackerel in northern waters.

#### **Size of Mackerel Caught:**

Based on MRIP data from 2016-2021, 73% of Maine's recreational catch of mackerel is between 8- and 10.99-inches fork length (or between 20-28 cm fork length). According to 2018 Benchmark Stock Assessment for mackerel, the median age and length of maturity was 1.7 years and 24.1 cm total length. In general, the assessment has seen a contraction in the age structure of Atlantic mackerel with fewer older fish in catches.

#### **Striped Bass:**

Unlike the Atlantic menhaden stock assessment, the Atlantic mackerel stock assessment is not an ecosystem model so the direct affect of the striped bass population is not modeled. However, natural mortality from a variety of sources is included in the stock assessment and noted as an area of uncertainty. The stock assessment did consider whether natural mortality assumptions should be varied over time. After assessing the occurrence of mackerel in the diets of predators from bottom trawl survey samples, there was not sufficient information to support time-varying natural mortality.

#### **Number of Participants:**

It is challenging to estimate the number of anglers who recreationally catch mackerel as some may target mackerel and others may incidentally catch mackerel. Our best source of information is MRIP. According to MRIP data, there were 168,611 recreational trips in Maine whose primary target was Atlantic mackerel in 2021 (PSE = 23.7), and 232,470 trips in Maine whose secondary target was Atlantic mackerel (PSE = 25).

#### **Coast Guard Requirements:**

Holding a commercial pelagic and anadromous license from ME DMR does not trigger a coastguard requirement. A commercial fishing vessel operating seaward of 3nm from shore is

required to have a dockside inspection and sticker from the US Coast Guard. However, ME DMR's licensing department does not require specific safety standards to be met to issue a license.

**Impacts to Recreational Industry:**

According to Mid-Atlantic Council analysis on the management options, a 20 fish bag limit is expected to reduce total recreational catch by 17%. This is an estimate as angler response to a possession limit are difficult to predict, and some may choose to obtain a Maine commercial pelagic and anadromous license to be exempt from the 20 fish limit.

**Stock Assessment Inputs and Trawl Survey:**

There are several inputs to the Atlantic mackerel stock assessment, including catch data from commercial and recreational fisheries, and fishery dependent survey data. As a result, catch data is not the only source of data driving the results of the assessment. The Northeast Fisheries Science Center Spring Trawl Survey is used as an index of abundance in the stock assessment. The data down-weighted in the stock assessment was from the R/V Albatross, which was used by the NEFSC trawl survey until it was retired in 2008 and replaced by the R/V Bigelow. Down-weighting the Albatross data indicates a higher level of uncertainty with the older survey data and improved stock assessment model fit.

**Education and Enforcement**

Maine DMR agrees that broad education is needed regarding a mackerel possession limit in the recreational fishery. We will work with staff and industry representatives to help inform stakeholders about the new regulations. As with any new regulation, enforcement begins with a period focused on education regarding the new measure.