



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: March 24, 2022
To: Council
From: Jason Didden, Staff
Subject: Mackerel Rebuilding

The Council is scheduled to hold public hearings on the second iteration of Atlantic mackerel rebuilding in late April 2022. A draft public hearing document is included for review, and the Council staff will update it with any Council recommendations before the public hearings.

The Mackerel, Squid, and Butterfish (MSB) Committee will be reviewing these materials during a meeting on March 28, 2022 and any outcomes of that meeting will be posted to the Council meeting website as supplementary materials.

There are no recreational closure provisions in the document currently, but they could be added if so determined by the Council.

The following materials are enclosed on this subject:

- 1) MSB Monitoring Committee Report
- 2) March 2022 SSC Report – See Committee Reports Tab
- 3) 2022 MSB Advisory Panel Fishery Performance Report - See *Illlex* Tab
- 4) 2022 Atlantic Mackerel Fishery Information Document
- 5) States’ letter on Atlantic mackerel rebuilding.
- 6) Draft Public Hearing Document



MSB Monitoring Committee Meeting Summary – Atlantic Mackerel Rebuilding

March 18, 2022

Webinar

The Mid-Atlantic Fishery Management Council’s (Council) Mackerel, Squid, and Butterfish (MSB) Monitoring Committee (MC) met on March 18, 2022 at 1:30 pm. The purposes of this meeting were to develop recommendations regarding 2022 *Illex* Specifications and Atlantic mackerel (just “mackerel” hereafter) rebuilding. Given the different topics, two summaries were created – this summary is for mackerel rebuilding topics.

Monitoring Committee Attendees: Jason Didden, Carly Bari, Lisa Hendrickson, Kiersten Curti, Daniel Hocking, and Julia Beaty.

Other Attendees: Greg DiDomenico, Aly Pitts, Meghan Lapp, Pam Lyons Gromen, Katie Almeida, Sonny Gwin, Zachary Greenberg, Kelly Whitmore, Purcie Bennett-Nickerson, Dan Farnham, Melanie Griffin, Megan Ware, and Will Poston.

The Monitoring Committee discussed a variety of topics related to mackerel rebuilding. The results of those discussions have largely been incorporated into the current draft mackerel rebuilding public hearing document, but additional editing of that document will occur before hearings. MC Meeting highlights included:

-With a mackerel Management Track Assessment planned for 2023, which would inform 2024 specifications, it makes sense to only set specifications through 2023. Given the demonstrated imprecision of previous projections, setting now for 2024 is likely to convey an inappropriate sense of what 2024 specifications will actually be. If there is some unexpected delay, 2023 specifications would roll over into 2024 until any associated rulemaking takes effect.

-The plan for Canadian landings is to describe likely specifications outcomes of assuming either 4,395 MT for Canada for 2023 or half of that, 2,197 MT, and then the Council can make a decision in June 2022 after hopefully knowing at least the 2022 Canadian quota. Canadian catch predictions for 2023 may be imprecise because Canada will base its 2023 quota on their assessment update in early 2023. The wording of their 2022 quota announcement should be considered when making an assumption about 2023.

-Given the uncertainty about recreational responses to bag limits (or any other measures), and the uncertainty about state actions, it is reasonable to just continue deducting the recent 5-year average recreational catch of 2,582 MT. Another reasonable approach would be to deduct half of the theoretical reduction from any bag limit. The effect of this would be to assume some reduction from a bag limit, but also assume that angler behavior adapts in response to a bag limit to still optimize their catches. The Monitoring Committee shared state concerns about the complexity and enforceability of different bag limits for private/shore/for-hire modes.

-There is still some ambiguity regarding permitting and reporting. The regulations state that:

“The owner of any party or charter boat that fishes for, possesses, or retains Atlantic mackerel, Illex squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit, while carrying passengers for hire must have been issued and carry on board a valid Federal vessel permit...”

“Mackerel, squid, and butterfish vessels. Any vessel of the United States, including party and charter vessels, that fishes for, possesses, or lands Atlantic mackerel, Illex squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit must have been issued and carry on board a valid Federal mackerel, squid, or butterfish vessel permit...”

“Vessel and operator permits. It is unlawful for any person to do any of the following: (1) Fish for, take, catch, harvest or land any species of fish regulated by this part in or from the EEZ, unless the vessel has a valid and appropriate permit issued under this part and the permit is on board the vessel and has not been surrendered, revoked, or suspended.” (*Under Prohibitions Section*)

The tricky aspect is that since the word “possess” is not in the prohibition section, one could apparently argue that a mackerel on board was caught in state waters, though there is generally a presumption that fish on board in the EEZ were caught in the EEZ. To completely close this possible permitting and reporting loophole, the Council could consider adding that possession of any Atlantic mackerel in the EEZ, including as bait acquired through any means, by any commercial or for-hire vessel, requires a mackerel permit. Pre-purchased bait would not have to be reported but would trigger permitting (open access permits are available). Once a vessel has **any** NMFS GARFO permit requiring vessel trip reports (VTRs), all catch of all species must be reported via electronic vessel trip reports (including on any private trips). NMFS GARFO may have additional input on this topic.

-There is minimal information to evaluate a 3-inch mesh for mackerel. The general literature on selectivity would support that some additional escapement of small mackerel should occur. Most Atlantic mackerel catch observations (raw data) in the observer data in the last 10 years occur from 48mm (1.9 inches) to 60mm (2.5 inches), with less than 10% of observations by weight occurring with mesh over 60mm (2.5 inches), making the observer data of limited usefulness for exploring an increase to a 3-inch mesh. Staff will further evaluate observer data to see if any additional information can be developed.

-For Alternatives 1 and 2, given the extremely low ABCs, even completely closing the U.S. EEZ would not achieve the ABCs, but would come closest.

-For the P* Option, Alternative 3 in the draft public hearing document, refer to SSC summary for why the SSC recommended the P* approach. With likely assumed Canadian catch and recreational catch, catch for the U.S. commercial fishery may still be negative with P*. Starting with a commercial fishery closure (20,000 pounds for directed limited access permits and 5,000 pounds for open access permits) and a 5-fish recreational bag limit could be placeholder

measures, but would still not hold to the resulting ABCs. The question becomes if even these measures would not hold to an ABC, does this option become infeasible. The MC discussed whether going to a 5-fish bag limit might reduce “other” catch to where enough quota could cover incidental commercial mackerel catches. Calculations in the draft hearing document indicate that even at a 5-fish bag limit, there would still be minimal commercial quota.

Public comment summary:

-Given the status of mackerel, how are we going to monitor and manage the other fisheries? Recreational and bait especially.

-Ecological and socioeconomic concerns need to be fully considered by the Council.

-The Council should consider alternatives that rebuild mackerel by 10 years from the original rebuilding date.

SSC Report is behind
the Committee Reports
tab.

2022 MSB Advisory Panel
Fishery Performance Report -
See *Illex* Tab



Atlantic Mackerel Fishery Information Document

February 2022

This Fishery Information Document provides a brief overview of the biology, stock condition, management system, and fishery performance for Atlantic mackerel (“mackerel” hereafter), with an emphasis on 2021. Data sources for Fishery Information Documents include unpublished National Marine Fisheries Service (NMFS) survey, dealer, vessel trip report (VTR), permit, and Marine Recreational Information Program (MRIP) databases and should be considered preliminary. For more resources, including previous Fishery Information Documents, please visit <http://www.mafmc.org/msb>.

Key Facts

- Mackerel began a rebuilding program on November 29, 2019, which was designed to rebuild the stock by 2023. Based on the 2021 Management Track Assessment (MTA), the stock appears to have almost tripled from 2014 to 2019 (to 24% of rebuilt), but also appears unlikely to complete rebuilding by 2023. A revised rebuilding plan is under development.
- The 2017 recruitment estimate was the lowest in the time series and recruitment has been below the long term median since 2008 except for one year (the 2015 year class).
- In the new MTA, the estimated proxy for Maximum Sustainable Yield declined by 17% (to 34,103 metric tons (MT) annually) compared to the previous assessment.
- The new MTA’s conclusions are consistent with the 2021 Canadian assessment.
- The SSB estimates from the range-wide egg survey, a key index in the assessment, reached a minimum in 2010 and have been below the median since 2005.
- The fishery was not constrained by the river herring and shad (RH/S) cap in 2021, but NMFS closed the fishery based on the assessment results and Council request effective October 15, 2021.

Basic Biology

Mackerel is a semi-pelagic/semi-demersal (may be found near the bottom or higher in the water column) schooling species primarily distributed historically between Labrador (Newfoundland, Canada) and North Carolina. The stock is considered to comprise two spawning contingents: a northern contingent spawning primarily in the southern Gulf of St. Lawrence and a southern contingent spawning in the Mid-Atlantic Bight, Southern New England and the western Gulf of Maine. The two contingents mix during winter months on the Northeast U.S. shelf. The

Canadian fishery likely primarily catches the northern contingent while the U.S. fishery appears to catch both contingents.

Mackerel spawning occurs during spring and summer and progresses from south to north as surface waters warm. Atlantic mackerel are serial, or batch spawners. Eggs are pelagic. Post-larvae gradually transform from planktonic to swimming and schooling behavior at about 30-50 mm. Almost all fish are mature by age 3 in most years. Age 2 maturity appears to vary between around 50% to nearly 100%. Atlantic mackerel are opportunistic feeders that can ingest prey either by individual selection of prey organisms or by passive filter feeding. See <https://www.nefsc.noaa.gov/nefsc/habitat/efh/> for more life history information.

Status of the Stock

Based on the 2018 assessment (NEFSC 2018, available at <http://www.mafmc.org/ssc-meetings/2018/may-8-9>), the mackerel stock was declared overfished, with overfishing occurring in 2016. A new 2021 management track assessment (MTA) indicates that while trends since 2014 are positive, the stock is only 24% of the biomass rebuilding target. The productivity of the stock appears to have declined. In the recent MTA, the estimated proxy for Maximum Sustainable Yield declined by 17% to 34,103 metric tons (MT) compared to the previous assessment. Past assessments (which used different methods and data) appear to have been overly optimistic about the stock's productivity.¹

Management System and Fishery Performance

Management

The Mid-Atlantic Fishery Management Council (the Council or MAFMC) established management of mackerel in 1978 and the management unit includes all federal East Coast waters. Expected Canadian landings are deducted from the total Acceptable Biological Catch (ABC) that is recommended by the Council's Scientific and Statistical Committee (SSC).

Access is limited with several tiers having different trip limits. Stricter trip limits are triggered when the quota is approached. Additional summary regulatory information is available at <https://www.fisheries.noaa.gov/region/new-england-mid-atlantic>.

At its May 2019 meeting, the SSC considered preliminary results from the 2019 Canadian Atlantic mackerel assessment, which indicated lower than expected recruitment in 2016-2018. The SSC determined that it would not be appropriate to recommend the original higher 2020 rebuilding ABC levels and the ABC has been 29,184 mt since. NMFS closed the primary directed fishery based on the assessment results and Council request effective October 15, 2021. An emergency rule should keep 2022 catches to around 2021 catches, about 12,000 MT. This would include about 4,200 MT for Canadian landings, 5000 MT for U.S. commercial landings, 2,600 MT for

¹ Referencing 1997 Federal Register publications, the 1997 mackerel allowable biological **catch** was specified about **ten times higher than** what we now think the **total SSB** was in that year.

recreational catch, and small set-asides for commercial discards and management uncertainty. A revised rebuilding plan is under development, targeting January 1, 2023 for implementation.

Fisheries

Figure 1 describes mackerel catches (all known sources) 1960-2019. Figures 2-3 describe domestic landings, ex-vessel revenues, and prices (inflation adjusted) since 1996. Figure 4 illustrates preliminary weekly landings throughout the year for 2021 and 2020.

Table 1 describes 2021 mackerel landings by state, and Table 2 describes 2021 mackerel landings by gear type. Table 3 describes 2021 mackerel landings by NMFS statistical area. Table 4 shows vessel participation over time in the mackerel fishery

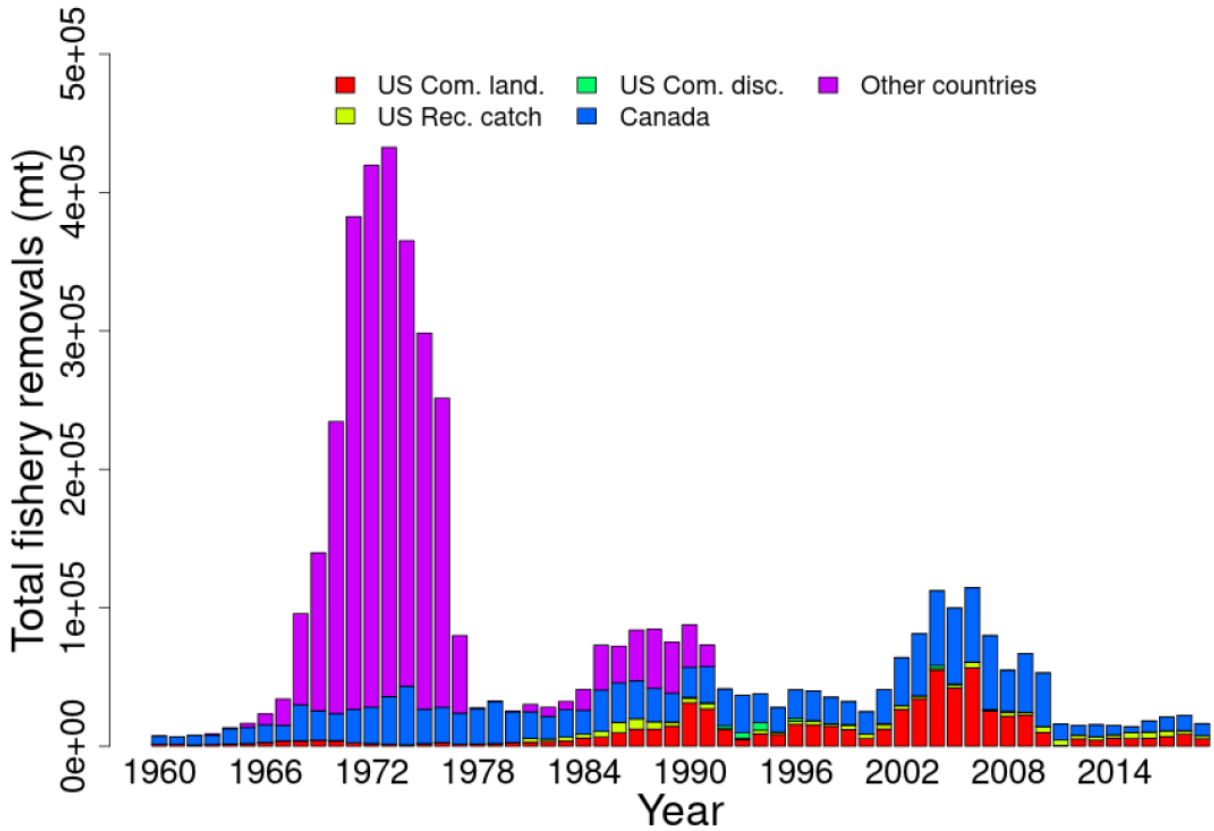


Figure 1. Total catch of northwest Atlantic mackerel between 1960 and 2019 by all known sources. U.S. recreational catch represents recreational landings plus discards, Canada represents Canadian landings (discards are not available), and other countries represents landings by all other countries.

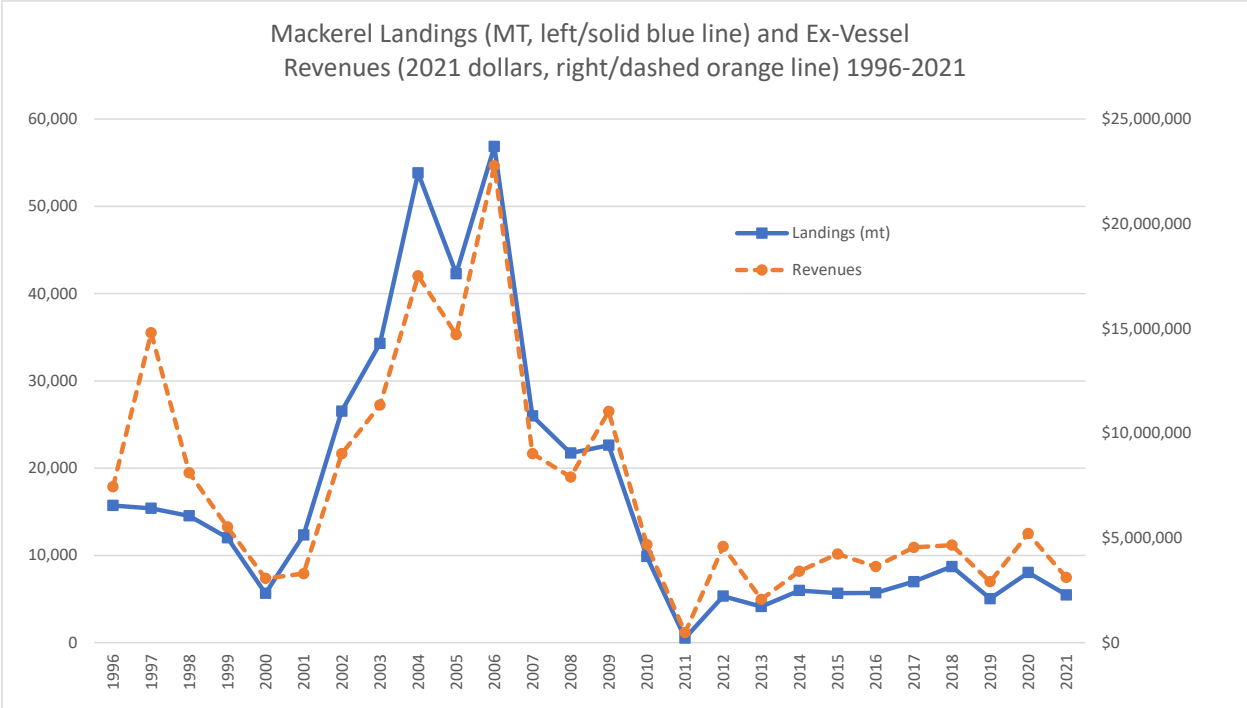


Figure 2. U.S. Mackerel Landings and Mackerel Ex-Vessel Values 1996-2021. Source: NMFS unpublished dealer data. [PRELIMINARY]

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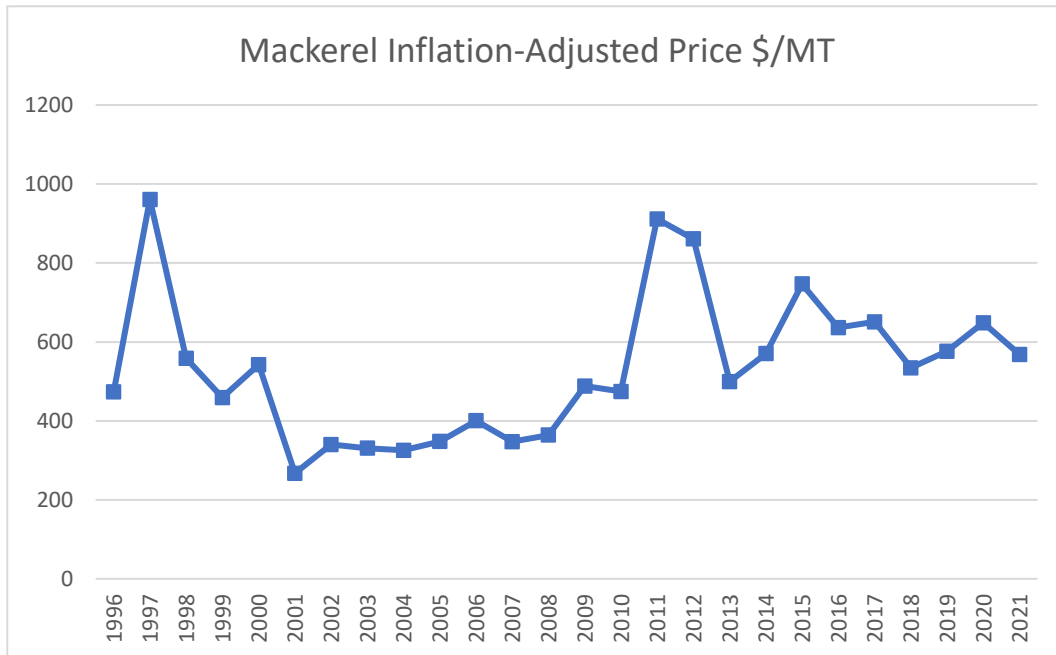


Figure 3. Ex-Vessel Mackerel Prices 1996-2021 Adjusted to 2021 Dollars Source: NMFS unpublished dealer data. [PRELIMINARY]

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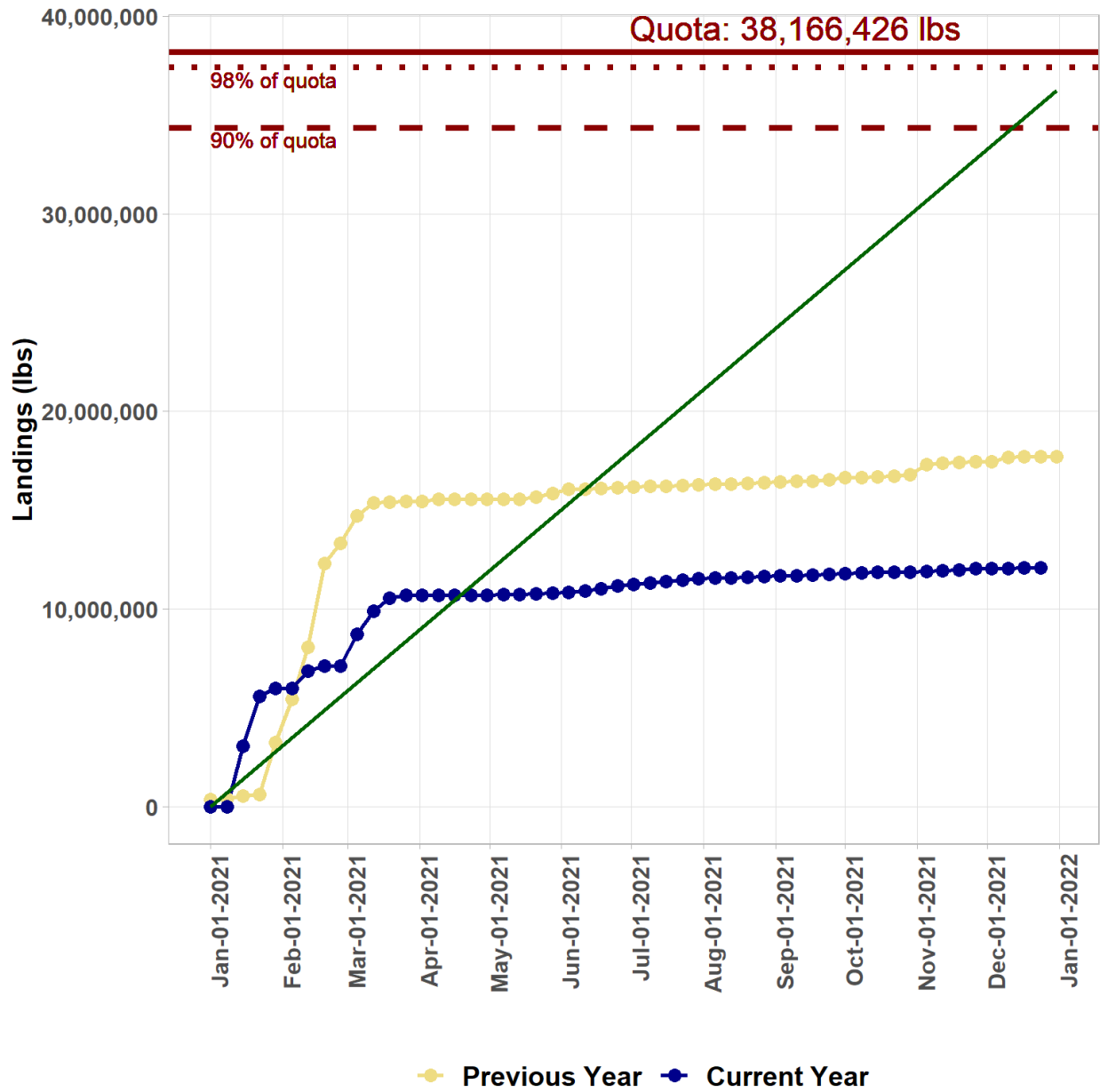


Figure 4. U.S. Preliminary Mackerel landings; 2021 in blue, 2020 in yellow-orange. Source: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/quota-monitoring-greater-atlantic-region>.

Table 1. Commercial Mackerel landings (live weight) by state in 2021. Source: NMFS unpublished dealer data.

State	Metric Tons
MA	4,287
ME	546
NJ	534
Other	110
Total	5,476

Table 2. Commercial Mackerel landings (live weight) by gear in 2021. Source: NMFS unpublished dealer data.

GEAR	MT
TRAWL,OTTER,MIDWATER	2,555
TRAWL,OTTER,MIDWATER PAIRED	1,595
TRAWL,OTTER,BOTTOM,FISH	730
LONGLINE, BOTTOM	233
GILL NET,SINK, OTHER	228
HAND LINE, OTHER	96
Other	40
Total	5,476

Table 3. Commercial mackerel landings by statistical area in 2021. Source: NMFS unpublished VTR data.

Stat Area	Metric Tons
522	2,023
521	1,854
612	992
514	450
Other/CI	332
Total	5,652

Table 4. Vessel participation over time in the Mackerel Fishery based on annual landings (pounds)

YEAR	Vessels 1 mil +	Vessels 100,000 - 1mil	Vessels 50,000 - 100,000	Vessels 10,000 - 50,000	Total
1982	0	10	10	43	63
1983	0	10	5	26	41
1984	0	11	14	29	54
1985	0	12	10	28	50
1986	1	10	5	37	53
1987	1	15	8	31	55
1988	2	20	8	40	70
1989	6	17	8	27	58
1990	6	16	7	39	68
1991	13	18	1	38	70
1992	9	17	13	48	87
1993	0	16	11	55	82
1994	2	27	14	44	87
1995	4	24	11	50	89
1996	7	45	15	53	120
1997	6	30	20	46	102
1998	9	16	6	39	70
1999	6	15	9	37	67
2000	5	3	0	26	34
2001	5	3	2	20	30
2002	12	3	1	22	38
2003	14	6	5	23	48
2004	18	6	1	14	39
2005	15	11	4	17	47
2006	20	12	5	10	47
2007	16	12	2	20	50
2008	15	5	1	17	38
2009	15	6	6	18	45
2010	10	9	2	14	35
2011	0	3	3	17	23
2012	3	9	1	9	22
2013	4	3	3	13	23
2014	6	5	1	13	25
2015	5	9	10	12	36
2016	3	16	7	26	52
2017	6	7	14	27	54
2018	8	6	3	24	41
2019	3	11	4	38	56
2020	7	9	1	10	27
2021	4	9	3	6	22

THIS IS THE END OF THE DOCUMENT



March 11, 2022

Dr. Christopher M. Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Re: Atlantic mackerel recreational measures

Dear Dr. Moore:

Since the States of Maine, Massachusetts and New Hampshire last wrote to you in December 2021, we have continued to advance analyses in support of Atlantic mackerel recreational fishing rulemaking. The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Committee took up feedback from recent public informational webinars on March 2nd and we too have reflected on those comments. In the vein of collaborative, sustainable management we are writing to provide both insight on the states' next steps and feedback on potential regulatory action by the Mid-Atlantic Council.

Recreational Bag Limit vs. Seasonal Closure

As noted in our December 2021 letter, the states do not support a seasonal closure as an effective option for reducing recreational catch of Atlantic mackerel. We understand that the Mid-Atlantic Council will consider a tabled motion to remove this option at its next Mackerel, Squid, and Butterfish Committee meeting in March 2022 and we support the removal of this management tool from consideration. The intricacies of the fishery, especially as used for bait, create complex connections between subsistence, recreational and commercial fishing activity that, along with the use of frozen bait and other practical considerations, make a seasonal closure an inappropriate tool. The Mid-Atlantic Mackerel, Squid, and Butterfish Committee's tasking of staff to analyze compliance gaps in Atlantic mackerel permitting and reporting reflect such intricacies; we fully support gaining clearer insight into the fishery and improving compliance.

The Mid-Atlantic Mackerel, Squid, and Butterfish Committee's tasking of staff to develop a range of recreational Atlantic mackerel trip limit options dovetails with the intent of the states to propose Atlantic mackerel recreational bag limits for public comment in the summer of 2022. We heard support during the Mid-Atlantic's informational webinars for a bag limit approach to reducing catch. The Mid-Atlantic Committee's tasking to analyze various recreational bag limits provides an opportunity for the management approach for Atlantic mackerel recreational fishing to be consistent between state and federal waters, a boon to anglers, regulators, and enforcement, alike.

Split Modes

Based on discussion by the Mid-Atlantic Mackerel, Squid, and Butterfish Committee, it appears the Mid-Atlantic Council may consider disparate trip limits between private and for-hire recreational fishing

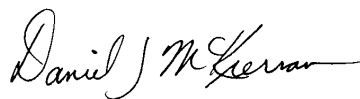
modes (i.e., split modes). The states generally disagree with split mode regulation of individual, recreational anglers depending on whether they fish aboard a private or for-hire vessel. Disparate rules among recreational anglers are not a best practice in support of recreational surveys and collection of best scientific information available. The Marine Recreational Information Program (MRIP) is not designed for such parsing, neither in terms of gathering reliable information on a sub-set of actors nor in terms of providing guidance on potential catch by such sub-sets. Split mode can also undermine effective enforcement, reduce compliance, and blur the lines between recreational and commercial fishing. As a result, the states are passing along our concerns regarding a split mode approach for the Council's consideration.

Regulatory Timeline

It remains our understanding that the Mid-Atlantic Council will take final action in June 2022 for implementation by January 1, 2023. This aligns with the three states' rulemaking timelines; effective public process will require several months but should allow for a January 2023 implementation date of any new state Atlantic mackerel recreational rules.

We look forward to continued work with you. As always, please reach out with any questions to Melanie Griffin of the Massachusetts Division of Marine Fisheries (melanie.griffin@mass.gov; 978.853.1196), Megan Ware of the Maine Department of Marine Resources (megan.ware@maine.gov; 207.446.0932) and Cheri Patterson of the New Hampshire Fish and Game Department (cheri.patterson@wildlife.nh.gov; 603.868.1095).

Sincerely,



Dan McKiernan
Director
MA DMF



Pat Keliher
Commissioner
ME DMR



Cheri Patterson
Chief, Marine Division
NH FGD

cc: Robert Beal, ASMFC
Jason Didden, MAFMC
Tom Nies, NEFMC
Eric Reid, NEFMC
Michael Pentony, GARFO

Mackerel Rebuilding Version 2

Amendment to the MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN

Measures to Rebuild the Atlantic Mackerel Stock, Including
2023 Specifications and the River Herring and Shad (RH/S) Cap

Public Hearing Document

Feb 24, 2022 DRAFT



Atlantic Mackerel
Scomber scombus

Prepared by the

**Mid-Atlantic Fishery Management Council (Council) in collaboration with the
National Marine Fisheries Service (NMFS)**

Council Address

Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

NMFS Address

NMFS Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

1.0 EXECUTIVE SUMMARY AND TABLE OF CONTENTS

This action considers measures to rebuild the Atlantic mackerel (“mackerel” hereafter) stock with an Amendment to the Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP). This action includes 2023 mackerel specifications and related management measures, including the mackerel fishery’s river herring and shad (RH/S) cap. This action was originally going to set 2023-2024 specifications, but now proposes to only set 2023 specifications given a Mackerel Management Track Assessment (MTA) is expected in 2023, which should use data through 2022 and could better inform 2024 specifications. Using the 2023 MTA to set 2024 specifications would only involve a two-year data lag (2022 to 2024). Using the 2021 MTA to set 2024 specifications would involve a five-year data lag (2019 to 2024). If the assessment or subsequent specifications were delayed, then the 2023 specifications would roll-over into 2024 until new specifications were published. The MSB Monitoring Committee recommended this approach given the high degree of uncertainty involved in setting 2024 specifications based on 2019 data and five years of projections. Setting 2024 specifications now would suggest too much stability for 2023/2024 catches given the scale of changes observed in the 2021 Mackerel MTA versus initial rebuilding plan projections (which spanned 3 years and were off by about a factor of four).

The purpose of this action is to rebuild the mackerel stock with appropriate measures so that Optimum Yield (OY) can be achieved on an ongoing basis. The action is needed because the recent 2021 Mackerel Management Track Assessment (MTA) found the mackerel stock to still be overfished, with overfishing still occurring through 2019 (NEFSC 2021). The 2021 Mackerel MTA determined that when implemented (11/29/2019), the original rebuilding plan was already out of date and did not provide a realistic rebuilding approach. The stock is estimated to have tripled in size from 2014 to 2019 (from 8% to 24% of rebuild), but fully rebuilding on the original schedule (by 2023) appears impossible – the stock is expected to be less than half rebuilt by 2023. This action incorporates the 2021 Mackerel MTA findings to continue rebuilding the mackerel stock.

Because none of the preferred alternatives are anticipated to be associated with significant impacts to the biological, social, economic, or physical environment, an Environmental Assessment (EA) documenting a "Finding of No Significant Impact" (FONSI) is planned, but this plan could change based on public comments.

Summary of the Alternatives

The alternatives are based on rebuilding plans that all have at least a 50% chance of rebuilding mackerel within ten years, which is the maximum time typically allowed under the Magnuson–Stevens Fishery Conservation and Management Act (MSA). The alternatives focus on the probability of rebuilding by 2032 (ten years) due to the Scientific and Statistical Committee’s (SSC) July 2021 Meeting advice that “Preliminary rebuilding scenarios indicate long-term rebuilding will be required for this stock” and that higher rebuilding probabilities “are associated with shorter rebuilding time and greater catch stability” (MAFMC SSC 2021). Additional management measures are paired with each rebuilding plan.

Summary of Impacts

Target Species Impact Summary

The alternatives should allow the mackerel stock to rebuild within 10 years. Changes in mackerel fishing should not impact other FMP species due to low catch of those species in the mackerel fishery, and separate management measures control catch of those species. While Atlantic herring and mackerel are often caught together, separate management measures in the Atlantic herring fishery should ensure that overfishing does not occur on the Atlantic herring stock.

Non-Target Species Impact Summary

Non-target interactions are relatively low in the mackerel fishery, and all of the action alternatives would reduce catch from the status quo, thereby limiting effort. The RH/S cap should continue to limit interactions between the mackerel fishery and RH/S, which have been the primary non-target species of concern for the mackerel fishery.

Habitat Impact Summary

All of the alternatives would reduce catch from the status quo thereby limiting effort, so no additional negative habitat impacts would be expected.

Protected Resources Impact Summary

All of the alternatives would reduce catch from the status quo, thereby limiting effort, so no additional negative protected resource impacts would be expected.

Human Communities Impact Summary

Human communities may have negative impacts in the short term due to lower catches/revenues from mackerel, but in the long term rebuilding should lead to higher catches/revenues.

TABLE OF CONTENTS

1.0	EXECUTIVE SUMMARY AND TABLE OF CONTENTS	2
	TABLE OF CONTENTS.....	4
2.0	LIST OF COMMON ACRONYMS AND ABBREVIATIONS	5
3.0	LISTS OF TABLES, AND FIGURES	6
3.1	List of Tables.....	6
3.2	List of Figures	7
4.0	INTRODUCTION, BACKGROUND, AND PROCESS	8
4.1	Introduction and Background.....	8
4.2	Process.....	16
4.3	Purpose and Need.....	16
4.4	Regulatory Authority.....	16
4.5	FMP History and Management Objectives	17
4.6	Management Unit and Geographic Scope.....	19
5.0	WHAT ALTERNATIVES ARE CONSIDERED IN THIS DOCUMENT?.....	19
5.1	ALTERNATIVE 1 – 10-year Rebuilding with Persistent Low Recruitment.	21
5.2	ALTERNATIVE 2 – P* deduction applied to 50% Rebuilding Probability	22
5.3	ALTERNATIVE 3 – P* approach with return to normal recruitment.....	23
5.4	ALTERNATIVE 4 – 62% Rebuilding Probability in 10 Years.....	24
5.5	ALTERNATIVE 5 – 53% Rebuilding Probability in 10 Years.....	30
5.6	Considered by Rejected Alternatives	35
6.0	DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES.....	36
6.1	Description of the Managed Resource and Non-Target Species.....	36
6.2	Human Communities and Economic Environment.....	38
6.4	Protected Species	54
7.0	Biological and Human Community Impacts.....	57
7.1	Managed Resource - Mackerel.....	60
7.2	Habitat/Protected Resources/Not Target Species	61
7.3	Socioeconomic Impacts.....	61
8.0	LITERATURE CITED AND SELECTED OTHER BACKGROUND DOCUMENTS ...	65

2.0 LIST OF COMMON ACRONYMS AND ABBREVIATIONS

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
ACT	Annual Catch Target
ASMFC	Atlantic States Marine Fisheries Commission or Commission
B	Biomass
CFR	Code of Federal Regulations
CPH	Confirmation of Permit History
CV	coefficient of variation
DAH	Domestic Annual Harvest
DAP	Domestic Annual Processing
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act of 1973
F	Fishing Mortality Rate
FMAT	Fishery Management Action Team
FMP	Fishery Management Plan
FR	Federal Register
GB	Georges Bank
GOM	Gulf of Maine
M	Natural Mortality Rate
MAFMC	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSB	Atlantic Mackerel, Squid, Butterfish
MSY	Maximum Sustainable Yield
MT (or mt)	Metric Tons (1 mt equals about 2,204.62 pounds)
NE	Northeast
NEFMC	New England Fishery Management Council
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing Level
OY	Optimum Yield
PBR	Potential Biological Removal
SNE	Southern New England
SSB	Spawning Stock Biomass
SSC	Scientific and Statistical Committee
U.S.	United States
VTR	Vessel Trip Report

Notes: "Mackerel" refers to "Atlantic mackerel" unless otherwise noted. Likewise "herring" alone refers to Atlantic herring.

3.0 LISTS OF TABLES, AND FIGURES

3.1 List of Tables

Table 1. Purposes and Needs	16
Table 2. No Action Specifications	20
Table 3. Rebuilding Alternative 1 ABCs and Biomass	21
Table 4. Rebuilding Alternative 2 ABCs and Biomass	22
Table 5. Rebuilding Alternative 3 ABCs and Biomass	23
Table 6. Rebuilding Alternative 4 ABCs and Biomass	25
Table 7. Theoretical Bag Limit Reductions by Mode.....	26
Table 8. Theoretical Combined Bag Limit Reductions	26
Table 9. Theoretical Alternative Recreational Catch Deductions and Savings	26
Table 10. Alternative 4 2023 Specifications Summary	28
Table 11. Rebuilding Alternative 5 ABCs and Biomass	30
Table 12. Theoretical Bag Limit Reductions by Mode.....	31
Table 13. Theoretical Combined Bag Limit Reductions	31
Table 14. Theoretical Alternative Recreational Catch Deductions and Savings	32
Table 15. Alternative 5 2023 Specifications Summary	33
Table 16. Incidental Catch and Discards in the Mackerel Fishery	38
Table 17. Commercial mackerel landings by statistical area in 2020. Source: NMFS unpublished VTR data.....	47
Table 18. Commercial mackerel landings by statistical area in 2021. Source: NMFS unpublished VTR data.....	47
Table 19. 2017-2021 Total Mackerel Landings by State.....	48
Table 20. 2017-2021 Total Mackerel Landings by Port.....	48
Table 21. 2017-2021 Total Mackerel Revenues by Port	48
Table 22. Numbers of vessels that actively fished for mackerel, by landings (lbs) category, 1982-2021.	49
Table 23. 2018-2021 MRIP Mackerel Estimates (#s) by Catch Type.....	50
Table 24. 2018-2021 MRIP Mackerel Estimates (#s) by State	51
Table 25. Species Protected Under the ESA and/or MMPA that May Occur in the Affected Environment of the MSB FMP	54
Table 26. Changes in effort as a result of adjustments to quota and/or fish availability.	58
Table 27. General definitions for impacts and qualifiers relative to resource condition (i.e., baselines).....	59
Table 28. Maine Marine Recreational Fishing Trips Economics	62
Table 29. New Hampshire Marine Recreational Fishing Trips Economics	63
Table 30. Massachusetts Marine Recreational Fishing Trips Economics	63

Table 31. Total expenditures and economic contributions generated by New England non-tournament Atlantic HMS Angling trips, registered HMS tournament operations, and HMS tournament participating teams from Maine to Texas in 2016. Non-tournament trip expenditures are reported by region and nationally, while tournament-related expenditures are only reported nationally..... 64

3.2 List of Figures

Figure 1. Trends in the fully selected fishing mortality (F) of northwest Atlantic mackerel between 1968 and 2019 from the current (solid line) and previous (dashed line) assessment and the corresponding FThreshold (FMSY proxy=0.22; horizontal dashed line). The approximate 90% lognormal confidence intervals are shown. 10

Figure 2. Trends in spawning stock biomass (MT) of northwest Atlantic mackerel between 1968 and 2019 from the 2021 MTA (solid line) and previous (dashed line, mostly the same) assessment and the corresponding SSBThreshold (1/2 SSBMSY proxy; horizontal dashed line) as well as SSBTarget (SSBMSY proxy; higher horizontal dotted line). The approximate 90% lognormal confidence intervals are shown. 11

Figure 3. Total annual mackerel catch (mt) by the U.S., Canada and other countries for 1960-2019..... 40

Figure 4. U.S. Commercial Landings and Ex-Vessel Revenues 1996-2021 Adjusted to 2021 Dollars Source: NMFS unpublished dealer data..... 41

Figure 5. Ex-Vessel Mackerel Prices 1996-2021 Adjusted to 2021 Dollars Source: NMFS unpublished dealer data. [PRELIMINARY]..... 41

Figure 6. Spatial distribution of landings (mt) by ten-minute square, during 2007-2011. 42

Figure 7. Spatial distribution of landings (mt) by ten-minute square, during 2012-2016. 43

Figure 8. Approximate Primary 2018 Mackerel Catch Locations (from VTR data)..... 44

Figure 9. Approximate Primary 2018 Mackerel Catch Locations (from dealer and VTR data) .. 45

Figure 10. Approximate Primary 2019 Mackerel Catch Locations (from dealer and VTR data) 46

Figure 11. MRIP mackerel time series 1981-2017, total catch, numbers of fish. 50

Figure 12. 2018-2021 MRIP Mackerel Estimates (#s) by Mode..... 52

Figure 13. 2018-2021 MRIP Mackerel Estimates (#s) by Area 53

Figure 14. 2018-2021 MRIP Mackerel Estimates (#s) by Catch Type..... 53

4.0 INTRODUCTION, BACKGROUND, AND PROCESS

4.1 Introduction and Background

Section 4.1 reviews several critical background topics including the 2021 Mackerel Management Track Assessment (MTA), the 2021 Canadian Mackerel Assessment, Current Management and Recent Catches, Rules on Rebuilding, the Council’s Ecosystem Approach to Fisheries Management (EAFM), and the Council’s P* Risk Policy.

The 2021 Mackerel Management Track Assessment (MTA)

Reference Points

“F” refers to fishing mortality, i.e. the rate at which fish die, expressed as the portion of the stock dying within a small amount of time. The rebuilding goal is based on F40% as the proxy for FMSY (MSY = “maximum sustainable yield”) and was estimated to be $F = 0.24^1$, (dashed line in Figure 1) down from 0.26 in the previous mackerel assessment. So productivity of the stock has apparently declined. F40% was selected as a proxy for FMSY due to consistency with the Canadian reference point and ability to prevent stock collapse for stocks with similar life histories. F40% produces 40% of the “spawning stock biomass (SSB) per recruit” (equivalent to lifetime egg production) relative to that produced by an unfished stock. F in 2019 was estimated to be 0.46^2 , overfishing was occurring in 2019 and has been for 30 years (but 2019 was the lowest F in 15 years – see Figure 1). Past assessments (which used different methods and data) appear to have been overly optimistic about the stock’s productivity, and too many fish were caught over a long period of time. The rebuilding biomass target is the SSB associated with the FMSY proxy or “SSBmsyproxy,” and is estimated to be 181,090 MT. The 2019 spawning stock biomass (SSB) was estimated to be 42,862 metric tons (MT), or 24% of the SSB target so mackerel is “overfished” (below 50% of the target – see Figure 2). Once rebuilt, the MSYproxy (i.e. the proxy for maximum sustainable yield) is estimated to be 34,103 MT (total catch, U.S. plus Canada), which is lower than estimated in the previous assessment, reflecting the apparent reduced productivity of the stock.

Projection Performance

Based on the recent 2021 Mackerel Management Track Assessment (MTA) (NEFSC 2021), the mackerel stock (measured by Spawning Stock Biomass - “SSB”) will not rebuild as quickly as previously projected. The 2021 MTA found the mackerel stock to be overfished, with overfishing occurring through 2019 (NEFSC 2021) (see Figures 1 and 2 next pages). While the

¹ $F = 0.24$ equates to removing about 1/5 of the stock in a given year.

² $F = 0.46$ equates to removing slightly over 1/3 of the stock in a given year.

stock is estimated to have tripled in size from 2014 to 2019 (from 8% to 24% of rebuilt), rebuilding on the original schedule (by 2023) appears impossible – the stock is now expected to be less than half rebuilt by 2023. In addition, while both the 2018 and 2021 assessments concluded the stock reached a low point around 2011-2014 before starting to recover, the current assessment found that the stock was about 10% smaller at the low point. In the terminal year of the previous assessment (2016) the stock, while still recovering, is now estimated to have been 29% smaller in 2016 than estimated for that same year in the previous assessment. While nearly all of the data in the 2021 assessment (data through 2019) represents the time period before the initial rebuilding plan took effect, the current assessment indicates we started rebuilding in 2019 at a stock size about 74% lower than anticipated (just 42,862 MT estimated in 2019 vs 162,796 MT projected). While not completely understood, factors contributing to this over-projection for 2019 include:

- starting from a lower low point in 2014 (retrospective pattern apparent but not strong enough to adjust for),
- summed 2014-2018 recruitment was 24% lower than anticipated (2017 year class lowest in time series),
- overfishing persisting,
- decreased maturity-at-age and SSB weight-at-age for some ages.

The scale of error observed in the previous three-year projection (2016 to 2019) provides some perspective for the four-year projection required to now set specifications for 2023 as the first year of the new rebuilding plan. This was part of the reason why the MSB Monitoring Committee recommended setting only a one year specification at this time, until the 2023 Mackerel MTA can be used to set 2024 specifications. The 2023 Mackerel MTA should include data through 2022, requiring only a two year projection for 2024 (2022 to 2024), versus the five-year projection required to set 2024 specifications at this time (2019 to 2024). While the lower recruitment inputs now being used in short term projections (until stock size is above 50% of rebuilt) should help avoid as large of an over-projection, any potential improvement in projections will not be known until mid-2023 when then the 2023 Mackerel MTA is completed.

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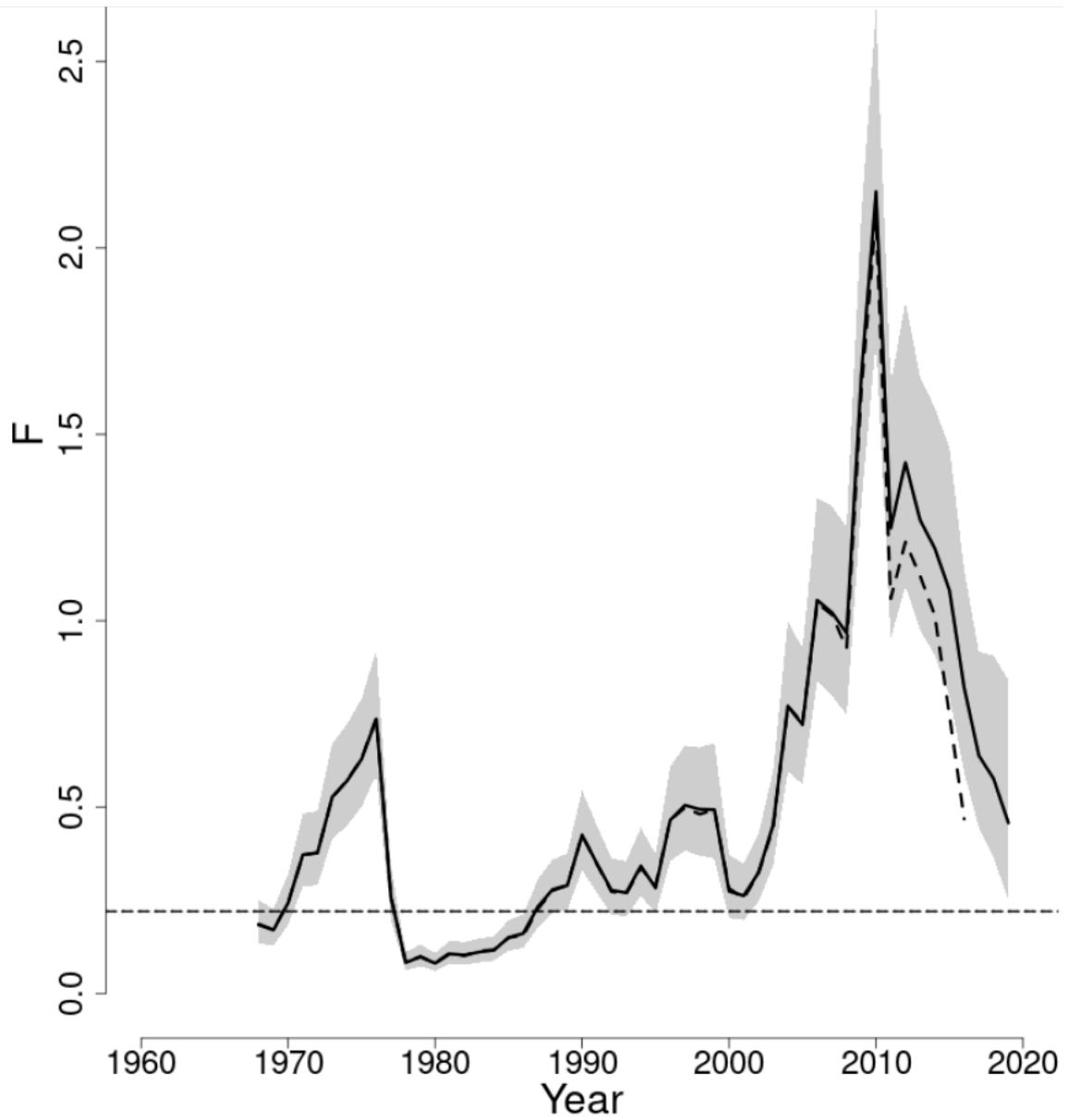


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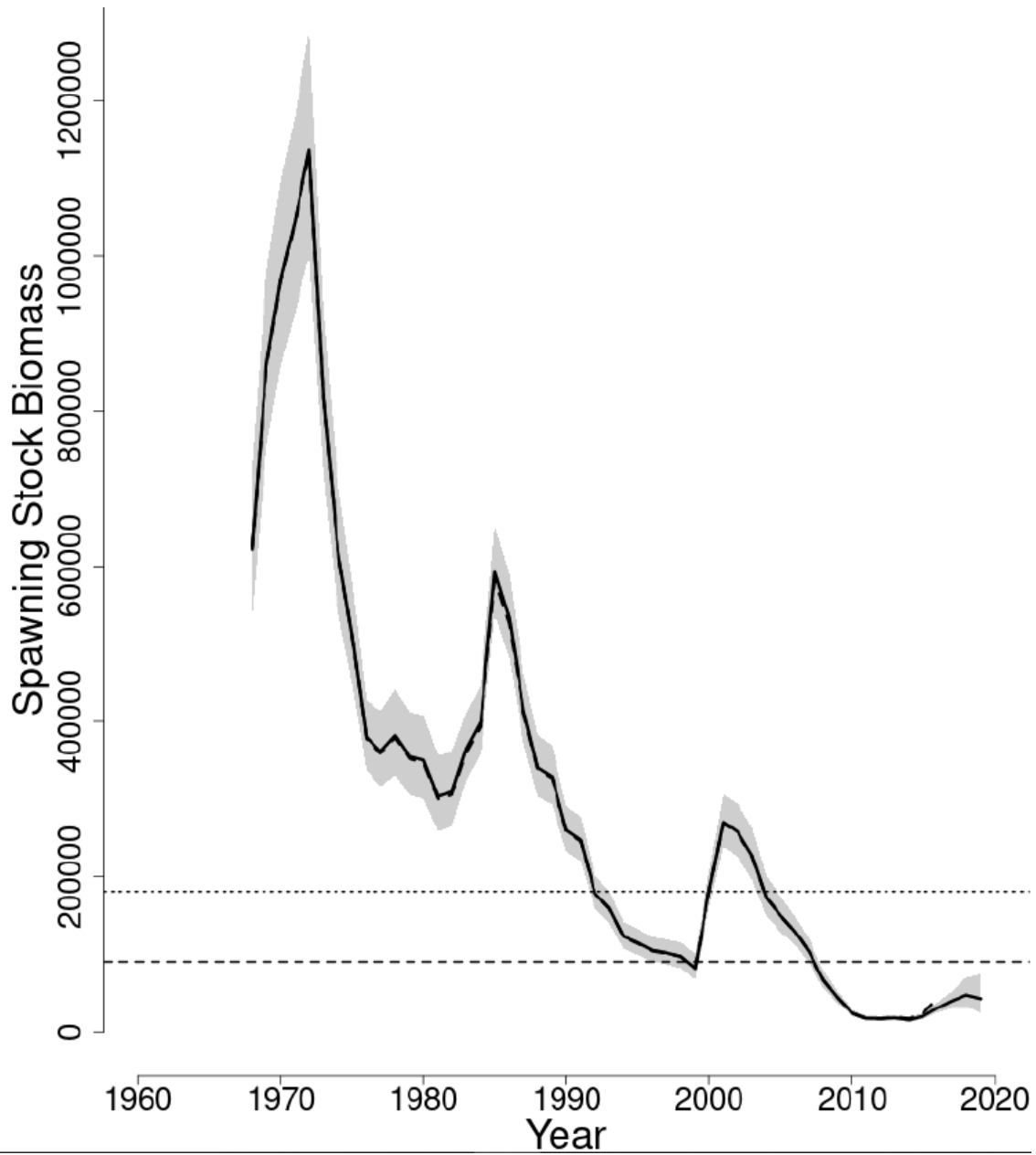


Figure 2. Trends in spawning stock biomass (MT) of northwest Atlantic mackerel between 1968 and 2019 from the 2021 MTA (solid line) and previous (dashed line, mostly the same) assessment and the corresponding SSBThreshold (1/2 SSBMSY proxy; horizontal dashed line) as well as SSBTarget (SSBMSY proxy; higher horizontal dotted line). The approximate 90% lognormal confidence intervals are shown.

The 2021 Canadian Mackerel Assessment and Quotas

The Canadian stock assessment only assesses the northern mackerel contingent, unlike the stock-wide U.S. assessment. Excerpting from their summary and assessment:

- 2017-2020 Canadian landings occurred primarily in the Gulf of Saint Lawrence (NAFO 4RST) and off the northeast coast of Newfoundland (NAFO 3K).
- Recent genetic analyses confirmed previous studies that the Northwest Atlantic mackerel stock is distinct from the Northeast Atlantic stock. These analyses also supported the previously established distinction between the northern and southern spawning contingents of the Northwest Atlantic stock. Genetic results showed some mixing of southern contingent mackerel in Canadian waters as well as northern contingent mackerel in U.S. waters.
- A fine-scale analysis of recruitment variability showed that a spatio-temporal match between mackerel larvae and their preferred food as well as optimal population structure and dynamics (maternal condition, SSB, age-structure) benefits recruitment.
- The annual egg survey did not occur in 2020 due to restrictions incurred by the global Covid pandemic. The stock assessment model was still run (without a 2020 data point for the egg survey) to estimate stock status.
- The last notable recruitment event was in 2015. There has been no sign of any notable recruitment event in recent years. There are currently very few fish older than 5 years old (<1%) - The age structure of the population in 2020 was relatively evenly spread among individuals between 1 and 5 years, old with no single dominant cohort (the 2015 cohort represented about 7% of the SSB in 2020).
- The estimated fully selected exploitation rate (fish aged 5-10+) in 2020 was 74%, above the reference level of 51% (F40%). The fishery was concentrated on fish aged 2-5 (exploitation rate of 56%).
- The SSB in 2020 was the lowest ever estimated (58% of the Limit Reference Point - LRP). and has been in or near the Critical Zone for over 10 years. Rebuilding the stock will also require rebuilding the age structure of the stock which has been eroded by overexploitation.

The 2021 Canadian mackerel quota was set at 4,000 MT – landings at this level were estimated to have between a 2 in 3 chance and a 3 in 4 chance of facilitating at least some stock growth from 2021 to 2023. 2021 Canadian landings (preliminary) were 4,395 MT. A determination of 2022 Canadian quotas has not been made. A determination regarding 2023 Canadian quotas will likely not be made until early 2023, after their next assessment update.

Current Management and Recent Catches

The commercial mackerel fishery is currently managed with an annual quota, in-season proactive accountability measures, and reactive accountability measures requiring paybacks of catches that exceed the Annual Catch Limit (ACL). Canadian landings, U.S. recreational catch, and U.S.

commercial discards are deducted off the total Acceptable Biological Catch (ABC) to derive the commercial quota. There are currently no recreational management measures. In 2022, based on an emergency rule by NMFS, total catch is expected to be 12,055 MT, with 4,395 MT deducted for assumed Canadian landings, 2,582 MT deducted for assumed recreational catch, and 115 MT deducted for assumed commercial discards. This leaves 4,963 MT for a commercial quota. When 90% of the quota is projected to be landed, trip limits of 40,000 pounds are implemented for Tier 1-3 directed permits and 5,000 pounds for incidental/open access permits³. When 98% of the quota is projected to be landed, a 5,000 pound trip limit is implemented for all permits for the rest of the fishing year to cover remaining incidental catches. The emergency rule will expire in early January 2023, at which point the previous specifications, with a much higher quota, would apply (see Alternatives Section below for details).

The 2022 emergency measures described above were designed to mirror 2021 catches while a new rebuilding plan is developed, but some differences exist due to projection approaches. 2021 catches are estimated to have been 12,220 MT, including 4,395 MT Canadian landings, 2,222 MT recreational catch, 127 MT commercial discards, and 5,476 MT commercial landings. See Section 6 for additional fishery descriptive information.

The mackerel fishery also operates under a river herring and shad catch cap (RH/S), which closes the directed mackerel fishery and implements a 20,000 pound trip limit for all permits once 129 MT of RH/S has been projected to be caught in the directed mackerel fishery. 129 MT was the amount of RH/S if the ratio of cap to all catch on mackerel trips (accounting for mostly Atlantic herring) was about 0.53% and the mackerel quota was 17,371 MT (or 0.74% applied to just the mackerel quota). Given the challenges with monitoring a very small cap, including potentially closing the fishery based on a few observed trips, the Council has kept the cap at 129 MT at the current lower mackerel quotas. This action proposes to either scale the RH/S cap with the mackerel quota or keep the RH/S cap at 129 MT if the mackerel quota is below 17,371 MT.

Rules on Rebuilding

Section 304(e)(4) of the Magnuson–Stevens Fishery Conservation and Management Act (MSA) states:

“For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations...shall...specify a time period for rebuilding the fishery that shall--

³ When the fishery starts each year, the various commercial mackerel permit categories start with different trip limits. Tier 1 has an unlimited trip limit, Tier 2 has a 135,000 pound trip limit, and Tier 3 has a 100,000 pound trip limit.

(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities,...and the interaction of the overfished stock of fish within the marine ecosystem; and

(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions...dictate otherwise;

...allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery..."

The Council's SSC advised the Council that "Preliminary rebuilding scenarios indicate long-term rebuilding will be required for this stock" and that higher rebuilding probabilities "are associated with shorter rebuilding time and greater catch stability." (MAFMC SSC 2021)

All options currently under consideration are projected to rebuild mackerel in 10 or less years so (ii) is addressed. Recreational catches have been relatively low in this fishery historically, but will be a higher percentage of total catch especially in the early part of the new rebuilding timeline, which is why recreational measures are being considered in this action.

The primary rebuilding considerations are to rebuild in a time period as short as possible, taking into account 1) the status and biology of any overfished stocks, 2) the needs of fishing communities, and 3) the interaction of mackerel within the marine ecosystem. Information on the status and biology of mackerel and interactions within the marine ecosystem (e.g. predation) is provided in Section 6.1.

Council's Ecosystem Approach to Fisheries Management (EAFM)

The alternatives in this document seek to rebuild mackerel to the SSBmsyproxy as defined in the recent mackerel assessment, i.e. to 181,090 MT of spawning stock biomass (SSB). The Council's Ecosystem Approach to Fisheries Management (EAFM) Guidance Document states "It shall be the policy of the Council to support the maintenance of an adequate forage base in the Mid-Atlantic to ensure ecosystem productivity, structure and function and to support sustainable fishing communities" and "the Council could adopt biological reference points (overfishing levels or OFL) for forage stocks that are more conservative than the required MSA standard of FMSY." Acknowledging that the science to evaluate the biological and socioeconomic tradeoffs of more precautionary management is lacking, the Council has adopted a policy that it would promote data collection and development of analyses to get to the point where the Council could evaluate the relevant tradeoffs and "establish an optimal forage fish harvest policy."

Views vary on the precaution inherent in using the recommended F40% as a proxy for FMSY (and for the resulting SSBmsyproxy target). Clark 1993, Mace 1994, Gabriel and Mace 1999, and Legault and Brooks 2013 generally recommended F40% for typical stocks. Clark 2002 notes that for typical stocks, fishing at F40% would be expected to result in a target biomass that is 20%-35% of an unfished biomass. Pikitch et al 2012 recommended more conservative approaches for forage species to support predators, and this has spawned ongoing debate (e.g.

Hilborn et al 2017 to the contrary). The Council's P* risk policy, by reducing catch to account for scientific uncertainty, should lead to biomass being maintained above the reference point target in the long run.

While not a complete picture of forage, the 2021 State of the Ecosystem reports for New England and the Mid-Atlantic indicate that for the Planktivore group that includes mackerel, long term (30-year) trends in the Mid-Atlantic Bight, Georges Bank, and Gulf of Maine are all either steady or increasing for both the Spring and Fall survey aggregate biomasses⁴ (NEFSC 2022a, NEFSC 2022b). The 2018 mackerel assessment examined predator consumption and determined that the presence of mackerel in fish stomachs collected during the NEFSC bottom trawl surveys was generally low from 1973-2016, with spiny dogfish being responsible for 67% of all mackerel as prey occurrences in the NEFSC Food Habits Database. Mackerel were found in only 1% of sampled spiny dogfish however. Additional potentially important predators of mackerel are not sampled in the NEFSC trawl surveys, including highly migratory species, marine mammals, and seabirds. For the 17 analyzed mackerel predators from the NEFSC Food Habits Database, while mackerel did not appear to be an important contribution to their diet, there was a marked decline in consumption from 2000-2016, the terminal year of that analysis, matching the trend in mackerel abundance for that time period. The 2021 Mackerel MTA found that from 2014 to 2019 mackerel biomass had tripled, so substantially more mackerel should already be available as forage by 2019. The mackerel assessment uses a constant natural mortality rate, so as mackerel biomass grows, more predation on mackerel is assumed to occur.

Council's P* Risk Policy

The Council's standard risk policy states that the Scientific and Statistical Committee (SSC) should provide Acceptable Biological Catches (ABCs) that are the lesser of rebuilding ABCs or standard risk policy (P*) ABCs. The P* risk policy requires higher confidence that overfishing will be avoided when biomass is lower, which results in lower catches. At the projected 2023 biomass, Because it would only be 32% of rebuilt, the Council's risk policy requires an 85.5% confidence in avoiding overfishing in 2023. For a stock 100% rebuild, the P* risk policy requires a 55% chance of avoiding overfishing. Some alternatives being considered by the Council would result in a 2023 rebuilding catch higher than what would be the standard P*-adjusted ABC. In these cases, the alternatives note this fact, and represent a temporary adjustment of the Council's standard risk policy that apply to this particular decision – future decisions would need to re-evaluate any diversion from the Council's standard P* approach (Alternative 3 uses the current, unmodified P* risk policy). The risk policy adjustment would only apply to this instance of initiating rebuilding for mackerel to consider the effects of different rebuilding timelines and would not apply to management decisions regarding future ABCs once the stock is rebuilt.

⁴ Planktivore Group includes Atlantic mackerel, butterfish, Atlantic herring, alewife, American shad, blackbelly rosefish, blueback herring, cusk, longhorn sculpin, lumpfish, menhaden, northern sand lance, northern searobin, and unclassified sculpin.

4.2 Process

The Council initiated a framework adjustment action in 2021 upon receiving the 2021 Mackerel MTA results. This action was later converted into an amendment due to the consideration of recreational bag limits and/or closures, which had not been previously considered in detail, and it was uncertain whether such measures could be considered via a framework adjustment action. The Council intends to take final action at its June 2022 meeting, after public hearings in late April 2022. An emergency rule currently limiting mackerel landings expires in early January 2023, necessitating rapid progress on this action to implement new measures before the emergency rule expires.

4.3 Purpose and Need

The purposes and needs addressed by this action are described in the table below.

Table 1. Purposes and Needs

Need	Corresponding Purpose
Prevent overfishing, rebuild the Atlantic mackerel stock, and achieve optimum yield in the mackerel fishery.	Implement measures to specify levels of catch of Atlantic mackerel consistent with the MSA and the objectives of the FMP, including ending overfishing and rebuilding the stock.
Achieve the Domestic Annual Harvest (“quota”) allocation in the mackerel fishery without exceeding it or closing the fishery in a manner that creates avoidable discarding issues.	Implement in-season management measures, including management uncertainty buffers, triggers, and post-closure trip limits.
Minimize bycatch of river herring and shad in the mackerel fishery to the extent practicable.	Implement catch caps for river herring and shad.

4.4 Regulatory Authority

The MSA states that Fishery Management Plans (FMPs) shall “contain the conservation and management measures... necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.” As discretionary provisions of Fishery Management Plans (FMPs), the MSA also allows restriction of fishing by gear/area/time/season. Seasonal management based on attainment of quotas has been previously incorporated into the MSB FMP and this action could modify the existing provisions regarding how the fishery closes due to attainment of the DAH or a portion of the DAH. The RH/S cap was previously

implemented under the discretionary MSA provisions providing for conservation of non-target species.

The Council's risk policy was initially implemented via Amendment 13 to the MSB FMP (<http://www.mafmc.org/msb/>), which stated that the system would need to be "adaptive" and that "Flexibility is imperative and must allow for timely modifications given the dynamic nature of fisheries and the environment." Changing the desired probabilities of overfishing was contemplated as something that could be accomplished through even the annual specifications process. Major departures from the original risk policy were contemplated as needing to go through either an FMP framework adjustment or FMP amendment. Risk policy adjustments were explicitly provided for and anticipated by Amendment 13. See also implementing regulations at Title 50, Chapter VI, Part 648, Subpart B, §648.25(a)(1)(ii).

4.5 FMP History and Management Objectives

Management of the MSB fisheries began through the implementation of three separate FMPs (one each for mackerel, squid, and butterfish) in 1978. The plans were merged in 1983. Over time a wide variety of management issues have been addressed including stock rebuilding, habitat conservation, bycatch minimization, and limiting participation in the fisheries. The history of the plan and its amendments can be found at <http://www.mafmc.org/fisheries/fmp/msb>.

The MSA defines Optimum Yield (OY) generally as the amount of fish which A) "will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems"; B) "is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor;" and C) "in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery." The Omnibus ACL/AM Amendment (Amendment 13 to the MSB FMP) defined OY specifically for mackerel as: "The long-term average amount of desired yield from a stock or fishery. OY cannot exceed MSY. For Atlantic Mackerel, OY is the quantity of catch that is less than or equal to the ABC in U.S. waters."

The management goals and objectives, as described in the current FMP are listed below.

1. Enhance the probability of successful (i.e., the historical average) recruitment to the fisheries.
2. Promote the growth of the U.S. commercial fishery, including the fishery for export.
3. Provide the greatest degree of freedom and flexibility to all harvesters of these resources consistent with the attainment of the other objectives of this FMP.
4. Provide marine recreational fishing opportunities, recognizing the contribution of recreational fishing to the national economy.
5. Increase understanding of the conditions of the stocks and fisheries.
6. Minimize harvesting conflicts among U.S. commercial, U.S. recreational, and foreign fishermen.

The Council recently updated the goals and objectives of the FMP through another action but that action has not yet been implemented:

The updated MSB FMP objectives will be:

Goal 1: Maintain sustainable MSB stocks.

Objective 1.1: Prevent overfishing and maintain sustainable biomass levels that achieve optimum yield in the MSB fisheries.

Objective 1.2: Consider and, to the extent practicable, account for the roles of MSB species/fisheries in the ecosystem.

Goal 2: Acknowledging the difficulty in quantifying all costs and benefits, achieve the greatest overall net benefit to the Nation, balancing the needs and priorities of different user groups and effects of management on fishing communities.

Objective 2.1: Provide the greatest degree of freedom and flexibility to harvesters and processors (including shoreside infrastructure) of MSB resources consistent with attainment of the other objectives of this FMP, including minimizing additional restrictions.

Objective 2.2: Allow opportunities for commercial and recreational MSB fishing, considering the opportunistic nature of the fisheries, changes in availability that may result from changes in climate and other factors, and the need for operational flexibility.

Objective 2.3: Consider and strive to balance the social and economic needs of various sectors of the MSB fisheries (commercial including shoreside infrastructure and recreational) as well as other fisheries or concerns that may be ecologically linked to MSB fisheries.

Objective 2.4: Investigate opportunities to access international/shared resources of MSB species.

Goal 3: Support science, monitoring, and data collection to enhance effective management of MSB fisheries.

Objective 3.1: Improve data collection to better understand the status of MSB stocks, the role of MSB species in the ecosystem, and the biological, ecological, and socioeconomic impacts of management measures, including impacts to other fisheries.

Objective 3.2: Promote opportunities for industry collaboration on research.

Objective 3.3: Encourage research that may lead to practicable opportunities to further reduce bycatch in the MSB fisheries.

4.6 Management Unit and Geographic Scope

The management unit (fish stock definition) in the MSB FMP for Atlantic mackerel (*Scomber scombrus*) includes all mackerel under U.S. jurisdiction in the Northwest Atlantic, with a core fishery management area from Maine to North Carolina. The FMP also includes a deduction for mackerel caught by Canada - the assessment provides catch advice for the entire mackerel stock in the Northwest Atlantic (including Canadian waters), which is considered one unit stock.

5.0 WHAT ALTERNATIVES ARE CONSIDERED IN THIS DOCUMENT?

Notes: All of the rebuilding alternatives in this document utilize the peer reviewed and accepted 2021 Management Track Assessment (MTA) benchmark assessment and associated projection methods. The Council’s SSC also reviewed these specific projections in March 2022 and endorsed them as constituting the best available scientific information (<https://www.mafmc.org/ssc-meetings/2022/march-15-16>). A summary from their report providing advice about the rebuilding alternatives will be added and their report included as Appendix 1. All specifications will be reviewed and potentially revised annually and a MTA should be available in 2023 to set 2024-2025 specifications. The first alternative uses only 2009-2019 recruitments so it requires very low catches to rebuild. Options 2-5 utilize recruitment draws constrained to lower 2009-2019 estimates unless spawning stock biomass is above 50% of the target (then 1975-2019 recruitments, which the reference points are based on, are used). The SSC identified these two recruitment approaches as “defensible and supported by the data” at its September 2021 SSC Meeting (MAFMC SSC 2021). The results of each rebuilding scenario are contingent on the assumed recruitment dynamics for the projection time period, which makes it difficult to compare Alternative 1 to the other alternatives. All alternatives assume less recruitment than the original mackerel rebuilding plan.

There will be Mackerel MTAs in 2023 and 2025 that both could result in revised rebuilding plans (they will be the new best available scientific information). Because the 2025 Mackerel MTA should consider catch through 2024, one way to compare across all alternatives in terms of relative probability of leading to stock growth by the 2025 Mackerel MTA is to just consider 2023-2024 combined catch. The higher the combined 2023 and 2024 combined catch, the relatively less likely stock growth will occur. The Action Alternatives 1-5 have been ordered from least to most 2023-2024 combined catch to facilitate comparison (“no-action” would result in the highest catch however, as described below). Conversely, the near-term socioeconomic affects would be most severe with Alternative 1 and least severe with Alternative 5. Longer terms considerations are also discussed in the impacts section.

This action would only set specifications for 2023 given an MTA is expected in 2023, which should use data through 2022. Using the 2023 MTA to set 2024 specifications would only involve a two-year data lag from the 2023 MTA data (2022 to 2024). Using the 2021 MTA to set 2024 specifications would involve a five-year data lag (2019 to 2024). If the assessment or subsequent

specifications were delayed, then the 2023 specifications would roll-over into 2024 until new specifications were published. The MSB Monitoring Committee recommended this approach given the high degree of uncertainty involved in setting 2024 specifications based on 2019 data. Setting 2024 specifications now is likely to convey more stability about 2023/2024 than warranted given the scale of changes observed in the 2021 Mackerel MTA versus the initial rebuilding plan projections.

NO ACTION ALTERNATIVE

For comparison purposes, “no action” would result in a return to the 2021/2022 published specifications for 2023 given the roll-over provisions in the regulations. Tied to the original rebuilding plan, these specifications would have a total catch of 29,184 MT, which would now result in overfishing in 2023 and fail to rebuild the mackerel stock in 10 years if maintained. While the stock is estimated to have tripled in size from 2014 to 2019 (from 8% of rebuilt to 24% of rebuilt), it has not increased enough to support the projected catch levels from the initial rebuilding plan. Due to the early January 2023 expiration of the current emergency rule, this is a rare case for MSB fisheries where no action does not equal status quo. The status quo catch (2022) is expected to be about 12,055 MT, but that would not be continued once the emergency rule expires in early January 2023. The no-action specifications that would re-commence in early January 2023 are detailed in the table below.

Table 2. No Action Specifications

Specification	Mackerel 2021-2022 (MT)
(a) Overfishing Limit (OFL)	Not available
(b) Acceptable Biological Catch (ABC)	29,184
(c) Canadian Deduction (10,000 MT)	10,000
(d) U.S. ABC = ACL (Canadian catch deducted)	19,184
(e) Recreational Allocation	1,270
(f) Commercial Allocation (rest of ACL)	17,914
(g) Management Uncertainty Buffer = 3%	537
(h) Commercial ACT (97% of allocation)	17,377
(i) DAH (0.37% set aside for discards)	17,312
(j) River Herring and Shad (RH/S) Cap	129

The mackerel fishery also operates under a river herring and shad catch cap (RH/S), which closes the directed mackerel fishery and implements a 20,000 pound trip limit for all permits once 129 MT of RH/S has been projected to be caught in the directed mackerel fishery. 129 MT was the amount of RH/S if the ratio of cap to all catch on mackerel trips (accounting for mostly Atlantic herring) was about 0.53% and the mackerel quota was 17,371 MT (or 0.74% applied to just the mackerel quota). Given the challenges with monitoring a very small cap, including potentially closing the fishery based on a few observed trips, the Council has kept the cap at 129 MT at the current lower mackerel quotas.

5.1 ALTERNATIVE 1 – 10-year Rebuilding with Persistent Low Recruitment.

Alternative 1 assumes lower, post-2009 recruitment persists, which makes it nearly impossible to rebuild because the reference point “goal” rebuilding target is based on higher, typical recruitment (post-1975). The SSC identified this as one of two recruitment approaches that are “defensible and supported by the data” at its September 2021 SSC Meeting. With the low recruitment entering the population for the entire rebuilding period, only minimal catches allow rebuilding, based on a fishing mortality rate (“F”) of 0.01. While one could argue this Alternative could be outright rejected given Canadian catches, incidental U.S. commercial catches, and state-waters recreational catches will easily exceed the proposed rebuilding catches, it illustrates the dependence on actually getting typical recruitment when trying to rebuild to a target that is based on typical recruitment. With the catches in this projection, and if lower recruitment persists, the probability of rebuilding by 2032 would be 57%, and the median probability is for rebuilding to occur in 2031. Because this probability is conditional on recruitment being similar to 2009+ recruitment, it is not directly comparable to the other alternatives, but because its catches are so low, Alternative 1 would have the highest overall probability of rebuilding regardless of the recruitments that actually end up occurring. This alternative would also have the highest probability of increasing stock size by the 2025 Mackerel MTA Because it leads to the lowest 2023-2024 catches.

The projected rebuilding period catches (which would be the Acceptable Biological Catches - ABCs) and biomasses under Alternative 1 are described in the table below.

Table 3. Rebuilding Alternative 1 ABCs and Biomass

	Catch (MT)	Biomass (MT)
2023	703	83,692
2024	865	101,492
2025	1,025	118,979
2026	1,169	133,914
2027	1,296	146,932
2028	1,406	158,172
2029	1,497	167,354
2030	1,574	175,260
2031	1,639	181,670
2032	1,692	187,093

In terms of setting specifications for 2023, Alternative 1 appears impracticable given the existing management framework. With a 2023 ABC of 703 MT, the U.S. ABC would be negative given just likely Canadian catches (see additional discussion regarding Canada catches in Alternatives 4 and 5).

5.2 ALTERNATIVE 2 – P* deduction applied to 50% Rebuilding Probability

Alternatives 2-5 utilize recruitment draws constrained to lower 2009-2019 estimates unless spawning stock biomass during the rebuilding period is above 50% of the target (then the higher 1975-2019 recruitments, which the rebuilding goal is based on, are used). The SSC identified this as one of two recruitment approaches that are “defensible and supported by the data” at its September 2021 SSC Meeting (see Alternative 1 for the other approach). Because the projection model selects the lower or higher recruitment stanza based on biomass in each year of each of 2000 runs, there is a transition toward higher median recruitment through the rebuilding period depending on the exact trajectory of each run.

Alternative 2 uses the Council's standard P* risk policy deduction applied to the rebuilding F from the 50% probability rebuilding plan, effectively treating a rebuilding F of 0.14 as an overfishing mortality rate (and then imposing a risk-policy deduction). The P* risk policy requires higher certainty in avoiding overfishing at lower biomasses. For example in 2023 the P* risk policy requires an 85.5% probability of not overfishing (or in this case of not exceeding F = 0.14) due to the low projected 2023 stock size, and catch is lowered accordingly. Higher certainty about avoiding exceeding even the rebuilding F means lower catches, which allows rebuilding by 2029 in this alternative. F starts at 0.04 and as biomass nears the rebuilding target, higher fishing mortality is allowed, but never rises above F = 0.13. The 10-year rebuilding probability for Alternative 2 given all 10 years of catches is 62.3% given the recruitments used. This alternative would also have the 2rd highest probability of increasing stock size by the 2025 Mackerel MTA because it leads to the 2rd lowest 2023-2024 catches.

The projected rebuilding period catches (which would be the Acceptable Biological Catches - ABCs) and biomasses under Alternative 3 are described in the table below.

Table 4. Rebuilding Alternative 2 ABCs and Biomass

	Catch (MT)	Biomass (MT)
2023	2,976	82,832
2024	4,168	98,752
2025	5,879	116,414
2026	8,127	134,870
2027	10,978	154,147
2028	14,519	172,753
2029	18,487	188,964
2030	21,394	202,302
2031	23,034	213,674
2032	24,459	222,817

In terms of setting specifications for 2023, Alternative 2 appears impracticable given the existing management framework. With a 2023 ABC of 2,976 MT, the U.S. ABC would be near zero, and the commercial quota would be negative given likely recreational catches (see additional discussion regarding Canada and recreational catches in Alternatives 4 and 5).

5.3 ALTERNATIVE 3 – P* approach with return to normal recruitment.

Alternatives 2-5 utilize recruitment draws constrained to lower 2009-2019 estimates unless spawning stock biomass during the rebuilding period is above 50% of the target (then the higher 1975-2019 recruitments, which the rebuilding goal is based on, are used). The SSC identified this as one of two recruitment approaches that are “defensible and supported by the data” at its September 2021 SSC Meeting (see Alternative 1 for the other approach). Because the projection model selects the lower or higher recruitment stanza based on biomass in each year of each of 2000 runs, there is a transition toward higher median recruitment through the rebuilding period depending on the exact trajectory of each run.

Alternative 3 uses the Council's standard P* risk policy as a rebuilding plan. The P* risk policy requires higher certainty in avoiding overfishing at lower biomasses. For example in 2023 the P* risk policy requires an 85.5% probability of not overfishing due to the low projected 2023 stock size, and catch is lowered accordingly. For a fully rebuilt stock, the risk policy requires a 55% probability of not overfishing, which causes the stock size to stabilize above the rebuilding target. Higher certainty about avoiding overfishing means lower catches (especially initially), which allows rebuilding by 2031 in this alternative. As biomass nears the rebuilding target, higher fishing mortality is allowed (slowing stock growth). The 10-year rebuilding probability given all 10 years of catches for Alternative 3 is 51.5% given the recruitments used. This alternative would also have the 3rd highest probability of increasing stock size by the 2025 Mackerel MTA because it leads to the 3rd lowest 2023-2024 catches.

The projected rebuilding period catches (which would be the Acceptable Biological Catches - ABCs) and biomasses under Alternative 3 are described in the table below.

Table 5. Rebuilding Alternative 3 ABCs and Biomass

	Catch (MT)	Biomass (MT)
2023	4,539	82,205
2024	6,207	96,378
2025	8,455	111,512
2026	11,245	126,811
2027	14,558	142,214
2028	18,391	156,433
2029	22,337	168,344
2030	25,981	177,517
2031	29,014	183,446
2032	30,564	186,886

As detailed above, this action would only set specifications for 2023 given a Mackerel MTA is expected in 2023, which can inform 2024-2025 specifications.

The SSC has recommended this P* rebuilding approach for several reasons (see SSC report for additional details):

- increases catch the fastest once stock size is recovering.
- More responsive to available information.
- No need to re-calculate F rebuild, allows “natural” rebuilding.
- No shift in approaches once stock recovers.
- Gives highest cumulative catch

The SSC also noted that this alternative provides lower initial catches (ABCs) than some other alternatives. In terms of setting specifications for 2023, Alternative 3 may be impracticable given the existing management framework. With a 2023 ABC of 4,539 MT, the U.S. ABC would range from 144 MT if 2021 Canadian catch is deducted to 2,342 MT if Canada were to substantially reduce its current 4,000 MT quota in 2022 and that reduction was assumed to persist for 2023 (see additional discussion regarding Canada in Alternatives 4 and 5). With 1,975 MT being the smallest reduction for recreational catch recommended by the Monitoring Committee (see additional discussion regarding recreational deductions in Alternatives 4 and 5), there is near zero to negative quota available for the US fishery, even for incidental catch. Accordingly, the P* approach does not appear practicable for 2023. However, at slightly higher stock sizes and ABCs the P* approach could be practicable, and is worth revisiting after the next Mackerel MTA, given the advantages noted by the SSC.

5.4 ALTERNATIVE 4 – 62% Rebuilding Probability in 10 Years

Alternatives 2-5 utilize recruitment draws constrained to lower 2009-2019 estimates unless spawning stock biomass during the rebuilding period is above 50% of the target (then the higher 1975-2019 recruitments, which the rebuilding goal is based on, are used). The SSC identified this as one of two recruitment approaches that are “defensible and supported by the data” at its September 2021 SSC Meeting (see Alternative 1 for the other approach). Because the projection model selects the lower or higher recruitment stanza based on biomass in each year of each of 2000 runs, there is a transition toward higher median recruitment through the rebuilding period depending on the exact trajectory of each run.

Alternative 4 uses an F of 0.12, which would be predicted to have a 62.3% probability of rebuilding the mackerel stock in 10 years given the recruitments used. The median rebuilt year is 2031. F stays the same for all 10 years, and as biomass increases, so does catch. This alternative would also have the 4th highest probability of increasing stock size by the 2025 Mackerel MTA. Because it leads to the 4th lowest 2023-2024 catches.

The projected rebuilding period catches (which would be the Acceptable Biological Catches - ABCs) and biomasses under Alternative 4 are described in the table below.

Table 6. Rebuilding Alternative 4 ABCs and Biomass

	Catch (MT)	Biomass (MT)
2023	8,094	80,745
2024	9,274	91,738
2025	10,540	103,756
2026	11,906	116,857
2027	13,408	131,291
2028	15,004	146,553
2029	16,631	162,239
2030	18,261	177,731
2031	19,814	192,045
2032	21,215	204,796

As detailed above, this action would only set specifications for 2023 given a Mackerel MTA is expected in 2023, which can inform 2024-2025 specifications. Selecting this alternative would also modify the Council’s risk policy for the purposes of beginning this rebuilding plan. The existing risk policy would otherwise cap the 2023 ABC at the standard P* catch calculation (4,539 MT).

The FMP accounts for Canadian landings, recreational catch, and commercial discards by deductions from the total ABC, with options described below.

Canadian Landings

A Canadian quota for 2022 has not yet been set but should be set before final Council action in June 2022. Given the Canadian assessment will be updated next in 2023, substantial changes seem unlikely for 2022, but 2023 is harder to predict. This action explores two options for deducting Canadian landings in 2023: Deducting their 2021 landings (4,395 MT) or half that amount (2,197 MT). If Canada maintains their 4,000 MT quota for 2022, 4,395 MT would be deducted for 2023. If Canada reduces their quota, the reduced quota would be deducted but at least 2,197 MT would be deducted given the uncertainty about Canada monitoring a quota lower than 2,197 MT. Whenever the Canadian quota is announced, this document will be updated accordingly.

Recreational Catch Restriction Alternatives

For 2022, 2,582 MT of recreational catch was deducted, the 2017-2021 average. 2017 was included to capture some of the historically-observed variability. Analysis of Marine Recreational Information Program (MRIP) and Vessel Trip Report (VTR) data suggest that replacing trips that caught higher bag limits with the following bag limits could result in the following catch reductions, based on pooled available 2018-2021 MRIP/VTR data (2021 preliminary).

Table 7. Theoretical Bag Limit Reductions by Mode

Bag Limit	% Catch Reduction		
	Private	Shore	For-Hire
5 fish	60%	46%	56%
10 fish	39%	27%	35%
15 fish	28%	19%	22%

Accounting for the proportion of each mode’s harvest (77% private, 20% shore, 3% for hire), and that harvest is 83% of catch, then the calculated reductions in recreational catch would be (assuming that Maine, New Hampshire, and Massachusetts mirrored the Federal regulations):

Table 8. Theoretical Combined Bag Limit Reductions

Bag Limit	% Catch Reduction
	Combined
5 fish	47%
10 fish	30%
15 fish	22%

These bag limits appear to represent a reasonable range of initial restriction alternatives for the recreational sector for 2023. There have not been recreational limits for mackerel before, so angler responses may be difficult to predict. To avoid under-accounting for recreational catch the MSB Monitoring Committee recommended either maintaining 2022’s 2,582 MT deduction for recreational catch, or only taking half credit for any calculated theoretical savings, which would result in deducting the following for recreational catch in each scenario:

Table 9. Theoretical Alternative Recreational Catch Deductions and Savings

Bag Limit	Recreational Deduction	Savings (MT)
	Combined (MT)	
5 fish	1,975	607
10 fish	2,195	387
15 fish	2,298	284

The following specifications calculations assume that either 2,582 MT of recreational catch is deducted, i.e. potential savings from recreational bag limits would not be assumed in 2023 or

2,195 MT is deducted based on a 10 fish bag limit. Staying with 2,582 MT could help account for the variability that can occur with recreational catch estimates – recreational catch (numbers of fish) has been stable from 2018-2021, but has varied substantially year to year in the past. Depending on any bag limit ultimately chosen by the Council, the commercial quota could be adjusted accordingly, adding up to 220 MT commercial quota for the 5-fish limit or deducting 103 MT for a 15-fish limit. It must be reiterated that these estimates are rough approximations given there is no history of bag limits in this fishery. Staff explored using a log regression to consider different increments given the apparent digit bias (at 5 and 10 fish increments) in the reported harvest data. While a log regression fit the data quite well, there did not appear reason to investigate further given there is already limited certainty about potential angler responses to a new bag limit for mackerel and subsequent effects on overall catch.

Commercial Discards

No changes are proposed to the averaging approach used by the NEFSC for 2022 projected catch – 115 MT is assumed for 2023 commercial mackerel discards.

Closure Approach

Averaging 2018-2021, the fishery landed 805 MT after April 1, and these were times when the directed limited access fishery was not active (range was 618 MT to 1,037 MT). As such, this time period should represent landings rates that could occur during a closure of the directed fishery. The proposed “first” closure approach is to buffer this performance by 10% and one month, so that before May 1 the directed fishery would close with 886 MT left in the quota, and from May 1 on, the directed fishery would close with 443 MT left in the quota. NMFS would also have the discretion to not close the fishery in November and December if performance suggests that a quota overage is unlikely. While it is possible that an early closure in January could result in more than 886 MT in additional landings, and it is possible that a closure in late April could result in unused quota remaining, this proposed system likely strikes a reasonable balance between achieving OY and regulatory simplicity. At this threshold for the “first” closure, additional trip limits would be implemented: 40,000 pounds for Tier 1-3 directed permits and 5,000 pounds for incidental/open access permits. There would be a final closure with 100 MT left in the quota where all permits were subject to a 5,000 pound trip limit to minimize any potential overages. With these trip limits any possible overages should be minimal, and would be deducted from subsequent years’ quotas if an overall ACL overage occurs.

Specifications Summary

Based on the above proposed approaches to handle Canadian landings, recreational catch, commercial discards, and quota closures, the following specifications are possible for Alternative

4 – at the time of final action, the Council would need to identify the recommended Canadian landings and recreational catch deductions to determine the final quotas.

Table 10. Alternative 4 2023 Specifications Summary

Alternative 4 - 2023 Specifications (MT)				
ABC	8,094			
Canadian Catch Options	2,197		4,395	
Rec Catch Options	2,195	2,582	2,195	2,582
Commercial Discards	115	115	115	115
Commercial Quota	3,587	3,200	1,389	1,002
Before May 1 First Closure Threshold (-886 MT)	2,701	2,314	Insufficient quota for directed fishing - begin closed	
May 1/after First Closure Threshold (-443 MT)	3,144	2,757		
Final Closure Threshold (-100 MT)	3,487	3,934	2,123	1,736

Commercial Minimum Mesh Add-On Alternative

The Council has also requested inclusion of a 3-inch minimum mesh requirement that mirrors a similar requirement in the butterfish fishery. The regulatory wording would be: “Owners or operators of trawl vessels possessing more than 5,000 lb (2.27 mt) of mackerel harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (7.62 cm) diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

Unfortunately there are not gear selectivity studies for Atlantic mackerel that allow quantitative analysis of this alternative. Casey et al 1992 examined an experimental midwater trawl codend of 60 mm polypropylene knotless square netting fished against a similar trawl fitted with a codend constructed from 40 mm knotted nylon mesh rigged in the conventional diamond configuration in the western English Channel. The size composition of the mackerel caught ranged from 18 to 37 cm (roughly almost age 1s to age 7s in our fishery) and a comparison of the length-frequency distributions indicated that there was no difference in the size composition, and hence selection, of fish taken by the two gears. Various studies on horse mackerel, a jack species of roughly similar size and shape of Atlantic mackerel have shown expected selectivity patterns. For example Campos and Fonseca 2003 saw small but significant effects on size selectivity across 65mm (2.6 inches) to 70mm (2.8 inches) and 80 mm (3.1 inches) meshes. The direct applicability to Atlantic mackerel would be uncertain, but the general literature on selectivity would support that some additional escapement of small mackerel should occur (e.g. <https://www.conservationevidence.com/actions/2697#>). Most Atlantic mackerel catch observations (raw data) in the observer data in the last 10 years occur from 48mm (1.9 inches) to

60mm (2.5 inches), with less than 10% of observations by weight occurring with mesh over 60mm (2.5 inches), making the observer data of limited usefulness for exploring an increase to a 3-inch mesh.

River Herring and Shad Cap

Sub-Option 1

Given the small 2023 directed fishery, the Council could simply retain the current 129 MT river herring and shad (RH/S) catch cap, which closes the directed mackerel fishery and implements a 20,000 pound trip limit for all permits once 129 MT of RH/S has been projected to be caught in the directed mackerel fishery. 129 MT was the amount of RH/S if the ratio of cap to all catch on mackerel trips (accounting for mostly Atlantic herring) was about 0.53% and the mackerel quota was 17,371 MT (or 0.74% applied to just the mackerel quota). Given the challenges with estimating and monitoring a very small cap, including potentially closing the fishery based on a few observed trips, the Council has kept the cap at 129 MT at the current lower mackerel quotas.

Sub-Option 2

The Council could also scale the RH/S cap with the quota selected in this Alternative, which would range the RH/S cap from 27 MT to 7 MT.

Permitting Option

There is some ambiguity in the current regulations regarding possession of Atlantic mackerel. If the prohibitions list is modified to include possession by commercial and for-hire vessels without an appropriate mackerel permit, any reporting loopholes would be closed, especially if including possession of previously-caught or purchased mackerel bait as triggering a permit requirement (purchased bait would not need to be reported, but all catch on all trips must be reported on vessel trip reports (VTRs) once in possession of a mackerel permit regardless of the target species on a particular trip).

5.5 ALTERNATIVE 5 – 53% Rebuilding Probability in 10 Years

Alternatives 2-5 utilize recruitment draws constrained to lower 2009-2019 estimates unless spawning stock biomass during the rebuilding period is above 50% of the target (then the higher 1975-2019 recruitments, which the rebuilding goal is based on, are used). The SSC identified this as one of two recruitment approaches that are “defensible and supported by the data” at its September 2021 SSC Meeting (see Alternative 1 for the other approach). Because the projection model selects the lower or higher recruitment stanza based on biomass in each year of each of 2000 runs, there is a transition toward higher median recruitment through the rebuilding period depending on the exact trajectory of each 2000 model runs.

Alternative 5 uses an F of 0.14, which would be predicted to have a 53.4 % probability of rebuilding the mackerel stock in 10 years given the recruitments used. The median rebuilt year is 2032. F stays the same for all 10 years, and as biomass increases, so does catch. Other than no action, this alternative would also have the lowest probability of increasing stock size by the 2025 Mackerel MTA Because it leads to the highest 2023-2024 catches.

The projected rebuilding period catches (which would be the Acceptable Biological Catches - ABCs) and biomasses under Alternative 5 are described in the table below.

Table 11. Rebuilding Alternative 5 ABCs and Biomass

	Catch (MT)	Biomass (MT)
2023	9,371	80,215
2024	10,591	89,949
2025	11,883	100,486
2026	13,252	111,737
2027	14,764	124,305
2028	16,365	137,457
2029	18,001	151,050
2030	19,665	164,694
2031	21,257	177,355
2032	22,672	188,731

As detailed above, this action would only set specifications for 2023 given a Mackerel MTA is expected in 2023, which can inform 2024-2025 specifications. Selecting this alternative would also modify the Council’s risk policy for the purposes of beginning this rebuilding plan. The existing risk policy would otherwise cap the 2023 ABC at the standard P* catch calculation (4,539 MT).

The FMP accounts for Canadian landings, recreational catch, and commercial discards by deductions from the total ABC, with options described below.

Canadian Landings

A Canadian quota for 2022 has not yet been set but should be set before final Council action in June 2022. Given the Canadian assessment will be updated next in 2023, substantial changes seem unlikely for 2022, but 2023 is harder to predict. This action explores two options for deducting Canadian landings in 2023: Deducting their 2021 landings (4,395 MT) or half that amount (2,197 MT). If Canada maintains their 4,000 MT quota for 2022, 4,395 MT would be deducted for 2023. If Canada reduces their quota, the reduced quota would be deducted but at least 2,197 MT would be deducted given the uncertainty about Canada monitoring a quota lower than 2,197 MT. Whenever the Canadian quota is announced, this document will be updated accordingly.

Recreational Catch Restriction Alternatives

For 2022, 2,582 MT of recreational catch was deducted, the 2017-2021 average. 2017 was included to capture some of the historically-observed variability. Analysis of Marine Recreational Information Program (MRIP) and Vessel Trip Report (VTR) data suggest that replacing trips that caught higher bag limits with the following bag limits could result in the following catch reductions, based on pooled available 2018-2021 MRIP/VTR data (2021 preliminary).

Table 12. Theoretical Bag Limit Reductions by Mode

Bag Limit	% Catch Reduction		
	Private	Shore	For-Hire
5 fish	60%	46%	56%
10 fish	39%	27%	35%
15 fish	28%	19%	22%

Accounting for the proportion of each mode's harvest (77% private, 20% shore, 3% for hire), and that harvest is 83% of catch, then the calculated reductions in recreational catch would be (assuming that Maine, New Hampshire, and Massachusetts mirrored the Federal regulations):

Table 13. Theoretical Combined Bag Limit Reductions

Bag Limit	% Catch Reduction
	Combined
5 fish	47%
10 fish	30%
15 fish	22%

These bag limits appear to represent a reasonable range of initial restriction alternatives for the recreational sector for 2023. There have not been recreational limits for mackerel before, so angler responses may be difficult to predict. To avoid under-accounting for recreational catch the MSB Monitoring Committee recommended either maintaining 2022’s 2,582 MT deduction for recreational catch, or only taking half credit for any calculated theoretical savings, which would result in deducting the following for recreational catch in each scenario:

Table 14. Theoretical Alternative Recreational Catch Deductions and Savings

Bag Limit	Recreational Deduction	
	Combined (MT)	Savings (MT)
5 fish	1,975	607
10 fish	2,195	387
15 fish	2,298	284

The following specifications calculations assume that either 2,582 MT of recreational catch is deducted, i.e. potential savings from recreational bag limits would not be assumed in 2023 or 2,195 MT is deducted based on a 10 fish bag limit. Staying with 2,582 MT could help account for the variability that can occur with recreational catch estimates – recreational catch (numbers of fish) has been stable from 2018-2021, but has varied substantially year to year in the past. Depending on any bag limit ultimately chosen by the Council, the commercial quota could be adjusted accordingly, adding up to 220 MT commercial quota for the 5-fish limit or deducting 103 MT for a 15-fish limit. It must be reiterated that these estimates are rough approximations given there is no history of bag limits in this fishery. Staff explored using a log regression to consider different increments given the apparent digit bias (at 5 and 10 fish increments) in the reported harvest data. While a log regression fit the data quite well, there did not appear reason to investigate further given there is already limited certainty about potential angler responses to a new bag limit for mackerel and subsequent effects on overall catch.

Commercial Discards

No changes are proposed to the averaging approach used by the NEFSC for 2022 projected catch – 115 MT is assumed for 2023 commercial mackerel discards.

Closure Approach

Averaging 2018-2021, the fishery landed 805 MT after April 1, and these were times when the directed limited access fishery was inactive (range was 618 MT to 1,037 MT). As such, this time period should represent landings rates that could occur during a closure of the directed fishery.

The proposed “first” closure approach is to buffer this performance by 10% and one month, so that before May 1 the directed fishery would close with 886 MT left in the quota, and from May 1 on, the directed fishery would close with 443 MT left in the quota. NMFS would also have the discretion to not close the fishery in November and December if performance suggests that a quota overage is unlikely. While it is possible that an early closure in January could result in more than 886 MT in additional landings, and it is possible that a closure in late April could result in unused quota remaining, this proposed system likely strikes a reasonable balance between achieving OY and regulatory simplicity. At this threshold for the “first” closure, additional trip limits would be implemented: 40,000 pounds for Tier 1-3 directed permits and 5,000 pounds for incidental/open access permits. There would be a final closure with 100 MT left in the quota where all permits were subject to a 5,000 pound trip limit to minimize any potential overages. With these trip limits any possible overages should be minimal, and would be deducted from subsequent years’ quotas if an overall ACL overage occurs.

Specifications Summary

Based on the above proposed approaches to handle Canadian landings, recreational catch, commercial discards, and quota closures, the following specifications are possible for Alternative 5 – at the time of final action, the Council would need to identify the recommended Canadian landings and recreational catch deductions to determine the final quotas.

Table 15. Alternative 5 2023 Specifications Summary

Alternative 5 - 2023 Specifications (MT)				
ABC	9,371			
Canadian Catch Options	2,197		4,395	
Rec Catch Options	2,195	2,582	2,195	2,582
Commercial Discards	115	115	115	115
Commercial Quota	4,864	4,477	2,666	2,279
Before May 1 First Closure Threshold (-886 MT)	3,978	3,591	1,780	1,393
May 1/after First Closure Threshold (-443 MT)	4,421	4,034	2,223	1,836
Final Closure Threshold (-100 MT)	4,764	4,377	2,566	2,179

Commercial Minimum Mesh Add-On Alternative

The Council has also requested inclusion of a 3-inch minimum mesh requirement that mirrors a similar requirement in the butterfish fishery. The regulatory wording would be: “Owners or operators of trawl vessels possessing more than 5,000 lb (2.27 mt) of mackerel harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (7.62 cm) diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends

with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

Unfortunately there are not gear selectivity studies for Atlantic mackerel that allow quantitative analysis of this alternative. Casey et al 1992 examined an experimental midwater trawl codend of 60 mm polypropylene knotless square netting fished against a similar trawl fitted with a codend constructed from 40 mm knotted nylon mesh rigged in the conventional diamond configuration in the western English Channel. The size composition of the mackerel caught ranged from 18 to 37 cm (roughly almost age 1s to age 7s in our fishery) and a comparison of the length-frequency distributions indicated that there was no difference in the size composition, and hence selection, of fish taken by the two gears. Various studies on horse mackerel, a jack species of roughly similar size and shape of Atlantic mackerel have shown expected selectivity patterns. For example Campos and Fonseca 2003 saw small but significant effects on size selectivity across 65mm (2.6 inches) to 70mm (2.8 inches) and 80 mm (3.1 inches) meshes. The direct applicability to Atlantic mackerel would be uncertain, but the general literature on selectivity would support that some additional escapement of small mackerel should occur (e.g. <https://www.conservationevidence.com/actions/2697#>). Most Atlantic mackerel catch observations (raw data) in the observer data in the last 10 years occur from 48mm (1.9 inches) to 60mm (2.5 inches), with less than 10% of observations by weight occurring with mesh over 60mm (2.5 inches), making the observer data of limited usefulness for exploring an increase to a 3-inch mesh.

River Herring and Shad Cap

Sub-Option 1

Given the small 2023 directed fishery, the Council could simply retain the current 129 MT river herring and shad (RH/S) catch cap, which closes the directed mackerel fishery and implements a 20,000 pound trip limit for all permits once 129 MT of RH/S has been projected to be caught in the directed mackerel fishery. 129 MT was the amount of RH/S if the ratio of cap to all catch on mackerel trips (accounting for mostly Atlantic herring) was about 0.53% and the mackerel quota was 17,371 MT (or 0.74% applied to just the mackerel quota). Given the challenges with estimating and monitoring a very small cap, including potentially closing the fishery based on a few observed trips, the Council has kept the cap at 129 MT at the current lower mackerel quotas.

Sub-Option 2

The Council could also scale the RH/S cap with the quota selected in this Alternative, which would range the RH/S cap from 36 MT to 17 MT.

Permitting Option

There is some ambiguity in the current regulations regarding possession of Atlantic mackerel. If the prohibitions list is modified to include possession by commercial and for-hire vessels without an appropriate mackerel permit, any reporting loopholes would be closed, especially if including possession of previously-caught or purchased mackerel bait as triggering a permit requirement (purchased bait would not need to be reported, but all catch on all trips must be reported on vessel trip reports (VTRs) once in possession of a mackerel permit regardless of the target species on a particular trip).

5.6 Considered by Rejected Alternatives

Given the extremely low catches required for even a 50% probability of rebuilding when lower recruitment is assumed for the whole rebuilding period (i.e. #1 above), higher probability options combined with the persistent low recruitment appeared redundant.

Even with the two phase recruitment scenario, achieving a 75% probability of rebuilding would require very low catches, and appeared redundant with remaining options that also required very low catches.

Given the unknown discard mortality, and potential enforcement issues related to chub mackerel mis-identification, minimum size options were “Considered but Rejected.”

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6.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES

6.1 Description of the Managed Resource and Non-Target Species

Mackerel

Unless otherwise indicated, the information in this section is taken from the mackerel EFH source document at <http://www.nefsc.noaa.gov/nefsc/habitat/efh/> and the recent assessment at <https://www.nefsc.noaa.gov/saw/reports.html>.

Atlantic mackerel is a semi-pelagic/semi-demersal (may be found near the bottom or higher in the water column) schooling fish species primarily distributed between Labrador (Newfoundland, Canada) and North Carolina. Based on the work of Sette (1943, 1950) and confirmed in the recent assessment, the stock is considered to comprise two spawning contingents: a northern contingent spawning primarily in the southern Gulf of St. Lawrence and a southern contingent spawning in the Mid-Atlantic Bight, Southern New England and the western Gulf of Maine. The two contingents mix during winter months on the Northeast U.S. shelf; however, the degree of mixing and natal homing is unknown. Mackerel in the northwest Atlantic were modeled as one stock for the recent assessment. The Canadian fishery likely primarily catches the northern contingent while the U.S. fishery likely catches both contingents.

Mackerel spawning occurs during spring and summer and progresses from south to north as the surface waters warm. Atlantic mackerel are serial, or batch spawners. Eggs are pelagic. Post-larvae gradually transform from planktonic to swimming and schooling behavior at about 30-50 mm. Approximately 50% of fish are mature at age 2 and about 99% were mature at age 3 from 2007-2016 according to the recent benchmark assessment.

Atlantic mackerel are opportunistic feeders that can ingest prey either by individual selection of organisms or by passive filter feeding.

A wide variety of fish and other animals are predators of mackerel. Predator food habits on the Northeast US Shelf have been systematically sampled during the NEFSC bottom trawl surveys since 1973. In the recent benchmark assessment, these food habits data were evaluated for the top 17 mackerel predators based on the percent occurrence of mackerel in predator diets (NEFSC 2018, Appendix A4). The presence of Atlantic mackerel in fish stomachs was generally low from 1973-2016. A total of 1,284 out of 619,637 stomachs (~0.2%) contained mackerel, including unidentified mackerel Scombridae and Scomber spp. Spiny dogfish was the most dominant mackerel predator sampled by the trawl surveys, but the frequency of occurrence for mackerel in spiny dogfish diets only average 1%.

Additional potentially important predators of mackerel are not sampled in the NEFSC trawl surveys, including highly migratory species, marine mammals, and seabirds. Consumption from these predators is more difficult to estimate due to incomplete information on population levels and annual diet information. Furthermore, predator food habits were not available for the months the northern contingent was outside of the area sampled by the NEFSC trawl survey. Given this incomplete sampling, the low occurrence of mackerel in predator stomachs, and the resulting interannual variability in consumption estimates, the final model did not incorporate predator diets as an index of abundance. The temporal trends in consumption were consistent with trends from the range-wide egg index as well as abundance estimates.

Additional life history information is detailed in the Essential Fish Habitat (EFH) document for the species, located at: <http://www.nefsc.noaa.gov/nefsc/habitat/efh/>.

The 2021 Mackerel MTA found mackerel to be overfished with overfishing occurring, as described above.

Mackerel Non-Target Species

There have been very few recent observed directed mackerel trips due to the low directed effort toward mackerel in recent years. Various species will be caught incidentally to any mackerel fishing and will be impacted to some degree by the prosecution of the fishery. On the mackerel trips identified in this analysis, the 2017-2019 overall discard rate was 1%. For non-target species that are managed under their own FMP, incidental catch/discards are also considered as part of the management of that fishery. Data beyond 2019 was not analyzed due to potential Covid-19 impacts.

The primary database used to assess discarding is the NMFS Observer Program database, which includes data from trips that had trained observers onboard to document discards. One critical aspect of using this database to describe discards is to correctly define the trips that constitute a given directed fishery. A flexible criteria of what captains initially intend to target, how they may adjust targeting over the course of a trip, and what they actually catch would be ideal but is impracticable. The case with mackerel is further complicated by the small size of the fishery recently and the few observed trips. However from 2017-2019 there were on average 7 observed trips annually where mackerel accounted for at least 50% of retained catch, and those trips form the basis of the following analysis. These trips made 65 hauls of which 89% were observed. Hauls may be unobserved for a variety of reasons, for example transfer to another vessel without an observer, observer not on station, haul slipped (dumped) in the water before observing, etc.

The observed mackerel kept on these trips accounted for approximately 7% of the total mackerel landed (this is the overall coverage rate based on weight). While a very rough estimate, especially given non-accounting for spatial and temporal trends, one can use the information in the table immediately following and the fact that about 6,920 mt of mackerel were caught annually 2017-2019 to roughly estimate annual incidental catch and discards for the species in the table. Readers are strongly cautioned that while this is a reasonable approach for a quick, rough, and relative estimate given the available data, it is highly imprecise and does not follow the protocol used for official discard estimates. As a minimum threshold, only species estimated to be caught at a level more than 10,000 pounds per year are included (captures 95% of all discards). Species with a “*” are overfished, subject to overfishing, or otherwise considered depleted.

Table 16. Incidental Catch and Discards in the Mackerel Fishery

NE Fisheries Science Center Common Name	Pounds Observed Caught	Pounds Observed Discarded	Of all discards observed, percent that comes from given species	Percent of given species that was discarded	Pounds of given species caught per mt mackerel Kept	Pounds of given species discarded per mt mackerel Kept	Rough Annual Catch (pounds) based on 3-year (2017-2019) average of mackerel landings (6,920 mt)	Rough Annual Discards (pounds) based on 3-year (2017-2019) average of mackerel landings (6,920 mt)
MACKEREL, ATLANTIC *	3,207,485	585	1%	0%	2,205	0	15,258,755	2,785
HERRING, ATLANTIC *	626,320	4,639	9%	1%	431	3	2,979,549	22,068
HERRING, BLUEBACK *	28,805	9,570	19%	33%	20	7	137,031	45,529
FISH, NK	22,101	22,101	43%	100%	15	15	105,137	105,137
DOGFISH, SPINY	13,912	10,048	20%	72%	10	7	66,181	47,799
ALEWIFE *	7,580	1,793	3%	24%	5	1	36,061	8,531
HAKE, SILVER (WHITING	2,187	23	0%	1%	2	0	10,402	108

The observer program creates individual animal records for some fish species of interest, mostly larger pelagics and/or elasmobranchs, as well as tagged fish. There was only one such record for these trips, an unknown shark species.

6.2 Human Communities and Economic Environment

This section describes the performance of the mackerel fishery to allow the reader to understand the socio-economic importance of the mackerel fishery. The recent squid and butterfish specifications EA (MAFMC 2021) can be consulted for information on those species, but those fisheries are not expected to be impacted by this action. Recent Amendments to the MSB FMP contain additional information about the MSB fisheries, especially demographic information on ports that land MSB species. See Amendments 11 and 14 at <http://www.mafmc.org/msb/> for more information or visit NMFS’ communities page at: http://www.nefsc.noaa.gov/read/socialsci/community_profiles/. In general, the MSB fisheries saw high foreign landings in the 1970s followed by a domestication of the fishery, and domestic landings have been variable, but lower than the peak foreign landings. The current regulations

for the MSB fisheries are summarized by NMFS at <https://www.fisheries.noaa.gov/species/atlantic-mackerel#commercial>, and detailed in the Federal Register at <https://www.ecfr.gov/current/title-50/chapter-VI/part-648>.

The most obvious way that human communities are affected by the MSB fisheries are from the revenues generated by the fisheries, and the jobs created. The affected communities include both individuals directly involved in harvesting and processing as well as indirect support services (e.g. vessel maintenance, insurance, ice, etc.). While the direct data points that are most available are landings and revenues, it is important to keep in mind that by contributing to the overall functioning of and employment in coastal communities, the MSB fisheries have indirect social impacts as well. Social impacts are strongly aligned with changes to fishing opportunities and while difficult to measure can include impacts to families from income changes/volatility, safety-at-sea (related to changes in fishery operations due to regulation changes), job satisfaction, and general frustration by individuals due to management's impacts especially if they perceive management actions to be unreasonable or ill-informed.

Descriptive information on the fisheries is included, and where possible, quantitative commercial fishery and economic information is presented. This section establishes a descriptive baseline for the fishery with which to compare actual and predicted future socio-economic changes that result from management actions.

Commercial Fishery

There are four categories of mackerel permits. When the fishery starts each year, the various commercial mackerel permit categories start with different trip limits. Tier 1 has an unlimited trip limit, Tier 2 has a 135,000 pound trip limit, and Tier 3 has a 100,000 pound trip limit. An open access/incidental permit has a 20,000 pound trip limit. When 90% of the DAB is projected to be landed, trip limits of 40,000 pounds are implemented for Tier 1-3 directed permits and 5,000 pounds for incidental/open access permits. When 98% of the DAB is projected to be landed, a 5,000 pound trip limit would be implemented for all permits for the rest of the fishing year to cover remaining incidental catches.

Foreign catches dominated the fishery during the 1960s and 1970s, with total catch peaking at over 430,000 MT in 1973. Foreign catches declined and then were eliminated by the MSA, though there was also some joint venture activity from the mid-1980s through 1991. From 1992 through 2001, total catches (including Canada) averaged only 36,104 MT before increasing to peaks of just over 110,000 MT in 2004 and 2006. Total catch then declined and from 2011-2021 averaged 16,698 MT per year. Not on the figure below, 2020 total catch was near 18,000 MT and 2021 total catch was near 12,000 MT (the 2019 terminal year value in the figure below was 16,322 MT).

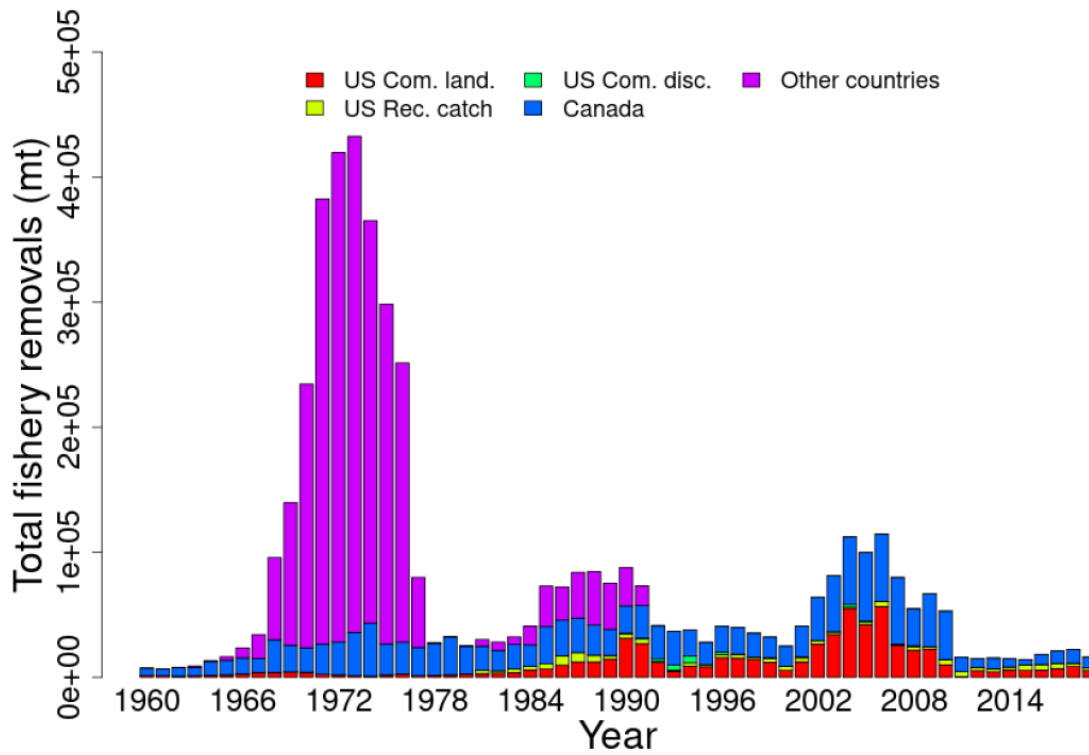


Figure 3. Total annual mackerel catch (mt) by the U.S., Canada and other countries for 1960-2019.

The figure below provides more detail on U.S. Commercial landings and ex-vessel revenues (in 2021 inflation-adjusted dollars) since 1996, when reporting was improved. Mackerel prices were variable from 1996-2001 and have been in trending upward overall since 2001.

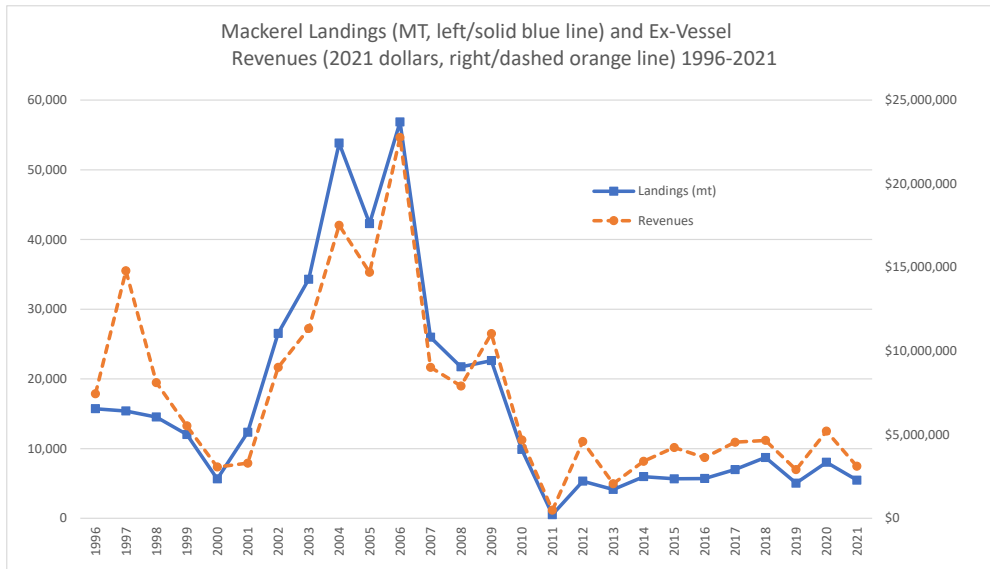


Figure 4. U.S. Commercial Landings and Ex-Vessel Revenues 1996-2021 Adjusted to 2021 Dollars Source: NMFS unpublished dealer data.

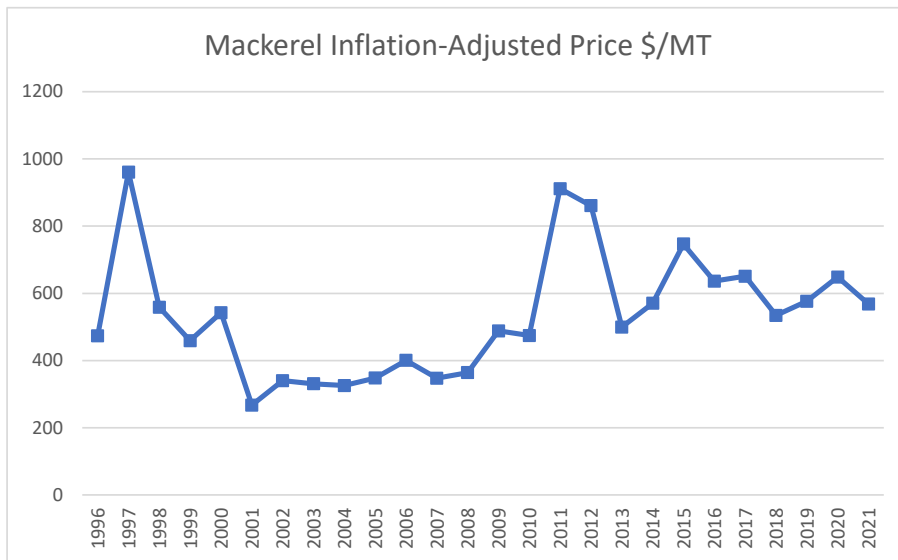


Figure 5. Ex-Vessel Mackerel Prices 1996-2021 Adjusted to 2021 Dollars Source: NMFS unpublished dealer data. [PRELIMINARY]

The mackerel fishery takes place in shelf waters as in the figures below. Landings were reported via dealer reports matched to a vessel trip report (VTR) when possible. From 2007-2011 80% of landings had location data, from 2012-2016 84% of landings had location information, and more recent years have also had a high percentage of landings with location information.

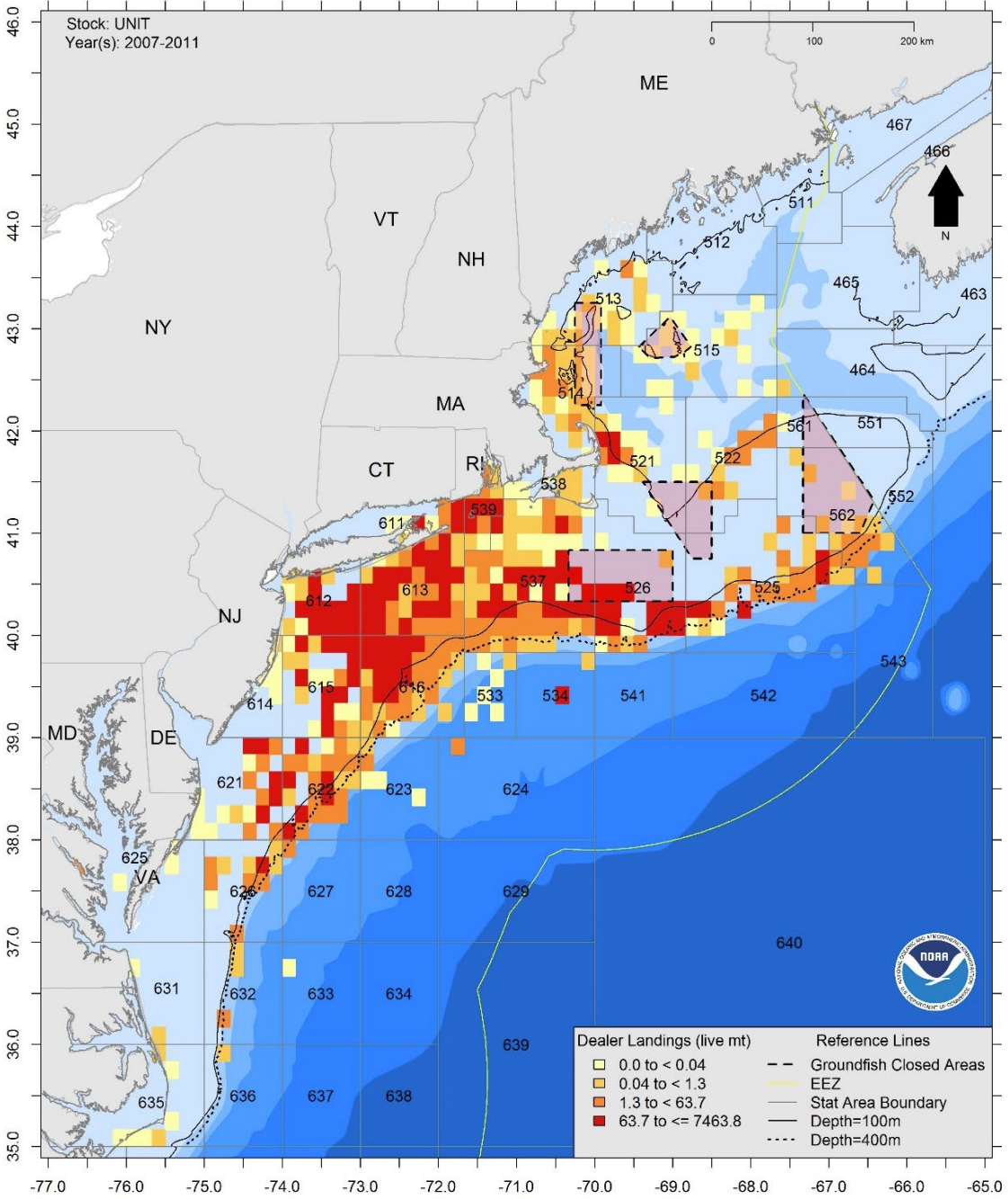


Figure 6. Spatial distribution of landings (mt) by ten-minute square, during 2007-2011.

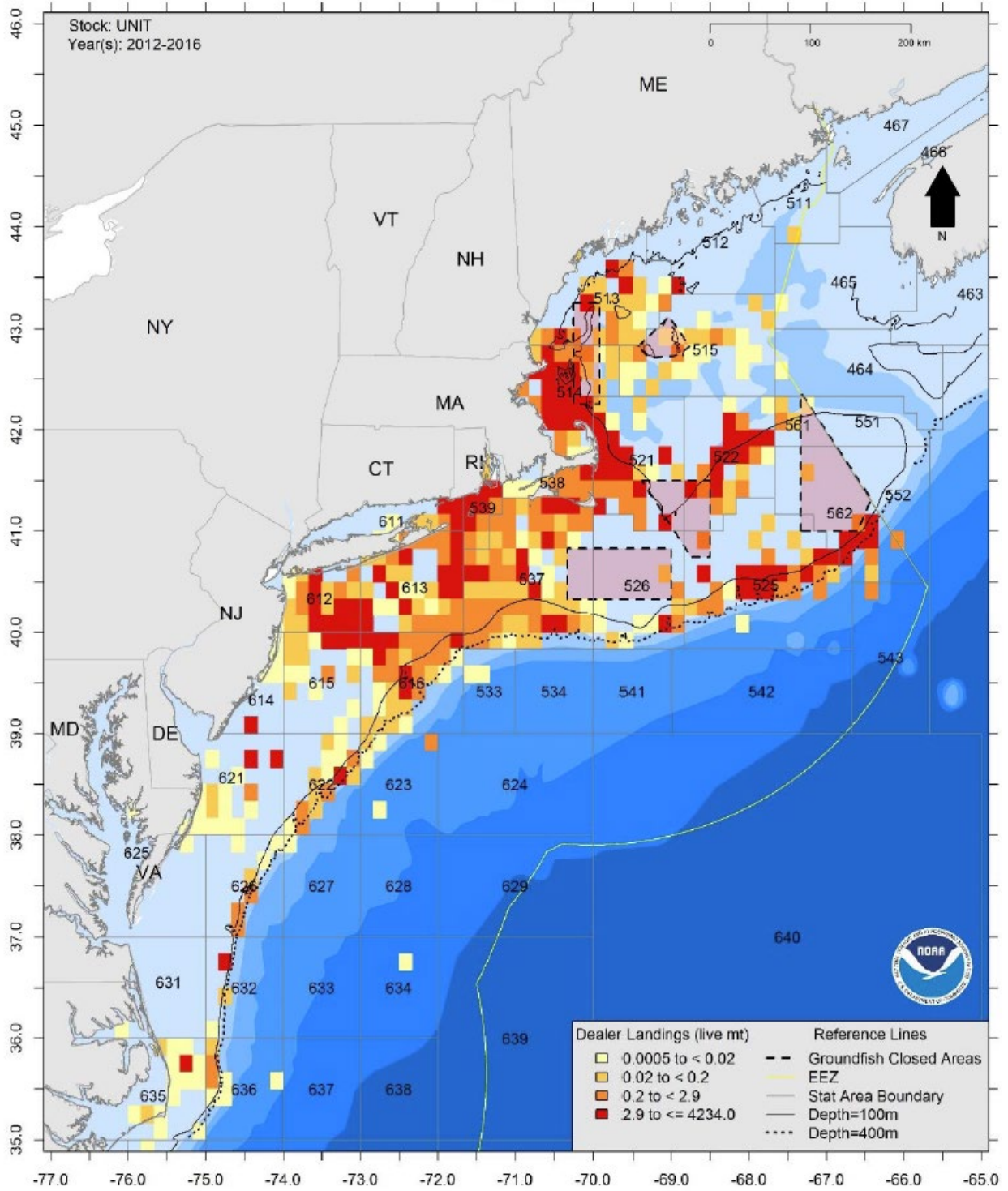


Figure 7. Spatial distribution of landings (mt) by ten-minute square, during 2012-2016.

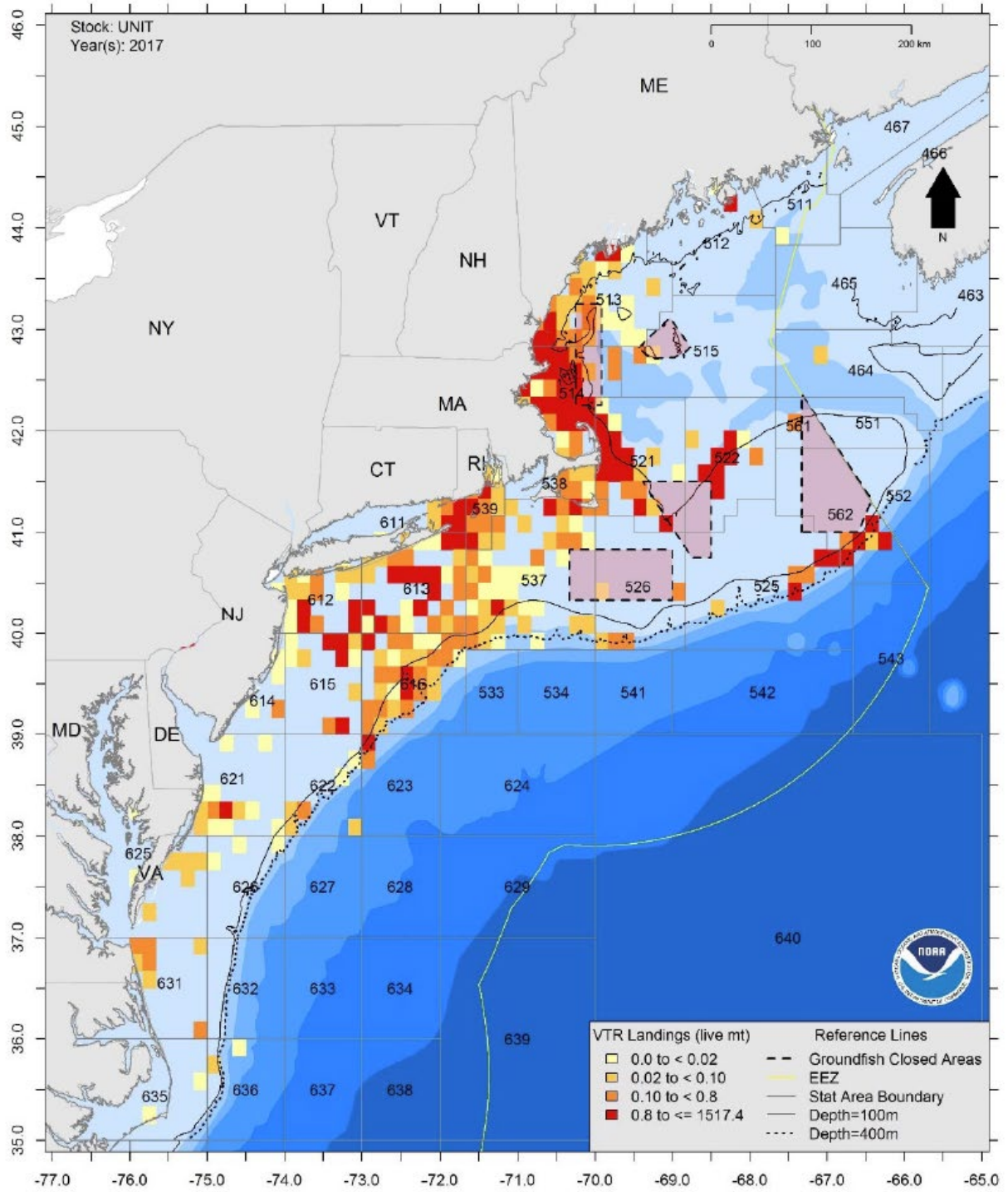


Figure 8. Approximate Primary 2018 Mackerel Catch Locations (from VTR data)

Atlantic Mackerel

Scomber scombrus

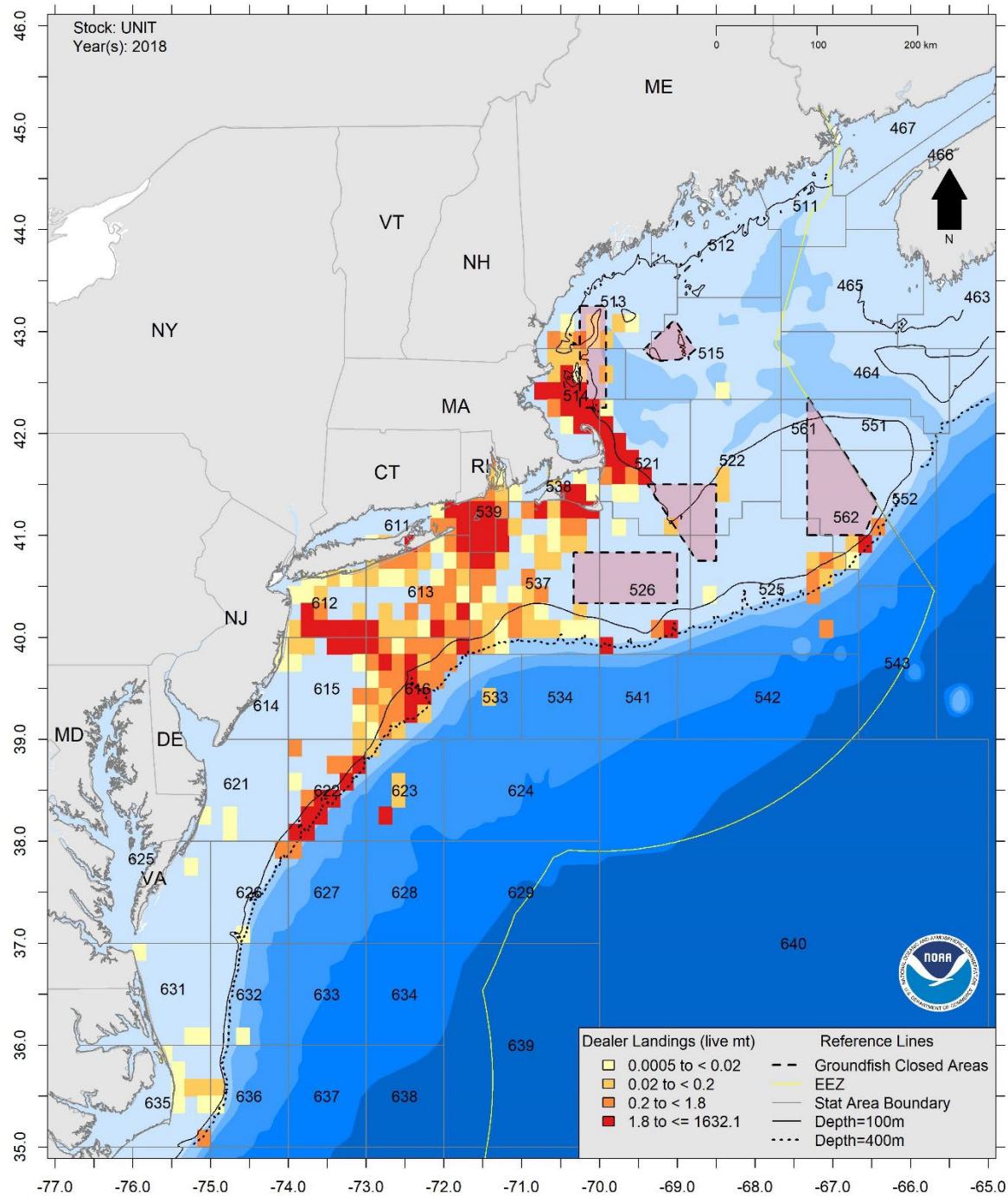


Figure 9. Approximate Primary 2018 Mackerel Catch Locations (from dealer and VTR data)

Atlantic Mackerel

Scomber scombrus

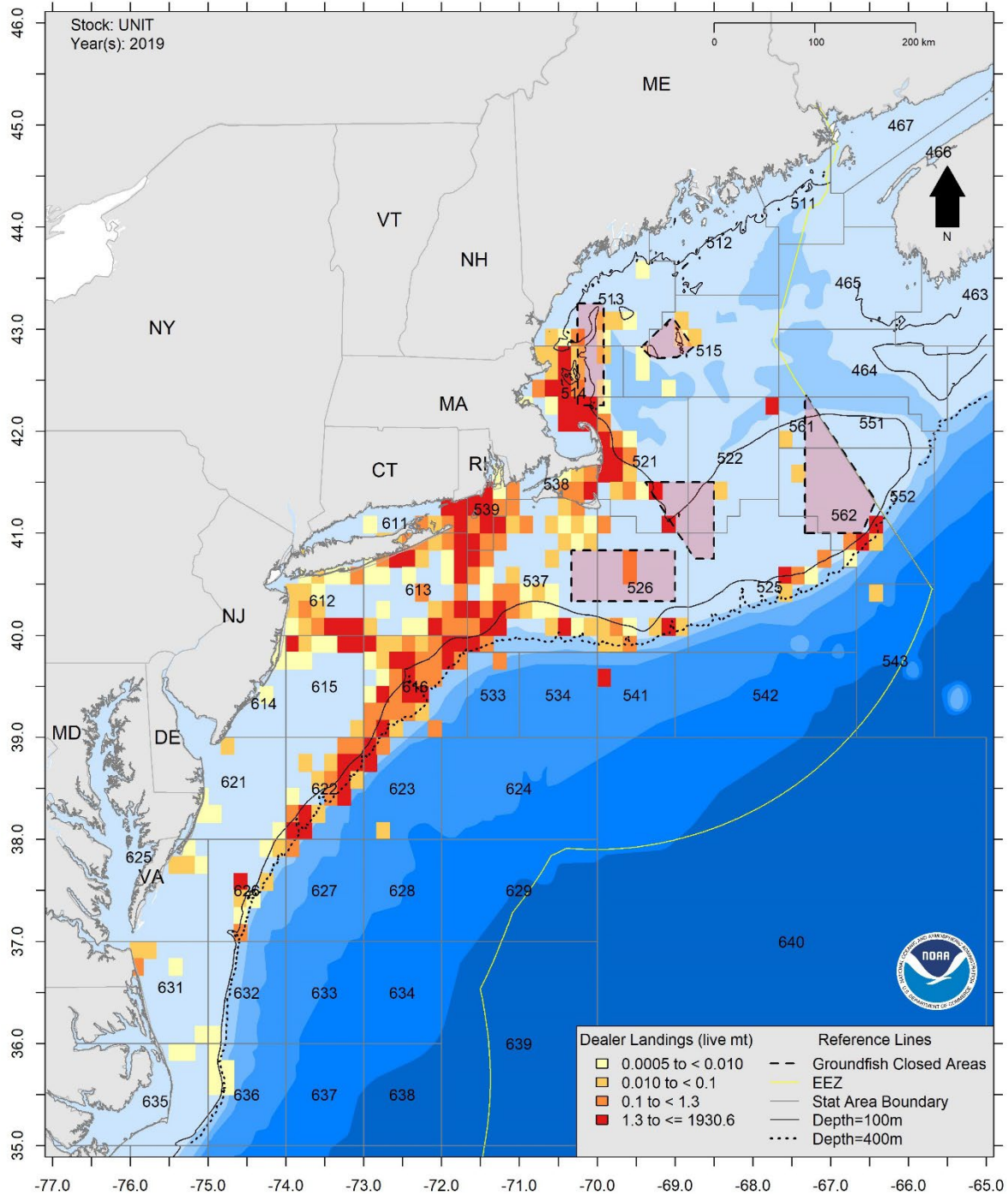


Figure 10. Approximate Primary 2019 Mackerel Catch Locations (from dealer and VTR data)

Updated maps are not available for 2020 and 2021, but the following tables bin mackerel landings by the same statistical areas noted on the figures above for 2020 and 2021, and the areas accounting for most 2020 and 2021 landings were not atypical. Area 514 is difficult to see on the above maps, but is just east of Massachusetts.

Table 17. Commercial mackerel landings by statistical area in 2020. Source: NMFS unpublished VTR data.

Stat Area	Metric Tons
613	2,900
521	1,164
612	1,152
616	806
615	738
514	705
Other/CI	580
Total	8,045

Table 18. Commercial mackerel landings by statistical area in 2021. Source: NMFS unpublished VTR data.

Stat Area	Metric Tons
522	2,023
521	1,854
612	992
514	450
Other/CI	332
Total	5,652

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In recent years (2017-2021) most mackerel landings have occurred in Massachusetts and New Jersey (see table below). There is more confidential information at the port level, but aggregate 2017-2021 landings and nominal revenues are also provided for major ports where possible.

Table 19. 2017-2021 Total Mackerel Landings by State

State	MT
MA	18,043
NJ	9,931
RI	3,979
ME	2,066
Other	254

Table 20. 2017-2021 Total Mackerel Landings by Port

PORT	MT
Cape May, NJ	9,849
Gloucester, MA	7,702
New Bedford, MA	7,108
Portland, ME	2,018
Point Judith, RI	1,703
Marshfield, MA	1,311
Chatham, MA	972
Other/CI	3,610

Table 21. 2017-2021 Total Mackerel Revenues by Port

Port	\$
Gloucester, MA	11,636,380
Cape May, NJ	4,288,067
New Bedford, MA	3,515,974
Marshfield, MA	1,477,725
Portland, ME	1,344,837
Point Judith, RI	989,210
Chatham, MA	723,138
Other/CI	3,350,833

Table 22. Numbers of vessels that actively fished for mackerel, by landings (lbs) category, 1982-2021.

YEAR	Vessels 1 mil +	Vessels 100,000 - 1mil	Vessels 50,000 - 100,000	Vessels 10,000 - 50,000	Total
1982	0	10	10	43	63
1983	0	10	5	26	41
1984	0	11	14	29	54
1985	0	12	10	28	50
1986	1	10	5	37	53
1987	1	15	8	31	55
1988	2	20	8	40	70
1989	6	17	8	27	58
1990	6	16	7	39	68
1991	13	18	1	38	70
1992	9	17	13	48	87
1993	0	16	11	55	82
1994	2	27	14	44	87
1995	4	24	11	50	89
1996	7	45	15	53	120
1997	6	30	20	46	102
1998	9	16	6	39	70
1999	6	15	9	37	67
2000	5	3	0	26	34
2001	5	3	2	20	30
2002	12	3	1	22	38
2003	14	6	5	23	48
2004	18	6	1	14	39
2005	15	11	4	17	47
2006	20	12	5	10	47
2007	16	12	2	20	50
2008	15	5	1	17	38
2009	15	6	6	18	45
2010	10	9	2	14	35
2011	0	3	3	17	23
2012	3	9	1	9	22
2013	4	3	3	13	23
2014	6	5	1	13	25
2015	5	9	10	12	36
2016	3	16	7	26	52
2017	6	7	14	27	54
2018	8	6	3	24	41
2019	3	11	4	38	56
2020	7	9	1	10	27
2021	4	9	3	6	22

Recreational Fishery

The figure below describes total Atlantic mackerel recreational catch (numbers of fish) from 1981 to 2021 (2021 preliminary). Estimates before 2018 use calibration factors to account for substantial survey changes that were fully implemented in 2018, including the mail-based fishing effort survey and changes to the MRIP site-intercept survey (AP AIS). Catch since 2018 has been relatively stable, but the time series exhibits substantial year to year variability in some years.

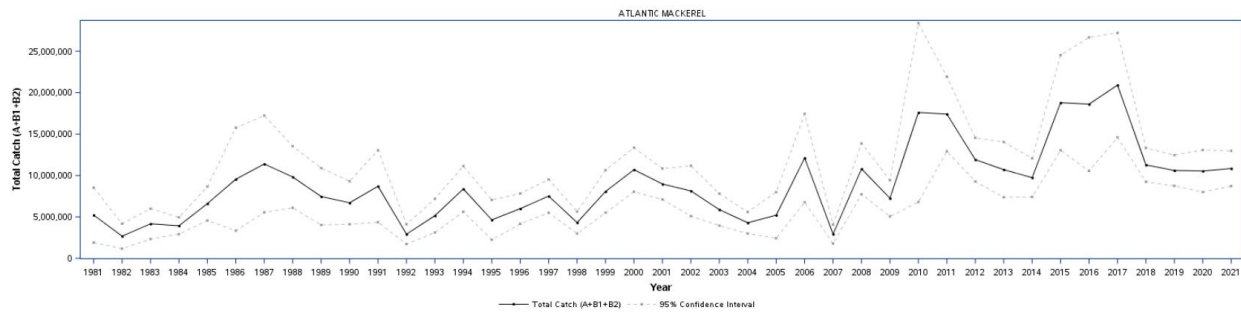


Figure 11. MRIP mackerel time series 1981-2017, total catch, numbers of fish.

The following more detailed discussion of recent catch focuses on data since 2018 to avoid any concerns about the effects of the calibration for pre-2018 data. Earlier discussions have highlighted that for-hire operators are not interviewed about trip catches but their anglers/customers could be, if they are at a site that is included on the MRIP site register. Anglers are to be asked about all fish caught and their disposition (available to be measured, harvested but not available, and/or released).

Table 23. 2018-2021 MRIP Mackerel Estimates (#s) by Catch Type

Estimate Status	Year	Common Name	Observed Harvest (A)	PSE	Reported Harvest (B1)	PSE	Released Alive (B2)	PSE
FINAL	2018	ATLANTIC MACKEREL	2,330,587	23.3	7,164,214	11.3	1,782,338	19.9
FINAL	2019	ATLANTIC MACKEREL	2,646,784	16.3	5,913,593	12.6	2,041,877	18.8
FINAL	2020	ATLANTIC MACKEREL	3,136,063	19.6	6,439,192	17.6	964,581	15.2
PRELIMINARY	2021	ATLANTIC MACKEREL	705,745	18	8,663,790	12	1,473,430	19.5

Table 24. 2018-2021 MRIP Mackerel Estimates (#s) by State

Estimate Status	Year	State	Common Name	Total Catch (A+B1+B2)	PSE	** Contribution of Imputed Data to Total Catch Rate
FINAL	2018	CONNECTICUT	ATLANTIC MACKEREL	63	71.6	0%
FINAL	2018	MAINE	ATLANTIC MACKEREL	2,851,922	21	0%
FINAL	2018	MASSACHUSETTS	ATLANTIC MACKEREL	6,396,674	11.9	0%
FINAL	2018	NEW HAMPSHIRE	ATLANTIC MACKEREL	1,961,169	18.9	0%
FINAL	2018	RHODE ISLAND	ATLANTIC MACKEREL	21,119	71.5	0%
FINAL	2019	MAINE	ATLANTIC MACKEREL	3,275,535	20.8	0%
FINAL	2019	MASSACHUSETTS	ATLANTIC MACKEREL	5,647,588	10.5	0%
FINAL	2019	NEW HAMPSHIRE	ATLANTIC MACKEREL	1,637,111	16.9	0%
FINAL	2019	RHODE ISLAND	ATLANTIC MACKEREL	11,262	79.5	0%
FINAL	2020	CONNECTICUT	ATLANTIC MACKEREL	11,283	69.1	0%
FINAL	2020	MAINE	ATLANTIC MACKEREL	3,628,454	18.5	1%
FINAL	2020	MASSACHUSETTS	ATLANTIC MACKEREL	5,318,596	20.1	1%
FINAL	2020	NEW HAMPSHIRE	ATLANTIC MACKEREL	1,525,643	19.3	10%
FINAL	2020	RHODE ISLAND	ATLANTIC MACKEREL	1,420	62.5	77%
PRELIMINARY	2021	CONNECTICUT	ATLANTIC MACKEREL	1,311	92.3	0%
PRELIMINARY	2021	MAINE	ATLANTIC MACKEREL	3,913,997	17.6	1%
PRELIMINARY	2021	MASSACHUSETTS	ATLANTIC MACKEREL	5,384,078	14.5	0%
PRELIMINARY	2021	NEW HAMPSHIRE	ATLANTIC MACKEREL	1,317,292	13.1	0%
PRELIMINARY	2021	RHODE ISLAND	ATLANTIC MACKEREL	218,882	113	0%

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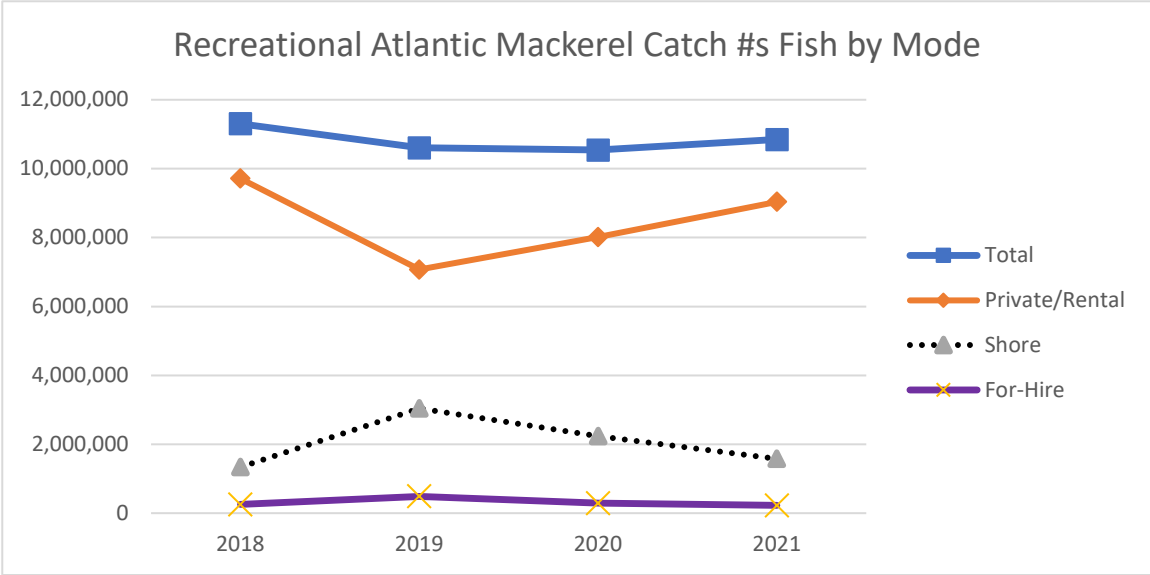


Figure 12. 2018-2021 MRIP Mackerel Estimates (#s) by Mode

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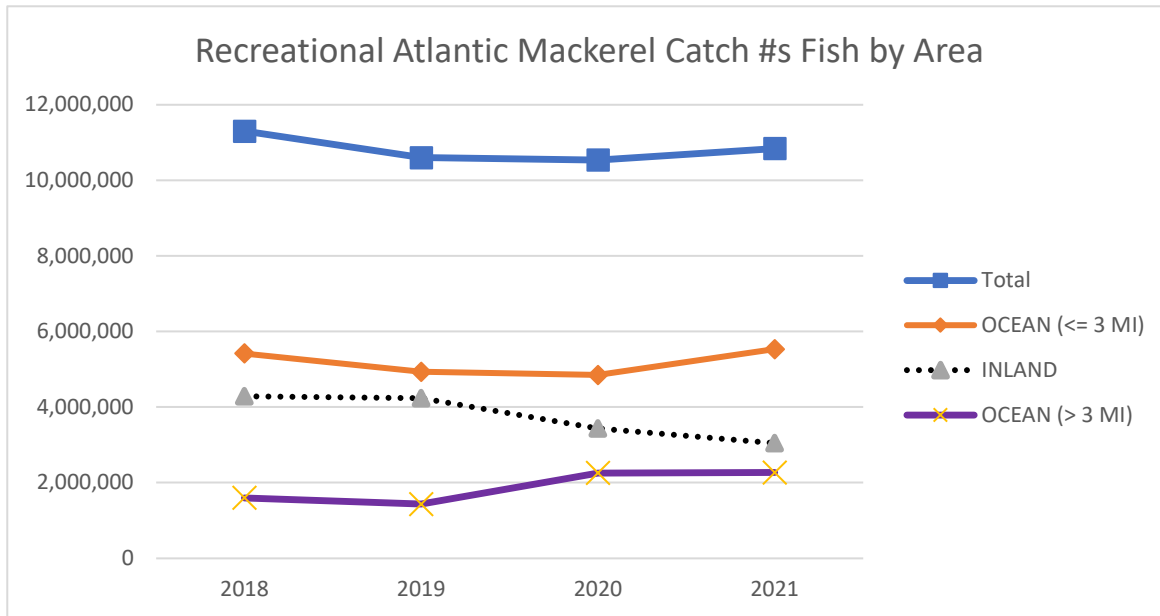


Figure 13. 2018-2021 MRIP Mackerel Estimates (#s) by Area

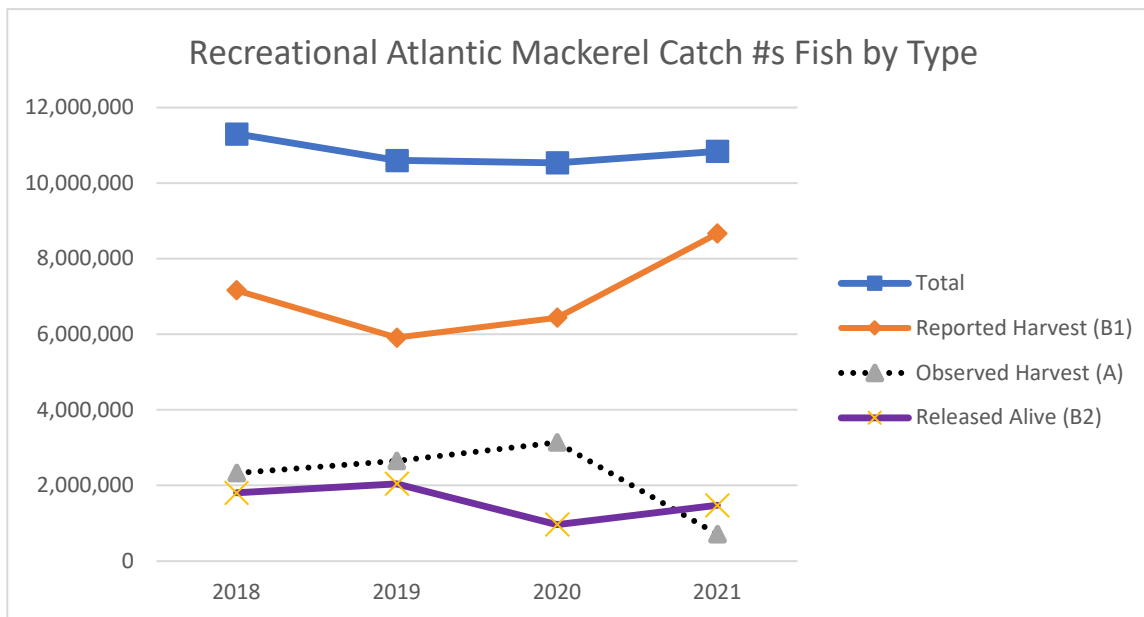


Figure 14. 2018-2021 MRIP Mackerel Estimates (#s) by Catch Type

6.4 Protected Species

Protected species are those afforded protections under the Endangered Species Act (ESA; species listed as threatened or endangered under the ESA) and/or the Marine Mammal Protection Act (MMPA). The Table below provides a list of protected species that occur in the affected environment of the MSB fisheries and the potential for the fishery to impact the species, specifically via interactions with MSB fishing gear (i.e., mid-water trawl and bottom trawl gear). The EA for this action will further describe interactions and impacts with these species, but all of the alternatives would decrease quotas compared to either no action (which would substantially increase quotas) or the status quo, so the action alternatives would not be likely to lead to increased effort or additional negative impacts on protected resources.

Table 25. Species Protected Under the ESA and/or MMPA that May Occur in the Affected Environment of the MSB FMP

Species	Status ²	Potential to interact with MSB fishing gear?
Cetaceans		
<i>North Atlantic right whale (Eubalaena glacialis)</i>	<i>Endangered</i>	<i>No</i>
Humpback whale, West Indies DPS, (<i>Megaptera novaeangliae</i>)	Protected (MMPA)	No
<i>Fin whale (Balaenoptera physalus)</i>	<i>Endangered</i>	<i>No</i>
<i>Sei whale (Balaenoptera borealis)</i>	<i>Endangered</i>	<i>No</i>
<i>Blue whale (Balaenoptera musculus)</i>	<i>Endangered</i>	<i>No</i>
<i>Sperm whale (Physeter macrocephalus)</i>	<i>Endangered</i>	<i>No</i>
Minke whale (<i>Balaenoptera acutorostrata</i>)	Protected (MMPA)	Yes
Pilot whale (<i>Globicephala</i> spp.) ³	Protected (MMPA)	Yes
Pygmy sperm whale (<i>Kogia breviceps</i>)	Protected (MMPA)	No
Dwarf sperm whale (<i>Kogia sima</i>)	Protected (MMPA)	No
Risso's dolphin (<i>Grampus griseus</i>)	Protected (MMPA)	Yes

Species	Status ²	Potential to interact with MSB fishing gear?
Atlantic white-sided dolphin (<i>Lagenorhynchus acutus</i>)	Protected (MMPA)	Yes
Short Beaked Common dolphin (<i>Delphinus delphis</i>)	Protected (MMPA)	Yes
Atlantic Spotted dolphin (<i>Stenella frontalis</i>)	Protected (MMPA)	No
Striped dolphin (<i>Stenella coeruleoalba</i>)	Protected (MMPA)	No
Beaked whales (<i>Ziphius and Mesoplodon spp</i>) ⁴	Protected (MMPA)	No
Bottlenose dolphin (<i>Tursiops truncatus</i>)⁵	Protected (MMPA)	Yes
Harbor porpoise (<i>Phocoena phocoena</i>)	Protected (MMPA)	Yes
Pinnipeds		
Harbor seal (<i>Phoca vitulina</i>)	Protected (MMPA)	Yes
Gray seal (<i>Halichoerus grypus</i>)	Protected (MMPA)	Yes
Harp seal (<i>Phoca groenlandicus</i>)	Protected (MMPA)	Yes
Hooded seal (<i>Cystophora cristata</i>)	Protected (MMPA)	No
Sea Turtles		
Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Endangered	Yes
Kemp's ridley sea turtle (<i>Lepidochelys kempii</i>)	Endangered	Yes
Green sea turtle, North Atlantic DPS (<i>Chelonia mydas</i>)	Threatened	Yes
Loggerhead sea turtle (<i>Caretta caretta</i>), Northwest Atlantic Ocean DPS	Threatened	Yes
Hawksbill sea turtle (<i>Eretmochelys imbricate</i>)	Endangered	No
Fish		
Atlantic salmon (<i>Salmo salar</i>)	Endangered	Yes
Atlantic sturgeon (<i>Acipenser oxyrinchus</i>)		

Species	Status ²	Potential to interact with MSB fishing gear?
<i>Gulf of Maine DPS</i>	Threatened	Yes
<i>New York Bight DPS, Chesapeake Bay DPS, Carolina DPS & South Atlantic DPS</i>	Endangered	Yes
Cusk (<i>Brosme brosme</i>)	Candidate	Yes
Giant manta ray (<i>Manta birostris</i>)	Threatened	Yes
Critical Habitat		
Northwest Atlantic DPS of Loggerhead Sea Turtle	ESA (Protected)	No
North Atlantic Right Whale Critical Habitat	ESA (Protected)	No
<p><i>Notes:</i> Marine mammal species (cetaceans and pinnipeds) italicized and in bold are considered MMPA strategic stocks. Shaded rows indicate species who prefer continental shelf edge/slope waters (i.e., >200 meters).</p> <p>¹ A strategic stock is defined under the MMPA as a marine mammal stock for which: (1) the level of direct human-caused mortality exceeds the potential biological removal level; (2) based on the best available scientific information, is declining and is likely to be listed as a threatened species under the ESA within the foreseeable future; and/or (3) is listed as a threatened or endangered species under the ESA, or is designated as depleted under the MMPA (Section 3 of the MMPA of 1972).</p> <p>² Status is defined by whether the species is listed under the ESA as endangered (i.e. at risk of extinction) or threatened (i.e. at risk of endangerment), or protected under the MMPA. Marine mammals listed under the ESA are also protected under the MMPA. Candidate species are those species for which ESA listing may be warranted.</p> <p>³ There are 2 species of pilot whales: short finned (<i>G. melas melas</i>) and long finned (<i>G. macrorhynchus</i>). Due to the difficulties in identifying the species at sea, they are often referred to as <i>Globicephala spp.</i></p> <p>⁴ There are multiple species of beaked whales in the Northwest Atlantic. They include the cuvier's (<i>Ziphius cavirostris</i>), blainville's (<i>Mesoplodon densirostris</i>), gervais' (<i>Mesoplodon europaeus</i>), sowerbys' (<i>Mesoplodon bidens</i>), and trues' (<i>Mesoplodon mirus</i>) beaked whales. Species of <i>Mesoplodon</i> are difficult to identify at sea, therefore, much of the available characterization for beaked whales is to the genus level only.</p> <p>⁵ This includes the Western North Atlantic Offshore, Northern Migratory Coastal, and Southern Migratory Coastal Stocks of Bottlenose Dolphins.</p>		

Cusk is a NMFS "candidate species" under the ESA. Candidate species are those petitioned species for which NMFS has determined that listing may be warranted under the ESA and those species for which NMFS has initiated an ESA status review through an announcement in the Federal Register. If a species is proposed for listing the conference provisions under Section 7 of the ESA apply (see 50 CFR 402.10); however, candidate species receive no substantive or procedural protection under the ESA. NMFS recommends that project proponents consider implementing conservation actions to limit the potential for adverse effects on candidate species from any proposed action. Additional information on cusk can be found at: <https://www.fisheries.noaa.gov/endangered-species-conservation/candidate-species-under-endangered-species-act> .

7.0 Biological and Human Community Impacts

For habitat, protected resource, and non-target species impacts, the key determinant is not so much the catch itself but the amount and character of the related effort. A decrease in effort may result in positive impacts (+) as a result of fewer encounters and/or fewer habitat impacts from fishing gear, while an increase in effort may result in a negative impact (-). Similar effort likely results in neutral impacts (0). The table immediately below illustrates that the availability of the target species can drive effort as much as any quota change, and as effort changes so would impacts on habitat, protected resources, and non-target species. This is noted for the habitat, protected resource, and non-target species sections because the MSB fisheries often experience large swings in availability and therefore effort, independent of any regulatory changes. Because limits on catch do cap effort, catch limits are a factor related to effort and impacts but many other factors are at least somewhat beyond the control of the Council (such as fish abundance, availability of other opportunities, weather, climate, fish movements/ availability, variable productivity, etc.).⁵

⁵ National Oceanic and Atmospheric Administration Administrative Order 216-6A and the Companion Manual contains criteria for determining the significance of the impacts of a proposed action and it includes the possibility of introducing or spreading a nonindigenous species. This potential impact does not fit into the sections below so it is addressed in this introduction. There is no evidence or indication that these fisheries have ever resulted or would ever result in the introduction or spread of nonindigenous species.

Table 26. Changes in effort as a result of adjustments to quota and/or fish availability.

Change in quota	Fish abundance/availability		
	Decrease in availability	No change in availability	Increase in availability
Decrease in quota	<u>Fishing effort may decrease, increase, or stay the same depending on a combination of factors⁶.</u>	<u>Effort likely to decrease or stay the same.</u> If per trip catch stays the same, the fishery will be closed earlier with fewer trips taken (reducing effort). However managers may reduce trip limits or adjust regulations that extend the fishing season (keeping effort the same).	<u>Effort likely to decrease or stay the same.</u> A lower quota plus higher catch per unit of effort (CPUE) from higher availability should decrease effort. However, managers may reduce trip limits or adjust regulations that extend the fishing season which may keep effort relatively even.
No change in quota	<u>Effort may increase or decrease.</u> Even with no change, fishermen may take more trips to catch the same amount of fish (increasing effort) or may stop targeting a stock of fish if availability is low enough to decrease profitability (decreasing effort).	Fishing effort may remain the same given the quota has not changed and availability is expected to be similar.	<u>Effort should decrease.</u> While the quota has not changed, fishermen should be able to take fewer trips to catch the same amount of fish (decreasing effort).
Increase in quota	<u>Fishing effort likely to increase or stay the same.</u> A higher quota plus lower catch per unit of effort from lower availability should increase effort. However, managers may increase trip limits or adjust regulations to allow more efficient fishing (keeping effort the same).	<u>Effort likely to increase or stay the same.</u> If per trip catch stays the same, the fishery will be closed later with more trips taken (increasing effort). However managers may increase trip limits or adjust regulations to allow more efficient fishing (keeping effort the same).	<u>Fishing effort may decrease, increase, or stay the same depending on a combination of factors.</u>

⁶ Factors affecting fishing effort include other species abundance, availability of other opportunities, weather, climate, fish movements/availability, variable productivity, and market forces/price changes.

Environmental impacts are described both in terms of their direction (negative, positive, or no impact) and their magnitude (slight, moderate, or high). The table below summarizes the guidelines used for each VEC to determine the magnitude and direction of the impacts described in this section.

Table 27. General definitions for impacts and qualifiers relative to resource condition (i.e., baselines)

General Definitions				
VEC	Resource Condition	Impact of Action		
		Positive (+)	Negative (-)	No Impact (0)
Target and non-target Species	Overfished status defined by the MSA	Alternatives that maintain or are projected to result in a stock status above an overfished condition*	Alternatives that maintain or are projected to result in a stock status below an overfished condition*	Alternatives that do not impact stock / populations
ESA-listed protected species (endangered or threatened)	Populations at risk of extinction (endangered) or endangerment (threatened)	Alternatives that contain specific measures to ensure no interactions with protected species (i.e., no take)	Alternatives that result in interactions/take of listed species, including actions that reduce interactions	Alternatives that do not impact ESA listed species
MMPA protected species (not also ESA listed)	Stock health may vary but populations remain impacted	Alternatives that maintain takes below PBR and approaching the Zero Mortality Rate Goal	Alternatives that result in interactions with/take of marine mammals that could result in takes above PBR	Alternatives that do not impact MMPA protected species
Physical environment / habitat / EFH	Many habitats degraded from historical effort and slow recovery time (see condition of the resources table)	Alternatives that improve the quality or quantity of habitat or allow for recovery	Alternatives that degrade the quality/quantity or increase disturbance of habitat	Alternatives that do not impact habitat quality
Human communities (socioeconomic)	Highly variable but generally stable in recent years (see condition of the resources table for details)	Alternatives that increase revenue and social well-being of fishermen and/or communities	Alternatives that decrease revenue and social well-being of fishermen and/or communities	Alternatives that do not impact revenue and social well-being of fishermen and/or communities
Impact Qualifiers				
A range of impact qualifiers is used to indicate any existing uncertainty	Negligible		To such a small degree to be indistinguishable from no impact	
	Slight (sl), as in slight positive or slight negative		To a lesser degree / minor	
	Moderate (M) positive or negative		To an average degree (i.e., more than "slight", but not "high")	
	High (H), as in high positive or high negative		To a substantial degree (not significant unless stated)	
	Significant (in the case of an EIS)		Affecting the resource condition to a great degree, see 40 CFR 1508.27.	
	Likely		Some degree of uncertainty associated with the impact	
*Actions that will substantially increase or decrease stock size, but do not change a stock status may have different impacts depending on the particular action and stock. Meaningful differences between alternatives may be illustrated by using another resource attribute aside from the MSA status, but this must be justified within the impact analysis.				

7.1 Managed Resource - Mackerel

Taking no action would lead to overfishing in 2023 and expected failure to rebuild due to the high catches that could be implemented without taking action and a reversion to previous specifications.

All of the action alternatives are predicted to rebuild mackerel within 10 years. Given the imprecision of 10-year projections, quantitatively comparing the relatively small changes in probability of rebuilding is likely to be uninformative and possibly misleading. The 4-fold error in the last 3-year projection estimate for 2019 SSB illustrates the degree of uncertainty. 2023 specifications alone require a 4-year projection from 2019, and projecting out to 2032 is really a 13-year projection (2019 to 2032). The probabilities of rebuilding are also dependent on the underlying recruitment assumptions, which makes comparing Alternative 1 to Alternatives 2-5 challenging in terms of the calculated probabilities, but the very low catches in Alternative 1 will create the highest probability of rebuilding in reality. Finally, the likely iterative nature of mackerel rebuilding with MTAs expected in 2023, 2025, 2027, and 2029 greatly complicates interpreting the probability of rebuilding. For example, if one were to lock in the projected catch trajectories for 10 years, Alternative 4 appears to have a higher probability of rebuilding (60.5%) than Alternative 3 (51.5%). However, the higher later catches in Alternative 3 that reduce its probability of rebuilding to near 50% would only occur if rebuilding is actually on track, and the initially lower catches of Alternative 3 mean that early rebuilding would be more likely with Alternative 3 than with Alternative 4. So while the overall rebuilding probability of Alternative 4 is calculated as higher with the full series of catches, Alternative 3 is in fact the more risk averse option (in terms of avoiding a failure to rebuild) due to the lower catches.

Accordingly, a simpler and probably better way to consider the impacts of the alternatives on mackerel is qualitatively based on allowed catches in years that would be considered in the 2025 Mackerel MTA, 2023 and 2024. The 2025 Mackerel MTA should consider catch through 2024, so one way to compare across all alternatives in terms of relative probability of leading to stock growth by the 2025 Mackerel MTA is to just consider 2023-2024 combined catch for each rebuilding path. The higher the combined 2023 and 2024 combined catch, the relatively less likely stock growth will occur. The Action Alternatives 1-5 have been ordered from least to most 2023- 2024 combined catch, so that is the same order from most likely stock rebuilding to least likely stock rebuilding by the 2025 MTA.

7.2 Habitat/Protected Resources/Not Target Species

For these valued ecosystem components, there are relatively greater negative effects with more effort, and relatively less negative effects with less effort. Compared to no action, which would lead to substantially higher quotas, all of the action alternatives would be expected to have less negative effects. For 2023, the only year that this action proposes to set specifications, even Alternative 5, which would lead to the highest quotas among the action alternatives, would also have quotas similar or less than the status quo, so negative impacts to Habitat/Protected Resources/Not Target Species would be expected to remain similar to or less than the status quo, and less than no action.

7.3 Socioeconomic Impacts

This action would primarily affect the mackerel fishery. As discussed above, the availability of the targeted species may drive effort (and catch and revenues) as much as any regulations.

Mackerel Commercial Fishery Current Condition:

Due to the year-to-year variation in catch and effort in the fishery, it is difficult to fully quantify human community impacts but the current fishery supports a number of vessels, as described in Section 6.3, and provides a variety of jobs related directly to fishing and also in associated support services. 22 vessels landed over 10,000 pounds of mackerel in 2021, with total mackerel landings valued at \$3.1 million. From 2019-2021 mackerel ex-vessel revenues varied from \$2.9-\$5.2 million, averaging \$3.7 million. The Council has received input from commercial tuna fishermen that commercial tuna fishing could be impacted by limitations on mackerel, but commercial vessels can get open access commercial incidental mackerel permits that would allow retention of up to 5,000 pounds of mackerel as bait (catch would need to be reported on Vessel Trip Reporting linked to that permit).

Socioeconomic Mackerel Commercial Fishery Impacts:

Socioeconomic impacts related to commercial mackerel fishing are likely directly related to the quotas that are set. In the short run, the Alternatives sorted in order of 2023 quotas from most to least are No action, Alternative 5, Alternative 4, Alternative 3, Alternative 2, Alternative 1. Alternatives 1-3 would result in negative or near zero commercial quotas and do not appear practicable. All of the Alternatives would result in substantially lower quotas than no action, but the more relevant comparison is to the 2022 quota of 4,963 MT. Depending on Canadian and recreational deductions, Alternative 5 would result in a 2% to 54% reduction in quota. Depending on Canadian and recreational deductions, Alternative 4 would result in a 28% to 80% reduction in quota. These ranges will be able to be refined at the time of final action. While no action would implement much higher quotas, it would not be a legal option given it would result in substantial overfishing. Over the 10 years in the rebuilding plan, total summed catches, in

order of most to least would be Alternative 3, Alternative 5, Alternative 4, Alternative 2, Alternative 1. However, given the large error observed in the first iteration of projecting mackerel biomass even 3 years into the future, it is not clear what the meaningfulness of comparing summed 10-year catches would actually be.

Mackerel Recreational Fishery Current Condition:

Mackerel catch had been relatively stable from 2019-2021, very close to the average of 10.7 million fish. The majority of fish are harvested, but are not made available to MRIP dockside interviewers – rather the majority of catch estimates result from “reported harvest” by interviewees. These fish may have been used for bait or the interviewee just doesn’t want to show the fish to the MRIP interviewer. MRIP interviews are conducted with anglers by state staff, who also ask about fish that are discarded/released. These reported discards represented on average 14% of catch from 2019-2021. Almost all catch in recent years has been in Maine, New Hampshire, and Massachusetts. Private (and rental) boat catch is responsive for most catch, with about 20% from shore and a very small amount (5% or less) from the for-hire sector.

NMFS estimated the 2017 economic effects of recreational fishing in states including Maine, New Hampshire, and Massachusetts (Lovell et al 2020). The following describes their findings.

Marine recreational fishing trips in Maine supported 714 full or part-time jobs, and contributed \$75 million in sales, \$27 million in income, and \$45 million in gross domestic product (GDP) to the state’s economy.

Table 28. Maine Marine Recreational Fishing Trips Economics

Fishing Mode	Expense (\$1,000’s)	# Jobs	Sales (\$1,000’s)	Income (\$1,000’s)	Value Added (\$1,000’s)
For-Hire	\$2,863	52	\$4,725	\$1,644	\$2,747
Private Boat	\$15,322	138	\$15,957	\$5,353	\$9,009
Shore	\$40,223	524	\$54,603	\$20,012	\$32,799
Total Trip	\$58,408	714	\$75,285	\$27,009	\$44,555

Marine recreational fishing trips in New Hampshire supported 378 full or part-time jobs, and contributed \$37 million in sales, \$15 million in income, and \$25 million in gross domestic product (GDP) to the state’s economy.

Table 29. New Hampshire Marine Recreational Fishing Trips Economics

Fishing Mode	Expense (\$1,000’s)	# Jobs	Sales (\$1,000’s)	Income (\$1,000’s)	Value Added (\$1,000’s)
For-Hire	\$6,168	100	\$9,393	\$3,593	\$5,680
Private Boat	\$12,176	93	\$9,555	\$4,371	\$6,376
Shore	\$14,107	185	\$18,166	\$7,249	\$12,569
Total Trip	\$32,451	378	\$37,114	\$15,213	\$24,625

Marine recreational fishing trips in Massachusetts supported 2,784 full or part-time jobs, and contributed \$326 million in sales, \$156 million in income, and \$225 million in gross domestic product (GDP) to the state’s economy.

Table 30. Massachusetts Marine Recreational Fishing Trips Economics

Fishing Mode	Expense (\$1,000’s)	# Jobs	Sales (\$1,000’s)	Income (\$1,000’s)	Value Added (\$1,000’s)
For-Hire	\$30,563	463	\$49,737	\$19,342	\$31,838
Private Boat	\$181,933	1,118	\$139,187	\$68,344	\$95,335
Shore	\$100,756	1,203	\$136,898	\$68,646	\$97,822
Total Trip	\$313,252	2,784	\$325,822	\$156,332	\$224,995

Mackerel is not a frequent directed target, for example in 2021 only 5% of the 17.1 million marine fishing trips in New England targeted mackerel as a primary or secondary species.

While there is some overlap with the above for-hire estimates, NMFS has also separately estimated the economic impacts of fishing for Highly Migratory Species (HMS) like tunas (Hutt and Silva 2019). These trips could be indirectly affected by limits on mackerel fishing due to use of mackerel as bait. Non-tournament HMS Angling Trips (Tournament trips were only estimated from Maine through Texas) in 2016 were estimated to have the following impacts:

Table 31. Total expenditures and economic contributions generated by New England non-tournament Atlantic HMS Angling trips, registered HMS tournament operations, and HMS tournament participating teams from Maine to Texas in 2016. Non-tournament trip expenditures are reported by region and nationally, while tournament-related expenditures are only reported nationally.

Type and Region	Total Expenditures	Employment (jobs)	Income	Value Added	Total Sales Output
Non-tournament Angling Trips					
New England	\$5,172,293	37	\$2,061,493	\$3,056,170	\$4,867,047
Tournament Angling ¹	\$37,544,910	532	\$26,153,290	\$46,180,928	\$84,671,666
Tournament Operation ²	\$20,170,466	295	\$15,120,988	\$26,099,884	\$43,970,942

While it cannot be directly estimated what proportion of value would be lost if access to mackerel is limited (related to directed fishing or harvest for bait), the Council hopes to get additional public input on this issue. The Council has received input that a bag limit in the range of 10-15 fish per person should mitigate most of the potential negative effects of being limited in using mackerel for bait for striped bass and/or tuna fisheries.

8.0 LITERATURE CITED AND SELECTED OTHER BACKGROUND DOCUMENTS

TO BE ADDED