

**Notice of Agency Rule-making Proposal**

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34.06 Recreational Groundfish Regulations

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

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

BRIEF SUMMARY: On August 28, 2020, the Department of Marine Resources adopted an emergency rule in order to be consistent with a NOAA Fisheries federal rulemaking which was published on August 14<sup>th</sup>. The Department is proposing to incorporate the emergency changes via regular rule-making. The proposed regulation applies to charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. Gulf of Maine cod could only continue to be possessed on recreational fishing vessels, which per Section 34.01 are exclusive of charter or party vessels, from September 15-September 30 inclusive, and April 1-April 14, inclusive. Charter or party vessels may possess Gulf of Maine cod from September 8-October 7, inclusive, and from April 1-April 14, inclusive. The proposal would also adopt the season for Gulf of Maine haddock such that haddock may be possessed on board a party, charter, and recreational fishing vessel from April 1-February 28. In addition to complying with federal law and incorporating an existing emergency rule into the regular rule, this proposal will increase recreational fishing opportunity in Maine State waters.

Date, time and location of PUBLIC HEARING (*if any*): None scheduled

COMMENT DEADLINE: October 9, 2020

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

NAME: Amanda Ellis

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

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

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

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S.A. §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): 50 CFR 648.89(f)(3).

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

\* Check one of the following two boxes.

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

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

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

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

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
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DEPARTMENT OF MARINE RESOURCES

CHAPTER 34 GROUND FISH

34.06 Recreational Groundfish Restrictions

A. Prohibited species.

Charter, Party and Recreational vessels and/or recreational fishermen are prohibited from retaining, killing or landing Windowpane flounder, Ocean pout and/or Atlantic Wolffish.

B. Restrictions on Sale

It is unlawful to sell, barter, trade, or otherwise transfer for a commercial purpose, or to attempt to sell, barter, trade, or otherwise transfer for a commercial purpose, groundfish caught or landed by charter, party, or recreational fishing vessels.

C. Recreational Size Limits

1. Persons aboard charter, party and recreational fishing vessels are subject to the following minimum fish sizes:

Species	Minimum Fish Sizes (TL)	Size Inches (cm)
Cod.....	21	(53.3 cm)
American plaice (dab).....	14	(35.6 cm)
Haddock.....	17	(43.2 cm)
Monkfish.....	17	(43.2 cm)
Redfish.....	9	(22.9 cm)
Summer Flounder.....	20	(50.8)
Winter Flounder (blackback).....	12	(30.5 cm)
Witch Flounder (gray sole).....	14	(35.6 cm)
Yellowtail Flounder.....	13	(33.0 cm)

2. Exceptions:

(a) Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter. This exception shall not apply to Atlantic Halibut.

D. Recreational Limits and Restrictions

1. Winter Flounder

Each person on board a charter, party or recreational fishing vessel may not possess more than 8 Winter Flounder.

2. Haddock

Each person on board a charter, party, or recreational fishing vessel may not possess more than 15 Haddock per day and shall comply with the following restrictions:

- (a) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the fillet number by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.
  - (b) Haddock harvested by charter, party, or recreational fishing vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons aboard. If there is a violation of the possession limit on board a vessel carrying more than one person, the owner or operator shall be responsible for the violation.
  - (c) Haddock must be stored so as to be readily available for inspection.
  - (d) Haddock may not be possessed on board a charter, party or recreational fishing vessel from March 1 through March 31 ~~April 14~~ inclusive.
3. Summer Flounder  
Recreational Effort Restrictions: Summer Flounder creel limit and season.  
It shall be unlawful to take, catch, kill, or possess more than two (2) Summer Flounder per day.
4. Cod  
Each person on board a charter, party or recreational fishing vessel may not possess more than 1 cod per day and must comply with the following restrictions: ~~Cod may not be possessed on board a charter, party or recreational fishing vessel from October 1 through September 14 inclusive~~
- (a) Cod may not be possessed on board a recreational fishing vessel, as defined in Section 34.01(J), from October 1 through March 31, inclusive, and from April 15 through September 14, inclusive.
  - (b) Cod may not be possessed on board a charter or party boat, as defined in Section 34.01(B), from October 8 through March 31, inclusive, and from April 15 through September 7, inclusive.

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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

CHAPTER NUMBER AND RULE: 34.06 Recreational Groundfish Regulations

STATUTORY AUTHORITY: 12 M.R.S. 6171

DATE AND PLACE OF PUBLIC HEARING: None scheduled

COMMENT DEADLINE: October 9, 2020

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

This action is intended to manage the Gulf of Maine cod and haddock recreational fishery in compliance with the federal management plan.

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

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

This proposed rule will increase the length of both the Gulf of Maine cod and haddock recreational fishing seasons, resulting in increased opportunities for participation in these recreational fisheries.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

This proposed rule considered the interim final rule issued by NOAA Fisheries on August 14<sup>th</sup> which set fishing year 2020 recreational management measures for Gulf of Maine cod and haddock. On August 28, DMR incorporated the applicable federal changes into the regulation via emergency rule-making. This proposal would incorporate all the changes made via the emergency regulation.

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

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

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

*ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:*

[see §8057-A(2)(A)]

*INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED:* [see §8057-A(2)(B)]

*BENEFITS OF THE RULE:* [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*