

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34 Groundfish Regulations

ADOPTED RULE NUMBER:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY:

In order to be consistent with the National Marine Fisheries Service (NMFS) federal proposed rulemaking anticipated to be finalized shortly, this rule allows harvesters to take or possess one cod per day in state waters. Cod may not be possessed on board a charter, party or recreational fishing vessel from October 1 through April 14 inclusive, and May 1 through September 14 inclusive. For cod, a minimum size limit of 21" (53.3 cm) is established. The rule also implements increased recreational possession limits for haddock from 12 to 15 fish. Finally, seasonal restrictions on recreational haddock possession are reduced, so that haddock may not be possessed on board a recreational fishing only from March 1 through April 14. In addition to complying with federal law, the rule will increase fishing opportunity in Maine State waters.

EFFECTIVE DATE:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

AGENCY CONTACT PERSON:

Amanda Ellis

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DEPARTMENT OF MARINE RESOURCES
Chapter 34 - Groundfish

34.05 Recreational Groundfish Restrictions

A. Prohibited species.

Charter, Party and Recreational vessels and/or recreational fishermen are prohibited from retaining, killing or landing Windowpane flounder, ~~Cod~~, 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:

Minimum Fish Sizes (TL)	
Species	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 ~~4~~ 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 ~~September 17 through October 31 inclusive,~~ and March 1 through 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. Cod may not be possessed on board a charter, party or recreational fishing vessel from October 1 through April 14 inclusive, and May 1 through September 14 inclusive.

Basis Statement:

In order to be consistent with the National Marine Fisheries Service (NMFS) federal proposed rulemaking anticipated to be finalized shortly, this rule allows harvesters to take or possess one cod per day in state waters. Cod may not be possessed on board a charter, party or recreational fishing vessel from October 1 through April 14 inclusive, and May 1 through September 14 inclusive. For cod, a minimum size limit of 21" (53.3 cm) is established. The rule also implements increased recreational possession limits for haddock from 12 to 15 fish. Finally, seasonal restrictions on recreational haddock possession are reduced, so that haddock may not be possessed on board a recreational fishing only from March 1 through April 14. In addition to complying with federal law, the rule will increase fishing opportunity in Maine State waters.

Summary of Comments:

Notice of this proposed rulemaking appeared on May 29, 2019 in the five major daily newspapers as published by the Secretary of State. On May 29, 2019, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. No public hearings were scheduled. The comment period closed June 28, 2019.

Opposed (2)**Jeff Ohman, submitted via email, June 3, 2019**

I can only say, give me a break what a joke. 4 week season !!!! and the weeks are out of the summer season. 😞 Can anyone explain to me why we cannot at least keep one Cod all season long when 85% die anyway. Yet you continue to let the Commercial guys continue to cause all the damage. Again, WHAT A JOKE!!!

Eric Lendick, submitted via email, June 28, 2019

I have some comments regarding the proposed chapter 34 groundfish rulemaking. I find the regulations to be discriminatory. The proposed "open season" for cod having not a single day during the summer (June through August), is absolutely discriminatory against people who are "summer people" or who are vacationing in Maine, or who only have a small boat and limited resources. I have a small boat that is totally dependent on the weather being at it's best, in order for me to safely get to the cod grounds offshore. The paltry 2 weeks suggested for the open season effectively shuts me and folks like me OUT of this fishery. I have fished for codfish in this way for my entire life of 58 yrs, as I started very young, fishing with my father. I can support the quota of one fish a day while the stock is rebuilt, as long as the fishery is open during the summer tourist season. If the fishery cannot be opened during the summer (June 1st to August

31st), then I am **not** in favor of it being opened at all, for **any** user group! The increase in the limit for the haddock fishery does **not** represent any increase of fishing opportunity for me, because I have never been able to get to the grounds where haddock are caught. There's no bone being thrown my way with that rule change. In summation, I am against the proposal for the chapter 34 groundfish rules. If you wish, you can contact me at the above e-mail address, or by cell. Hopefully I haven't just wasted the time spent drafting this communication.

Department's Response:

This regulation is being implemented to comply with federal law. Prior to this rule change charter, party, and recreational vessels and/or recreational fishermen were prohibited from retaining, killing or landing cod. Although the rule limits the possession of cod on board a charter, party or recreational fishing vessel to certain times of the year, the rule does provide a modest increase in economic opportunity for charter vessels and the recreational fishing sector.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 34 Groundfish Regulations

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

DATE AND PLACE OF PUBLIC HEARING(S): No public hearings are scheduled

COMMENT DEADLINE: June 28, 2019

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

In order to be consistent with the National Marine Fisheries Service (NMFS) federal proposed rulemaking anticipated to be finalized shortly, the Department is proposing regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. In addition to complying with federal law, this regulation will also increase fishing opportunity in Maine State waters.

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

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

This proposed rule would create a slightly increased opportunity for recreational activity and increased economic opportunity for charter vessels targeting groundfish in state waters. It would also provide consistency with applicable federal rules.

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]:

Proposed federal regulations and New England Fishery Management Council recommendations were considered in the development of this rule.

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

This proposed change is anticipated to provide a modest increase in economic opportunity for charter vessels and the recreational fishing sector.

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)]