

**NOTICE OF AGENCY EMERGENCY RULE-MAKING****AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 34.06 Recreational Groundfish Restrictions Emergency Regulation**CONCISE SUMMARY:**

In order to be consistent with the NOAA Fisheries federal rulemaking which was published on August 14<sup>th</sup>, the Department is implementing regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. Gulf of Maine cod may 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 rule also modifies 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, this regulation will increase recreational fishing opportunity in Maine State waters.

**EFFECTIVE DATE:** August 28, 2020**AGENCY CONTACT PERSON:****AGENCY NAME:****ADDRESS:****WEB SITE:****E-MAIL:****FAX:****TTY:****Megan Ware (207-624-6553)****Department of Marine Resources****State House Station 21****Augusta, Maine 04333-0021**<http://www.maine.gov/dmr/rulemaking/>[Megan.Ware@maine.gov](mailto:Megan.Ware@maine.gov)**(207) 624-6024****(888) 577-6690 (Deaf/Hard of Hearing)**

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.

## **Basis Statement**

The Commissioner adopts this emergency rulemaking to modify the recreational fishing seasons for Gulf of Maine cod and haddock. Cod and haddock are regulated by NOAA Fisheries as part of the Northeast Multispecies Fishery Management Plan (FMP). NOAA Fisheries sets recreational sub-annual catch limits for both species as well as a suite of effort controls to ensure catch stays within the sub-annual catch limits. On August 14<sup>th</sup>, NOAA Fisheries issued an interim final rule to set the recreational measures for the 2020 fishing year. The rule maintains the same minimum size and bag limit as the previous year but expands the recreational fishing season for both cod and haddock. This is in response to analysis from NOAA Fisheries which suggests additional fishing days are not expected to result in an overage of the sub-ACL.

For the 2020 fishing year, the Gulf of Maine cod season for the recreational fishery differs between charter and party vessels and private recreational fishing vessels. NOAA Fisheries implemented different seasons by mode in response to concerns regarding the economic impact of Covid-19 on the recreational for-hire community. Specifically, state restrictions in the spring may have limited the ability for for-hire vessels to carry passengers and operate trips. As a result, NOAA Fisheries extended the recreational cod season for the charter and party vessels by two weeks in the fall in order to provide additional economic opportunities for this sector.

Importantly, not only does this action ensure compliance with the federal fishery management plan, but it also expands the recreational fishing opportunities in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish seasons in accordance with 12 MRS §6171(3)(C).

# Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: 34.06 Recreational Groundfish Restrictions

STATUTORY AUTHORITY: 12 M.R.S. 6171(3)(C).

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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 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 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.

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.*