

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34.06 Emergency Rulemaking to Adjust Recreational Groundfish Measures for Cod and Haddock

CONCISE SUMMARY:

In order to be consistent with the NOAA Fisheries federal rulemaking, the Department is implementing regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. The bag limit for Gulf of Maine haddock is increased to 20 fish, with the fishing season and minimum size remaining unchanged. The season for Gulf of Maine cod is expanded such that cod may be possessed on board charter, party, or recreational fishing vessels from April 1-14, inclusive, and from September 1 – October 7, inclusive. The minimum size for Gulf of Maine cod is also increased to 22 inches, and there is no change to the 1-fish bag limit. this action ensures compliance with the federal fishery management plan. It also expands recreational fishing opportunities for these species in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish measures for Gulf of Maine cod and haddock in accordance with 12 MRS §6171(3)(C).

EFFECTIVE DATE: September 1, 2022

AGENCY CONTACT PERSON: Amanda Ellis (207-624-6573)
AGENCY NAME: Department of Marine Resources
ADDRESS: State House Station 21
 Augusta, Maine 04333-0021
WEB SITE: <http://www.maine.gov/dmr/rulemaking/>
E-MAIL: amanda.ellis@maine.gov
FAX: (207) 624-6024
TTY: (888) 577-6690 (Deaf/Hard of Hearing)

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

APPROVED FOR PAYMENT _____ DATE: _____
 FUND AGENCY S-UNIT APP OBJT AMOUNT

Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta

010	13A	1120	10	4946	regulations
-----	-----	------	----	------	-------------

DEPARTMENT OF MARINE RESOURCES

CHAPTER 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)	<u>22 (55.9 cm)</u>
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 <u>cm</u>)
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 ~~45~~ 20 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 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 8 through March 31, inclusive, and from April 15 through August 31, 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 measures 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 (sub-ACLs) for both species as well as a suite of effort controls to ensure catch stays within the sub-ACLs. To this end, NOAA Fisheries issued a final rule to set the recreational measures for the 2022 fishing year. The rule increases the bag limit for haddock while expanding the fishing season and increasing the minimum size limit for cod. This is in response to analysis from NOAA Fisheries which suggests these modifications are not expected to result in an overage of the sub-ACLs for Gulf of Maine cod and haddock.

Specifically, for the 2022 fishing year, the bag limit for Gulf of Maine haddock is increased from 15 fish to 20 fish; the season and minimum size for haddock remain unchanged. For Gulf of Maine cod, the minimum size is increased from 21 inches to 22 inches and the fishing season is expanded such that cod can be harvested from April 1 -14 and from September 1 – October 7, inclusive. This season applies to both private and for-hire recreational anglers, re-aligning the seasons for these two sectors. The 1 fish bag limit for Gulf of Maine cod remains unchanged.

Importantly, this action ensures compliance with the federal fishery management plan. It also expands recreational fishing opportunities for these species in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish measures for Gulf of Maine cod and haddock in accordance with 12 MRS §6171(3)(C).

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: Chapter 34.06 Emergency Rulemaking to Adjust Recreational Groundfish Measures for Cod and Haddock

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 fishery 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 bag limit for Gulf of Maine haddock while expanding the fishing season and increasing the minimum size for Gulf of Maine cod. The rule also re-aligns the Gulf of Maine cod fishing seasons for private and for-hire recreational anglers. This rule is expected to increase 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 final rule issued by NOAA Fisheries which set fishing year 2022 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.