

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34 Groundfish Regulations. Recreational Cod Federal Compliance Emergency Rule-Making

CONCISE SUMMARY:

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2016, the Department is enacting emergency rulemaking for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been taken off the prohibited list and it is now lawful 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 to July 31 inclusive. For cod fish, the size limit of 24" (60.1 cm) will apply. In addition to complying with federal law, this emergency regulation will also increase fishing opportunity in Maine State waters. The rule implements NMFS's increase of recreational possession limits for Haddock from 3 to 15 fish. Finally, restrictions on recreational haddock possession are being shifted, so that haddock may not be possessed on board a recreational fishing from March 1 through April 14, whereas the rule had restricted recreational haddock possession in both the fall and spring months.

As authorized by 12 M.R.S. 6171(3), the Commissioner of Marine Resources adopts this regulation.

EFFECTIVE DATE: May 7, 2016

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DEPARTMENT OF MARINE RESOURCES

CHAPTER 34 - GROUND FISH

TITLE INDEX

34.05 Groundfish Spawning Closure in Boothbay and Sheepscot Bay

34.10 Maine Groundfish Management Plan

Chapter 34 - Groundfish Regulations

34.05 Groundfish Spawning Closure in Boothbay and Sheepscot Bay

1. Definitions

A. Groundfish. "Groundfish" means all demersal species including, but not limited to, all those species listed in Appendix A attached hereto.

B. Closure.

It shall be unlawful to fish for or take groundfish with any type of gear, or to possess groundfish so taken, from the following described area from May 1 through June 30 of any year:

In Boothbay, Sheepscot Bay, Linnekin Bay and Sheepscot River, in Lincoln and Sagadahoc Counties, starting at the Sloop Ledge navigational buoy C "1"; southerly to the navigational buoy at the Sisters N "4S"; then southerly to the navigational buoy N "2" at Tom Rock; then continuing on a line true south (180 degrees true) approximately 1.8 miles to a point (Loran Bearings 13077.6, 25914.4 and 44541.6) intersecting a line drawn from the Mile Ledge Bell Buoy R "20ML" to the Bantam Rock Bell R "2"; then continuing in an easterly direction (068 degrees true) along said line from the Mile Ledge Bell Buoy to the Bantam Rock Bell Buoy approximately 4.5 miles to the Bantam Rock Bell; then northerly along the western shore of Damariscove Island to and along the western shore of Fisherman Island to its northern tip; then northerly to the navigational buoy C "1"; then continuing northerly to the southern tip of Ocean Point on Linnekin Neck.

See Also Groundfish harvesting and gear restrictions found in Department of Marine Resources Regulations 55.35 and 55.40.

34.10 Maine Groundfish Management Plan

1. Groundfish Management Plan

A. Definitions

(1) Cod end.

"Cod end" means the terminal section of a trawl net in which captured fish may accumulate.

(2) Gillnet.

(a) "Sink Gillnet" means any gillnet ("stand-up" or "tie-down"), anchored or otherwise, that is designed to be capable of being, or is fished on or near the bottom in the lower third of the water column.

(b) "Bait Gillnet" means a gillnet that has less than 3.5 inches diamond or square stretch mesh throughout the entire net, is suspended in the water column and has a maximum length of 2,000 feet.

(3) Commercial catch.

"Commercial catch" means all multispecies taken with any type of gear except multispecies taken for personal use by hand-held hook and line gear.

- (4) Regulated species.
"Regulated species" means cod, witch flounder, American plaice, Atlantic halibut, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, ocean pout and white hake for the purposes of this management plan.
- (5) Methods of mesh measurements.
- (a) Gillnets. Mesh size of gillnet gear shall be measured by lining up five consecutive knots perpendicular to the float line and, with a ruler or tape measure, measuring ten consecutive measures on the diamond, inside knot to inside knot. The mesh shall be the average of the measurements of ten consecutive measures.
- (b) All other nets. With the exception of gillnets, mesh size shall be measured by a wedged-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 8 kg (17.64 lb).
- (i) Square-mesh measurement. Square mesh in the regulated portion of the net is measured by placing the net gauge along the diagonal line that connects the largest opening between opposite corners of the square. The square mesh size is the average of the measurements of 20 consecutive adjacent meshes from the terminus forward along the long axis of the net. The square mesh is measured at least five meshes away from the lacings of the net. Square mesh measurements are applied to the first 100 bars, counting from the terminus of the net, for vessels greater than 45 feet (13.7 m) in length overall, and applied to the first 50 bars, counting from the terminus of the net, for vessels 45 feet (13.7 m) or less in length overall.
- (ii) Diamond-mesh measurements. Diamond mesh in the regulated portion of the net is measured running parallel to the long axis of the net. The mesh size is the average of the measurements of any series of 20 consecutive meshes. The mesh is measured at least five meshes away from the lacings of the net. Diamond mesh measurements are applied to the first 50 meshes, counting from the terminus of the net, for vessels greater than 45 feet (13.7 m) in length overall and applied to the first 25 meshes for vessels 45 feet (13.7 m) or less in length overall.
- (6) Marine species
"Marine species" means all marine animals except lobster, shellfish, marine worms and elvers.
- (7) Recreational fishing.
"Recreational fishing" means fishing that is not intended to, nor does it result in the barter, trade, or sale of fish.
- (8) Total length.
"Total length" means from the tip of the snout to the tip of the tail.
- (9) Charter or party boat.
Charter or party boat means any vessel that carries passengers for hire to engage in recreational fishing.
- (10) Recreational fishing vessel.

“Recreational fishing vessel” means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats are not considered recreational fishing vessels.

B. Size, Possession and Gear Restrictions

(1) Commercial - size, possession and gear restrictions

(a) All commercial vessels are subject to the following minimum fish sizes:

Minimum Fish Sizes (TL)	
Species	Size Inches (cm)
Cod.....	19 (48.3 cm)
Haddock.....	16 (40.7 cm)
Pollock.....	19 (48.3 cm)
Witch Flounder (gray sole).....	13 (33.0 cm)
Yellowtail Flounder.....	12 (30.5 cm)
American plaice (dab).....	12 (30.5 cm)
Atlantic halibut.....	41 (104.1 cm)
Winter Flounder (blackback).....	12 (30.48 cm)
Redfish.....	7 (17.8 cm)
Summer Flounder.....	14 (35.6 cm)

(b) The minimum fish size applies to the whole fish or any part of a fish while possessed on board a vessel, except as provided in paragraph (c) of this section, and to whole fish only, after landing. Fish or parts of fish must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. “Skin on” means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed.

(i) Winter flounder

It shall be unlawful for persons who do not possess a federal groundfish permit to fish for, take, possess or land more than 500 lbs (226.8 kg) of winter flounder per vessel, per day.

(c) Exceptions:

(i) Each person aboard a vessel may possess up to 25 lb. of fillets that measure less than the minimum size, if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter. The exception, Chapter 34.10(1)(B)(1)(c)(i), shall not include Atlantic halibut.

(ii) Vessels fishing exclusively with pot gear may possess multispecies racks used, or to be used, as bait that measure less than the minimum fish size, if there is a receipt for the purchase of those racks on board the vessel.

(d) Limits – summary table

Cod:	200 lbs (90.7 kg), vessel trip limit	Ch. 34.10 (1)(C)(6)
Monkfish:	150 lbs (68 kg) of monkfish tails or 498 lbs (225.9 kg) of whole monkfish per vessel trip	Ch. 34.10(1)(4)(d)(ii)
Winter flounder:	500 lbs (226.8 kg), per vessel, per day	Ch. 34.10(1)(B)(1)(b)(i)

(e) Prohibited species

Commercial vessels are prohibited from taking or landing ocean pout, windowpane flounder and Atlantic wolffish.

(2) Recreational - size, possession and gear restrictions

(a) 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.....	24 (60.1 cm)
Haddock.....	17 (43.2 cm)
Pollock.....	19 (48.3 cm)
Witch Flounder (gray sole).....	14 (35.6 cm)
Yellowtail Flounder.....	13 (33.0 cm)
American plaice (dab).....	14 (35.6 cm)
Atlantic halibut.....	41 (104.1 cm)
Winter Flounder (blackback).....	12 (30.5 cm)
Redfish.....	9 (22.9 cm)
Summer Flounder.....	20 (50.8 cm)

(b) Exception

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, Chapter 34.10(1)(B)(2)(b), shall not include Atlantic halibut.

(c) Possession restrictions

Each person on board a charter, party or recreational fishing vessel may not possess more than 8 winter flounder per day.

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 to July 31 inclusive.

Each person on board a charter, party or recreational fishing vessel may not possess more than 3 15 haddock per day and shall comply with the following restrictions:

- (i) 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.
- (ii) 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 violation shall be deemed to have been committed by the owner or vessel operator.
- (iii) Haddock must be stored so as to be readily available for inspection.
- (iv) Haddock may not be possessed on board a charter, party or recreational fishing vessel from ~~September 1 through November 30 inclusive~~ and March 1 through April 30 14 inclusive.

Basis Statement

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2016, the Department is enacting emergency rulemaking for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been taken off the prohibited list and it is now lawful 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 to July 31 inclusive. For cod fish, the size limit of 24" (60.1 cm) will apply. In addition to complying with federal law, this emergency regulation will also increase fishing opportunity in Maine State waters. The rule implements NMFS's increase of recreational possession limits for Haddock from 3 to 15 fish. Finally, restrictions on recreational haddock possession are being shifted, so that haddock may not be possessed on board a recreational fishing from March 1 through April 14, whereas the rule had restricted recreational haddock possession in both the fall and spring months.

As authorized by 12 M.R.S. 6171(3), the Commissioner of Marine Resources adopts this regulation.

Summary of Comments

NA

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: Chapter 34

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

DATE AND PLACE OF PUBLIC HEARING: NA

COMMENT DEADLINE: NA

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

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2016, the Department is enacting emergency rulemaking for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been taken off the prohibited list and it is now lawful 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 to July 31 inclusive. For cod fish, the size limit of 24" (60.1 cm) will apply. In addition to complying with federal law, this emergency regulation will also increase fishing opportunity in Maine State waters. The rule implements NMFS's increase of recreational possession limits for Haddock from 3 to 15 fish. Finally, restrictions on recreational haddock possession are being shifted, so that haddock may not be possessed on board a recreational fishing from March 1 through April 14, whereas the rule had restricted recreational haddock possession in both the fall and spring months.

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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)]

The emergency rule puts in place changes in groundfish regulations that will bring Maine into line with federal law.

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]

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

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