

## NOTICE OF AGENCY RULE-MAKING ADOPTION

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 34 Groundfish Regulations. Recreational Cod, Haddock and Pollock Federal Compliance and Technical Changes.

**ADOPTED RULE NUMBER:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:** In accordance with the New England Fisheries Management Council (NEFMC) and for consistency with the National Marine Fisheries Service (NMFS) federal regulations, the Department adopts changes for charter, party and recreational vessels operating in state waters regarding cod, haddock and pollock. A zero (0) possession limit is adopted for cod. In 2016 recreational fishermen exceeded their sub-ACL of cod by 92%. Therefore, the NEFMC recommended zero (0) possession of cod on all charter, party and recreational vessels. Recreational possession limits for haddock are decreased from 15 to 12 fish along with a new closed season for the fall, in addition to the existing spring closure. In 2016 recreational fishermen exceeded their 2016 sub-ACL of haddock by 15%. Therefore, the NEFMC recommended that recreational haddock possession be further restricted. For pollock, possession limit and the minimum size limit of 19" (48.3 cm) are removed for consistency with adjacent state recreational fisheries & to provide additional fishing opportunities to the fleet, as the pollock resource is currently considered to be in a healthy state.

**EFFECTIVE DATE:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573  
**AGENCY NAME:** Department of Marine Resources  
**ADDRESS:** 21 State House Station  
Augusta, Maine 04333  
**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>  
**E-MAIL:** [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)  
**TELEPHONE:** (207) 624-6573  
**FAX:** (207) 624-6024  
**TTY:** (207) 633-9500 (Deaf/Hard of Hearing)

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

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, Cod, and 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.....		24 (60.1 cm)
American plaice (dab).....		14 (35.6 cm)
Haddock.....		17 (43.2 cm)
Monkfish.....		17 (43.2 cm)
Pollock.....		19 (48.3 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.

~~(b) Notwithstanding the minimum size for Pollock a person may take or possess up to, but not more than, twelve (12) Pollock per day which are less than 19 inches total length.~~

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~~ 12 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 to July 31 inclusive.~~

## **Basis Statement**

In compliance with the New England Fisheries Management Council (NEFMC) and the National Marine Fisheries Service (NMFS) federal regulations, the Department proposed changes for charter, party and recreational vessels operating in state waters regarding cod, haddock and pollock. In 2016 recreational fishermen exceeded their sub-ACL of cod by 92%. The NEFMC recommended zero (0) possession of cod on all charter, party and recreational vessels. Therefore, a zero (0) possession limit is adopted for cod. Recreational possession limits for haddock are decreased from 15 to 12 fish along with a new closed season for the fall, in addition to the spring closure. While the original rulemaking proposed a season closure for an expanded time period, which encompassed both options which were being considered in the federal proposal (September 1 through October 31 annually), the final closure period has been reduced to ensure consistency with what has been adopted federally, which is September 17 through October 31 annually. In 2016 recreational fishermen exceeded their 2016 sub-ACL of haddock by 15%. Therefore, the NEFMC recommended that recreational haddock possession be further restricted. For pollock, possession limit and the minimum size limit of 19" (48.3 cm) is removed for consistency with adjacent state recreational fisheries and to provide additional fishing opportunities for the fleet, as the pollock resource is considered to be in a healthy state.

## **Summary of Comments**

Notice of this proposed rulemaking appeared on June 7, 2017 in the five major daily newspapers as published by the Secretary of State. On June 7, 2017 the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. The public hearing was advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and was held on June 26, 2017 at 4pm in the DMR conference room. The comment period closed July 7, 2017.

No members of the public attended the hearing. One comment was provided in opposition to the rule.

### **Opposed to the proposed regulation:**

Chris Ura-neck, Freeport, Maine

Received via email on June 19, 2017

*My comments are my own opinion and do not necessarily reflect that of my employer.*

*In this proposed rule making I am most concerned with the changes to the recreational pollock regulations. The proposed change would allow unlimited harvest of pollock. While the pollock population is currently considered healthy there are some troubling signs that I think you should be aware of. While the number of fish remains strong, the average size of the fish may be decreasing. I ride along on several headboats which fish out of Maine. Each day they have a daily prize for the largest fish caught on the boat. When I began riding on these boats, ten years ago, the winner would usually be a 20 lb fish, often a pollock or cod. Now the daily winner is around 10 lbs.*

*I also ride along on several headboats that target harbor pollock (pollock less than 19") and mackerel. Very often they catch their limit of these small pollock (which is currently 12 fish per person in Maine territorial seas). Over the course of a season this adds up to tens of thousands*

*of fish. If they are allowed to harvest an unlimited number of pollock this could have some negative consequences, including some localized depletion of pollock.*

*With the recent restrictions to cod and haddock fishing this has caused increased fishing pressure on pollock from both the commercial and recreational sectors.*

*The current law in Maine says that the minimum size is 19" with no bag limit but " A creel limit of 12 pollock per person per day that are under 19 inches is allowed for recreational anglers in Maine territorial seas". To me this seems reasonable. Allowing the fish to reach 19 inches allows them a chance to reproduce and sustain the population. And allowing 12 fish under 19 inches puts some limit on the number of these small fish being harvested. Why do you need more than 12 harbor pollock? 12 fish is plenty for the use of striper bait or personal consumption.*

*The reasoning that our regulations need to be consistent with our neighboring states does not seem adequate to me. Much of the Maine coast is much different than both New Hampshire and Massachusetts. There must be some biological reasoning behind this. And while currently the pollock population is not considered overfished and overfishing is not occurring if we wait until it is it will take a long time for the population to recover. Having an unlimited harvest of juvenile fish does not seem like a good decision. I believe that there should be no change to the current pollock regulations.*

**Department's response to the comment:**

As the commenter notes, pollock is not overfished, not experiencing overfishing, and is fully rebuilt. Due to the restrictions imposed on recreational harvest of cod and haddock, the Department has determined that it is appropriate to ensure that recreational, for-hire and party charter fishermen in Maine are not disadvantaged as compared to their counterparts in New Hampshire and Massachusetts. Currently, there are no limits on the number of fish that can be taken in federal waters by recreational fishermen, and in Fishing Year 2015, the most recent year for which there are final year-end catch reports, only 25% of the total pollock Annual Catch Limit was harvested.

# 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; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 34

STATUTORY AUTHORITY: 12 M.R.S. §6171

DATE AND PLACE OF PUBLIC HEARING: **June 26, 2017** 4:00 PM, DMR Conference Room #118, Marquardt Building, 32 Blossom Lane, Augusta

COMMENT DEADLINE: **July 7, 2017**

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

In accordance with the New England Fisheries Management Council (NEFMC) and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 25, 2017, the Department proposes changes for the charter, party and recreational vessels operating in state waters regarding cod, haddock and pollock.

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)]

A zero (0) possession limit is being proposed for cod. In 2016 recreational fishermen exceeded their 2016 sub-ACL of cod by 92%. Therefore, the NEFMC recommended zero possession of cod on all recreational trips by both private as well as party and charter vessels which was based on the best available scientific advice. Recreational possession limits for haddock decrease from 15 to 12 fish and a new closed season for haddock will be implemented in the fall in addition to the existing spring closure. In 2016 recreational fishermen exceeded their 2016 sub-ACL of haddock by 15%. Therefore, the NEFMC recommended that recreational haddock possession be further restricted. For pollock, the regulation proposes to remove possession limit and the minimum size limit of 19" (48.3 cm) to be consistent with other adjacent state recreational fisheries and to provide additional fishing opportunities to the fleet as the pollock resource is currently considered to be in a healthy state.

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 regulation proposes for party, charter and recreational fishing vessel a zero (0) possession limit for cod, reducing the possession limit for haddock from 15 to 12 fish as well as the implementation of a haddock possession restriction in the fall and to remove the minimum size and possession limits for pollock in state waters. It is proposed to ensure consistency with federal regulation [NOAA-NMFS-2017-0048](https://www.federalregister.gov/documents/2017/05/25/2017-10703/magnuson-stevens-fishery-conservation-and-management-act-provisions-fisheries-of-the-northeastern) which was proposed on May 25, 2017 (<https://www.federalregister.gov/documents/2017/05/25/2017-10703/magnuson-stevens-fishery-conservation-and-management-act-provisions-fisheries-of-the-northeastern>) and became effective July 27, 2017 [Docket No. 161220999-7682-02].

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.

**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)]