

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

Leave Blank

APR 27 1982

82-80

SECRETARY OF STATE

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188
3. Title of rule(s): Groundfish spawning closure in Booth Bay and Sheepscot Bay
4. Number assigned to the rule(s): 34.05
5. Date(s)/method(s) of notice: Commercial Fisheries News - April issue published March 10, 1982
Bangor Daily News/Portland Press Herald - March 10, 1982
6. Date(s)/place(s) of hearing(s): March 29, 1982, 7 p.m. Wiscasset High School, mini-auditorium, Wiscasset, Maine

7. Type of rule:
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Kenneth Honey
9. Certification Statement: I,.... Spencer Apollonio....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Commissioner and adopted by the Advisory Council on April 22, 1982

Signature

Printed Name & Title Spencer Apollonio, Commissioner

10. Approved as to form and legality by the Attorney General on

Signature

Printed Name Cabanne Howard

* Signed by Deputy Commissioner during absence of Commissioner, pursuant to 12 M.R.S.A. §6023.

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES REGULATIONS
CHAPTER 34

34.05 Groundfish Spawning Closure in Booth Bay and Sheepscot Bay.

A. Definitions.

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 Booth Bay, 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.

C. Expiration.

This regulation shall expire on June 30, 1983.

EFFECTIVE DATE: May 2, 1982

See Also.

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

APPENDIX
GROUNDFISH SPECIES

<u>Common English Name</u>	<u>Scientific Name</u>
Atlantic cod	<u>Gadus morhua</u>
Haddock	<u>Melanogrammus aeglefinus</u>
North Atlantic redfishes	<u>Sabastes spp.</u>
Silver hake	<u>Merluccius bilinearis</u>
Red hake	<u>Urophycis chuss</u>
Pollock (Saithe)	<u>Pollachius virens</u>
Redfish	<u>Sabastes marinus</u>
American plaice (Dab)	<u>Hippoglossoides platessoides</u>
Witch flounder (Gray sole)	<u>Glyptocephalus cynoglossus</u>
Yellowtail flounder	<u>Limanda ferruginea</u>
Greenland halibut	<u>Reinhardtius hippoglossoides</u>
Atlantic halibut	<u>Hippoglossus hippoglossus</u>
Winter flounder (Lemon sole)	<u>Pseudopleuronectes americanus</u>
Summer flounder	<u>Paralichthys dentatus</u>
Windowpane flounder	<u>Scophthalmus aquosus</u>
American angler (Goosefish)	<u>Lophius americanus</u>
Atlantic searobins	<u>Prionotus spp.</u>
Atlantic tomcod	<u>Microgadus tomcod</u>
Cunner	<u>Tautogolabrus adspersus</u>
Cusk (Tusk)	<u>Brosme brosme</u>
Ocean pout	<u>Macrozoarces americanus</u>
Sandeels (Sand lances)	<u>Ammodytes spp.</u>
Scorpions	<u>Myoxocephalus spp.</u>
White hake	<u>Urophycis tenuis</u>
Wolffishes (Catfishes)	<u>Anarhichas spp.</u>
Atlantic wolffish	<u>Anarhichas lupus</u>

Groundfish Spawning Closure
Booth Bay and Sheepscot Bay
Basis Statement

As authorized by 5 M.R.S.A. §8052 and 12 M.R.S.A. §§6171 and 6191, the Commissioner of Marine Resources with the advice and consent of the Department's Advisory Council adopts this regulation to protect and give refuge to spawning populations of cod and other groundfish that concentrate in Booth Bay and Sheepscot Bay each year.

This regulation makes it unlawful to fish for or take groundfish from any vessel from May 1 to June 30 inclusive in portions of Sheepscot Bay and Booth Bay.

This closure area is widely recognized as a major spawning ground for codfish, and it could be one of the last sizeable spawning areas remaining on the Maine coast.

For the past few years the Sheepscot/Booth Bay area has experienced heavy commercial fishing pressure. The vessels fishing on this spawning ground are not only local, but also come from far distances, including large two-boat and mid-water trawlers. Sizeable reductions in the total landings of cod and other groundfish from this area during May and June for the past few years have been reported by local experienced fishermen who have fished in this area. These fishermen report the numbers of cod congregating in this area are presently only a fraction of what was there a number of years ago.

During the past few months several fishermen have contacted the Department expressing their concerns over the apparent diminishing of spawning cod and other groundfish utilizing this area. These same individuals have suggested some sort of closure or restrictions in this area.

At the public hearing, it was suggested by several fishermen to extend the proposed closure area to the State's three-mile limit. However, this suggestion was not incorporated into the regulation because the Department felt some of the smaller, less sophisticated vessels would have difficulties complying with and recognizing the closure lines. Also the Department would have some enforcement problems with this type of irregular closure lines. Another suggestion received at the public hearing was to exempt an area adjacent to Tows Rock to the spawning closure. Fishermen pointed out that this area has traditionally supported an important flatfish fishery for smaller vessels and spawning codfish are seldom, if ever, found in this shallow, flat, sandy area. The Commissioner and the Department's Advisory Council recognized the serious economic consequences of including this area in the closure regulations. The adopted spawning groundfish closure area exempts this area from the regulation.

The fishermen attending the hearing, for the most part, recognized and expressed concern for the diminishing numbers of cod and other groundfish found in this spawning area each spring. These same fishermen also expressed some concern over the potential loss of revenue usually gained from this fishery, but were willing to make sacrifices to protect the spawning populations of cod and other groundfish.

There will be no additional costs to the State by the adoption of this regulation as existing enforcement personnel will monitor the waters off the coast while conducting their routine patrols.

STATE OF MAINE

Inter-Departmental Memorandum Date May 3, 1982

To Lucille Weeks, Administrative Dept. Secretary of State
Procedure Officer

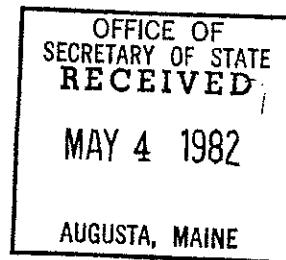
From Roger L. Allen, Chief of Marine Dept. Marine Resources
Patrol

Subject Typographical Error

Please note that the regulation filed on April 27th (34.05 Groundfish Spawning Closure in Booth Bay and Sheepscot Bay) is invalid and has been withdrawn and replaced with a new regulation (34.05 Groundfish Spawning Closure in Boothbay and Sheepscot Bay) and filed on April 30, 1982.

A typographical error has been noted in the regulation filed on April 30. It is in 34.05 B Closure. The error is in the 15th typewritten line in parentheses. The regulation was typed to read (u68 degrees true) and should read (068 degrees true). I ask that you take whatever steps are available to you to make the correction to the regulation. I have enclosed a corrected page.

RLA/lc
cc: Spencer Apollonio
Libby Butler



Leave Blank

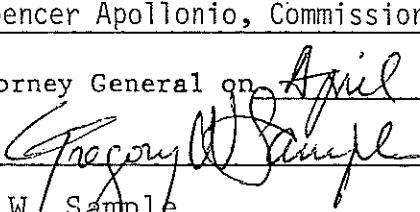
TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

82-85

ACCEPTED FOR
FILEING

APR 30 1982

SECRETARY OF STATE

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188
3. Title of rule(s): Groundfish spawning closure in Booth Bay and Sheepscot Bay
4. Number assigned to the rule(s): 34.05
5. Date(s)/method(s) of notice: Commercial Fisheries News - April issue
published March 10, 1982
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6. Date(s)/place(s) of hearing(s): March 29, 1982, 7 p.m. Wiscasset High School,
mini-auditorium, Wiscasset, Maine
7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Kenneth Honey
9. Certification Statement: I, Spencer Apollonio, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Commissioner and adopted by the Advisory Council on April 22, 1982.
- Signature 
Printed Name & Title Spencer Apollonio, Commissioner
10. Approved as to form and legality by the Attorney General on April 30, 1982
- Signature 
Printed Name Gregory W. Sample

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES REGULATIONS
CHAPTER 34

34.05 Groundfish Spawning Closure in Booth Bay and Sheepscot Bay.

A. Definitions.

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B. Closure.

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northerly to the southern tip of Ocean
Point on Linnekin Neck.

C. Expiration.

This regulation shall expire on June 30, 1983.

EFFECTIVE DATE: May 5, 1982

See Also.

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

APPENDIX
GROUNDFISH SPECIES

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Groundfish Spawning Closure
Booth Bay and Sheepscot Bay
Basis Statement

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There will be no additional costs to the State by the adoption of this regulation as existing enforcement personnel will monitor

STATE OF MAINE

Inter-Departmental Memorandum Date May 3, 1982

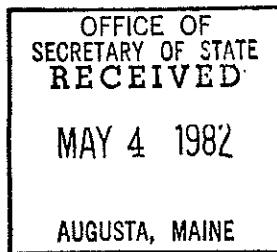
To Lucille Weeks, Administrative
Procedure Officer
From Roger L. Allen, Chief of Marine
Patrol
Subject Typographical Error

Dept. Secretary of State
Dept. Marine Resources

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RLA/lc
cc: Spencer Apollonio
Libby Butler



TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING
JUN 24 1982
SECRETARY OF STATE

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82-127

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188
3. Title of rule(s): Maine Groundfish Management Plan
4. Number assigned to the rule(s): 34.10
5. Date(s)/method(s) of notice: Proposed Rule; Commercial Fisheries News, May Issue, published mid-April, 1982. Portland Press Herald and Bangor Daily News, April 14, 1982. Final Rule: Commercial Fisheries News, August Issue, published July 12, 1982. Portland Press Herald and Bangor Daily News, June 30, 1982.
6. Date(s)/place(s) of hearing(s): May 4, 1982, Portland Public Safety Building, Portland.
7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Kenneth Honey 633-5572
9. Certification Statement: I, Spencer Apollonio....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Spencer Apollonio, Commissioner of Marine Resources on June 24, with the consent of the Advisory Council on May 22, 1982.
Signature Spencer Apollonio
Printed Name & Title Spencer Apollonio
Commissioner of Marine Resources
10. Approved as to form and legality by the Attorney General on June 24, 1982
Signature Cabanne Howard
Printed Name Cabanne Howard, Assistant Attorney General

Effective date: June 30, 1982.

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

June 25, 1982

Lucille Weeks
Administrative Procedure Officer
Secretary of State
Station 101
Augusta, ME 04333

Dear Lucille:

Enclosed for filing with the Secretary of State please find a final rule, "Maine Groundfish Management Plan". Please arrange for publication of this final rule in the State consolidated rule-making notice, as required by 5 M.R.S.A. § 8056(1)(D).

Please use the following summary in describing the rule in this final rule notice:

Maine Groundfish Management Plan

In order to compliment the new Atlantic Groundfish Management Plan adopted by the New England Fishery Management Council, the Commissioner of Marine Resources adopts the following regulations, applicable in Maine territorial waters: the minimum fish sizes of 17" for commercially caught cod and haddock, 15" for recreationally caught cod and haddock, and 11" for yellowtail flounder; minimum mesh size of 5-1/8" for all Maine territorial waters west of Monhegan Island, except that vessels using gill nets must use nets with a mesh of 5-1/2" or more; and small mesh option provisions, which allow the use of nets with less than 5-1/8" mesh size under certain conditions.

Lucille Weeks
Secretary of State
Page Two
June 25, 1982

I understand that this rule will become effective on June 30, 1982, five days after filing in your office today, June 25, 1982.

Thank you for your assistance,

Very truly,

Elizabeth R. Butler

ELIZABETH R. BUTLER
Assistant Attorney General

ERB/glm
Enc.

cc: Kenneth Honey
Spencer Apollonio

DEPARTMENT OF MARINE RESOURCES

34.10 Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear, except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements of any series of twenty consecutive meshes in the cod end. The cod end shall be measured at least ten meshes from the lacings, beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

In all Maine waters it shall be unlawful to retain on board a vessel, land or possess the following:

commercial catch cod and haddock less than 17 inches total length; recreational catch cod and haddock less than 15 inches total length; or yellowtail flounder less than 11 inches total length.

C. Maine waters from the New Hampshire border to 69° 20' W.

1. Minimum mesh size.

In Maine territorial waters west of a line beginning where the shore intersects 69°20'W and ending where 69°20' intersects the outer limit of Maine territorial waters, vessels using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, must use nets having cod ends with mesh of at least 5-1/8 inches, unless such vessels are exempted under the provisions of the optional settlement program. Vessels using gill nets within the area specified above must use nets having mesh of at least 5-1/2 inches.

2. Optional settlement program.

A fisherman engaged in fishing with an otter trawl, pair trawl, beam trawl, Scottish seine, mid-water trawl or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, for silver hake, red hake, redfish, squid, northern shrimp, herring, mackerel, dogfish or any other species that the Regional Director shall specify as legitimately taken with small mesh gear, may register with the Regional Director his intent to fish for the above species for a specified period of time. During that period he may use mesh smaller than the legal size, provided that at least 50% of his total catch by round weight for the specified period consists of the above species and that no more than 15% (or any other percentage specified by the Regional Director) of his total catch by weight, consists of groundfish.

3. Documentation.

Anyone engaged in fishing under the optional settlement program will be required to keep a record of his catch by species and by weight

and surrender such a record to the National Marine Fisheries Service upon completion of the declared period. Documentation shall be submitted on NOAA form 88-153 or other forms specified by the National Marine Fisheries Service.

4. Fishing for groundfish in the optional settlement program.

During the time he is in the optional settlement program, a fisherman may have his groundfish catch exempted from the 15% maximum catch limit set forth in subsection 2 above, if the fisherman complies with the following requirements:

- a. The fisherman shall call the Chief of Marine Patrol, Department of Marine Resources, (207-289-2291), during normal business hours and give his name, the vessel name, permit number and state that he is in the optional settlement program and will fish with only the regular mesh described in C(1) above for a specified number of days;
- b. The fisherman shall, during the period specified in subparagraph a, have only the regulation mesh size described in C(1) above on board between the time he leaves the dock and returns; and
- c. The fisherman shall at the end of his optional settlement period, request that the Department send to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, a certification of the time period during which the fisherman should be exempted from optional settlement restrictions.

5. Department records.

- a. The Department shall maintain a log of all optional settlement exemption requests from fishermen and send written confirmation of the requests to the requesting fishermen as soon as possible.
- b. The Department shall maintain a current list of fishermen exempted from optional settlement requirements. Names will be removed automatically from this list at the end of

the exemption time period requested by the fisherman, unless the fisherman contacts the Department to request a modified exemption time period.

6. Enforcement

The Department periodically shall board vessels participating in the optional settlement exemption program in order to ensure compliance with these regulations.

D. Regulation supplementation

In the event that the Regional Director, National Maine Fisheries Service, Gloucester, designates additional types of gear pursuant to C(1) or (2) above, specifies additional species qualifying for use of small mesh size gear in the optional settlement program pursuant to C(2) above, or specifies additional forms of documentation acceptable under C(3) above, the Department shall file written confirmation of this action from the Regional Director with the Maine Secretary of State as a supplement to this rule.

EFFECTIVE DATE: June 30, 1982

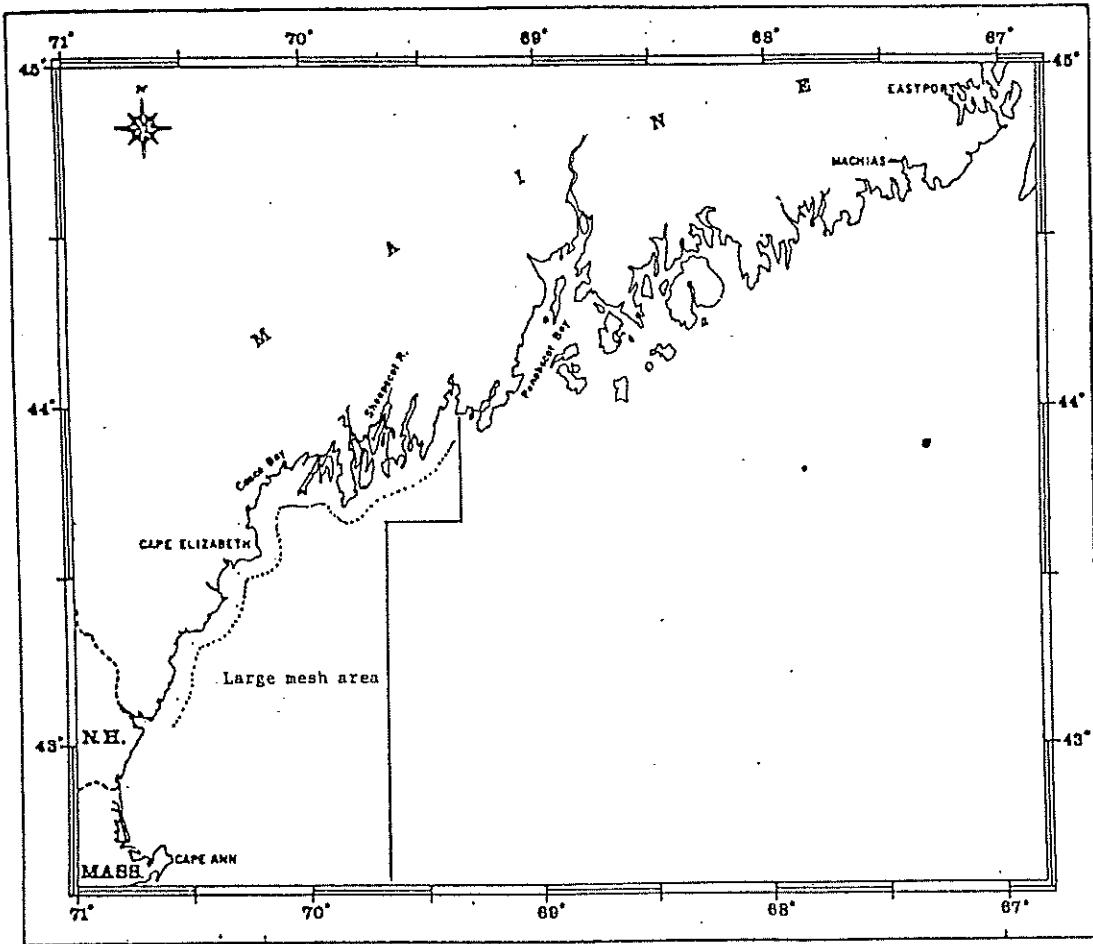


Figure 1. Area in which mesh regulation will apply. Dotted line represents state/federal boundary.

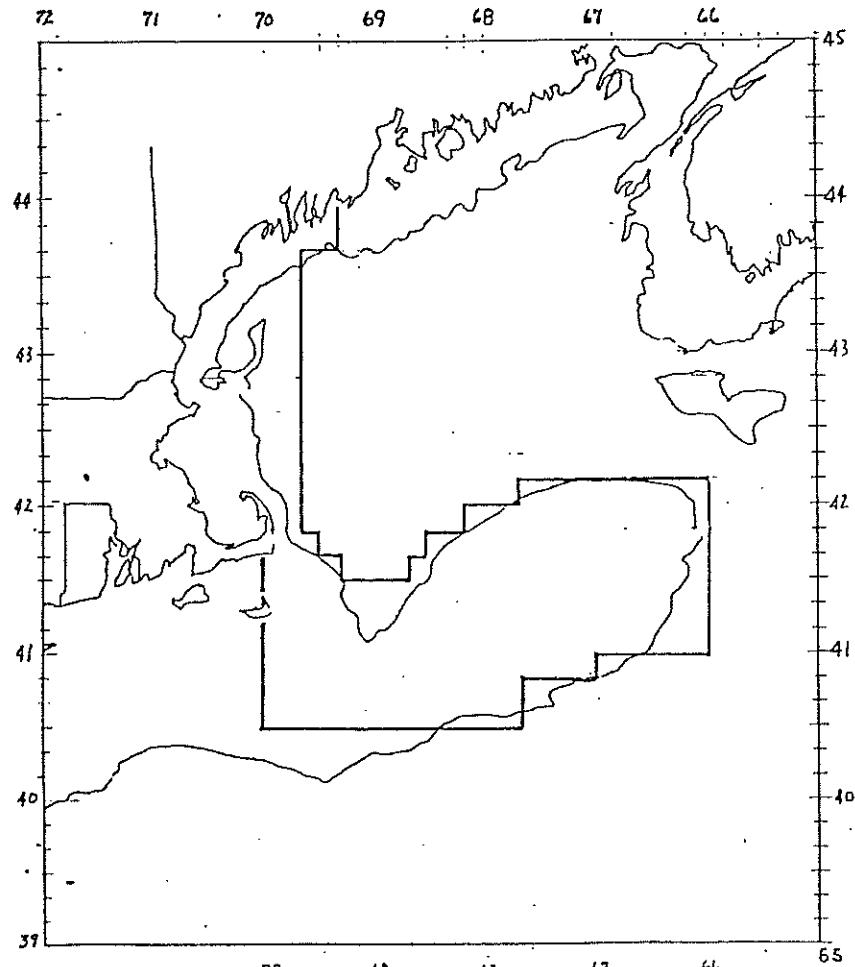


Figure 2. Total area in which large mesh regulations now apply.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

APR 21 1983

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83-83

SECRETARY OF STATE

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188
3. Title of rule(s): 1983 Amendment to Maine Groundfish Management Plan
4. Number assigned to the rule(s): 34.10(C)(1)
5. Date(s)/method(s) of notice: Proposed rule: March issue Commercial Fisheries News; Feb. 16, 1983 issues Bangor Daily News, Portland Press Herald; Final rule: June issue Commercial Fisheries News Portland Press Herald, Bangor Daily News
6. Date(s)/place(s) of hearing(s): March 11, 1983, 2:30 P.M. Samoset Inn, West Rockport, Me.
7. Type of rule:
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey, Department of Marine Resources West Boothbay Harbor, Me. (633-5572)
9. Certification Statement: I,....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Spencer Apollonio, Commissioner on April 20, 1983 after approval by the Advisory Council on April 6, 1983.
Signature Spencer Apollonio
Printed Name & Title Spencer Apollonio, Commissioner
10. Approved as to form and legality by the Attorney General on April 21, 1983
Signature Paul Stern
Printed Name PAUL STERN
ASSISTANT ATTORNEY GENERAL

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan

A. Definitions.

1. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similiar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of ten consecutive meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

In all Maine waters it shall be unlawful to retain on board a vessel, land or possess the following:

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

commercial catch cod and haddock less than 17 inches total length; recreational catch cod and haddock less than 15 inches total length; or yellowtail flounder less than 11 inches total length.

C. Maine waters from the New Hampshire border to 69° 20' W.

1. Minimum mesh size.

In Maine territorial waters west of a line beginning where the shore intersects 69° 20' W and ending where 69° 20' intersects the outer limit of Maine territorial waters, vessels using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, must use nets having cod ends with mesh of at least 5-1/2 inches, unless such vessels are exempted under the provisions of the optional settlement program. Vessels using gill nets within the area specified above must use nets having mesh of at least 5-1/2 inches.

2. Optional Settlement Program.

A fisherman engaged in fishing with an otter trawl, pair trawl, beam trawl, Scottish seine mid-water trawl or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, for silver hake, red hake, redfish, squid, northern shrimp, herring, mackerel, dogfish or any other species that the Regional Director shall specify as legitimately taken with small mesh gear, may register with the Regional Director his intent to fish for the above species for a specified period of time. During that period he may use mesh smaller than the legal size, provided that at least 50% of his total catch by round weight for the specified period consists of the above species and that no more than 15% (or any other percentage specified by the Regional Director) of his total catch by weight, consists of groundfish.

3. Documentation.

Anyone engaged in fishing under the Optional Settlement Program will be required to keep a record of his catch by species and by weight

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulation

34.10. Maine Groundfish Management Plan (Cont.)

and surrender such a record to the National Marine Fisheries Service upon completion of the declared period. Documentation shall be submitted on NOAA form 88-153 or other forms specified by the National Marine Fisheries Service.

4. Fishing for groundfish in the Optional Settlement Program.

During the time he is in the optional settlement program, a fisherman may have his groundfish catch exempted from the 15% maximum catch limit set forth in subsection 2 above, if the fisherman complies with the following requirements:

- a. The fisherman shall call the Chief of Marine Patrol, Department of Marine Resources, (207-289-2291), during normal business hours and give his name, the vessel name, permit number and state that he is in the Optional Settlement Program and will fish with only the regular mesh described in C(1) above for a specified number of days;
- b. The fisherman shall, during the period specified in subparagraph a, have only the regulation mesh size described in C(1) above on board between the time he leaves the dock and returns; and
- c. The Fisherman shall at the end of his optional settlement period, request that the Department send to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, a certification of the time period during which the fisherman should be exempted from optional settlement restrictions.

5. Department records.

- a. The Department shall maintain a log of all optional settlement exemption requests from fishermen and send written confirmation of the requests to the requesting fishermen as soon as possible.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulation

34.10. Maine Groundfish Management Plan (Cont.)

- b. The department shall maintain a current list of fishermen exempted from optional settlement requirements. Names will be removed automatically from this list at the end of the exemption time period requested by the fisherman, unless the fisherman contacts the Department to request a modified exemption time period.

6. Enforcement.

The Department periodically shall board vessels participating in the optional settlement exemption program in order to ensure compliance with these regulations.

D. Regulation Supplementation.

In the event that the Regional Director, National Marine Fisheries Service, Gloucester, designates additional types of gear pursuant to C(1) or (2) above, specifies additional species qualifying for use of small size mesh gear in the Optional Settlement Program pursuant to C(2) above, or specifies additional form of documentation acceptable under C(3) above, the Department shall file written confirmation of this action from the Regional Director with the Maine Secretary of State as a supplement to this rule.

EFFECTIVE DATE: June 30, 1982

AMENDED: April 26, 1983

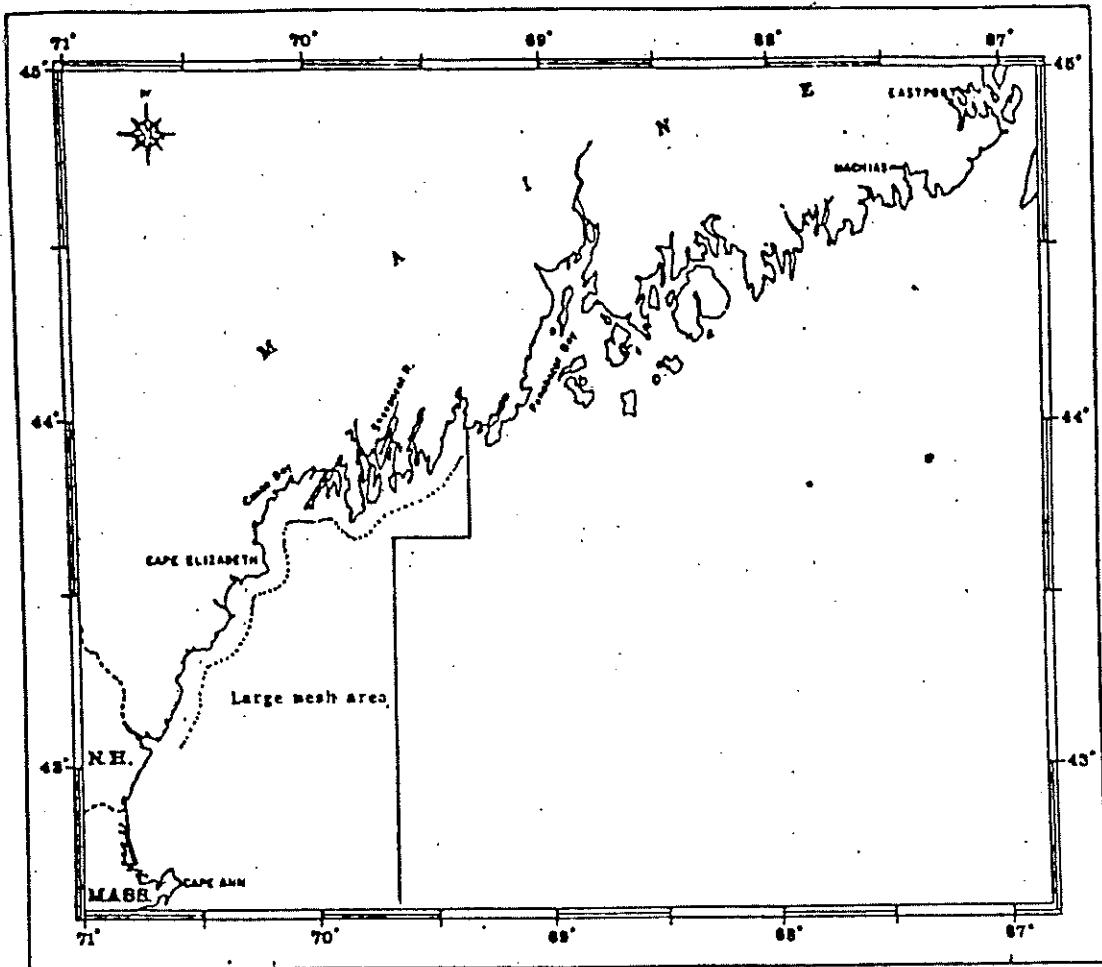
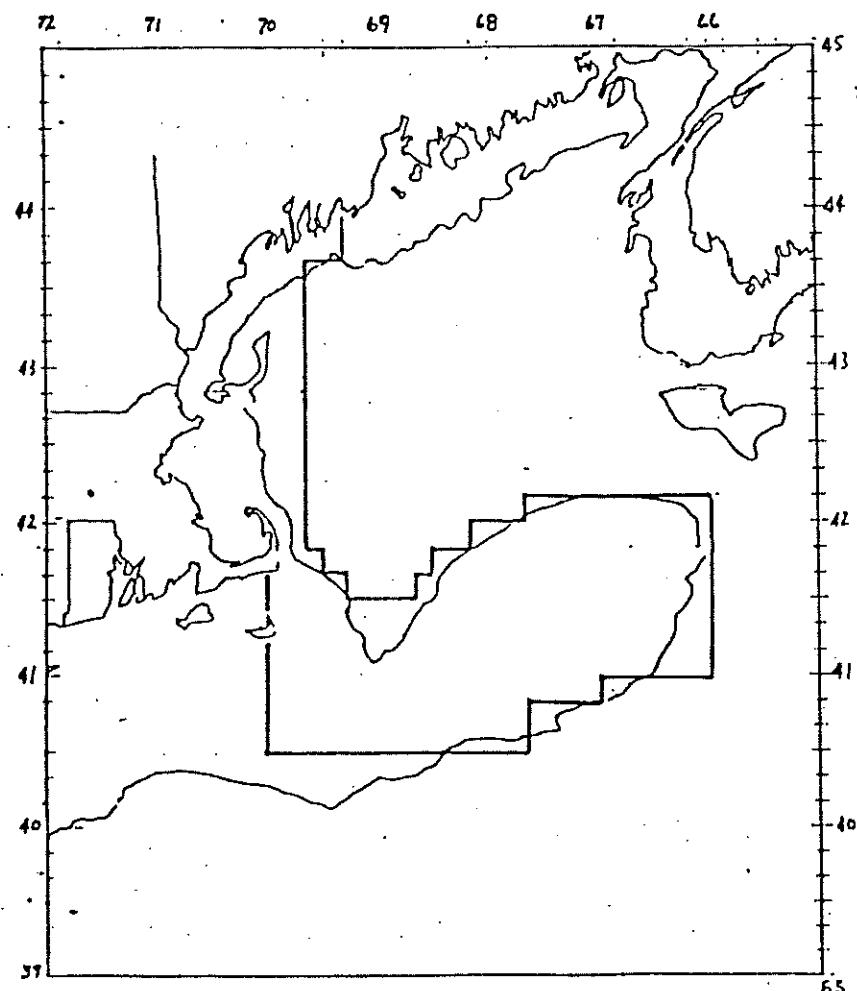


Figure 1. Area in which mesh regulation will apply. Dotted line represents state/federal boundary.



Maine Groundfish Management Plan

Basis Statement

As authorized by 5 M.R.S.A. § 8052 and 12 M.R.S.A. §§ 6171 and 6191, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, amends the Maine Groundfish Management Plan.

The Maine plan complements the Atlantic Groundfish Management Plan adopted by the New England Fishery Management Council and implemented in federal waters on March 31, 1982. The federal plan was developed during two years of extensive public meetings and represents a deregulation of the groundfish fishery in federal waters. The quotas and trip limits that had been most troublesome to the industry were replaced with a minimum fish size and a minimum mesh size in the fishermen's nets.

The Maine Groundfish Management Plan provides for a minimum size of 17 inches for commercially caught cod and haddock, 15 inches for recreationally caught cod and haddock, and 11 inches for yellowtail flounder. It limits the mesh size of a trawl's cod end in state waters west of 69°20'W. Finally, it provides a small mesh option, which allows the use of nets less than regulation size under specified conditions (optional settlement plan).

The amendment increases the minimum mesh size for the cod ends of otter trawls, pair trawls, beam trawls, scottish seines and mid-water trawls from 5 1/8 inches to 5 1/2 inches in Maine's territorial waters west of 69°20'W. The management plan for groundfish implemented by the New England Fishery Council in March 1982 provided for a step increase in the mesh size of trawl gear cod ends from 5 1/8 to 5 1/2 inches beginning April 1, 1983. This will allow escapement of first spawning

fish and thereby enhance the reproductive capability of the stocks. The success of this conservation measure depends on complementary measures in state waters. Maine implemented a 5 1/8 inch minimum mesh size in June, 1982 to conform to the initial minimum size in federal waters. This amendment increases the minimum mesh size in state waters to conform to the same increase in federal waters.

Public notice was made of the proposed rule change and one public hearing was held. Seven people testified at the hearing; three supported the regulation and four raised objections. The primary objections were that (1) small, but marketable, fish would be lost through the larger mesh, (2) because of the delay by the federal government in enforcing the initial 5 1/8 inch measure, the fleet was still using 4 or 4 1/2 inch mesh and the increase to 5 1/2 inches was coming too soon, and (3) a break of one bar in the 5 1/2 mesh would mean a substantial loss of fish in the cod end during a tow. A summary of the public comments are included in the rule making record.

The impact of the state's regulation on Maine's fishermen should be minimal because only about 10% of the groundfish landed in Maine come from state waters, however there will be impacts from the federal regulation as it applies to the more heavily fished areas of the Gulf of Maine. A certain percentage of small cod and haddock (17-19 inches) will escape the trawls and thereby represent a loss to fishermen. This will be offset to some extent by increased catches of larger fish due to the increased fishing efficiency of the larger mesh nets. There may also be some loss of small flounders that become unmarketable when they are forced through the meshes of the larger net.

The alternative action by the state of Maine to the 5 1/2 inch minimum mesh size in federal waters would be to remain at 5 1/8 inches. This alternative would weaken the conservation measures by allowing small cod, haddock and yellowtail flounder to be caught in state waters, it would provide a loophole to the enforcement of regulations in federal waters and it would invite preemption of groundfish management in state waters by the federal government. On the other hand, to increase the minimum mesh size in state waters would help ensure that the management measures for cod, haddock and yellowtail flounder would apply uniformly throughout the range of the species within the jurisdiction of the United States.

The Advisory Council of the Department of Marine Resources gave its consent to the proposed amendment on April 6, 1981 after recommending a change in the definition of "mesh size" (A. 4 in the regulations). The change, which clarifies the method by which meshes in the cod end will be measured, was incorporated into the final regulations.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

APR 12 1984

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84-11

SECRETARY OF STATE

1. Agency: * Department of Marine Resources
 2. Agency umbrella and unit #: 13-188
 3. Title of rule(s): Groundfish Spawning Closure in Booth Bay and Sheepscot Bay
 4. Number assigned to the rule(s): 34.05
 5. Date(s)/method(s) of notice: Public Notices: BANGOR DAILY NEWS and PORTLAND PRESS HERALD, February 8, 1984, and COMMERCIAL FISHERIES NEWS, March Issue. Final Rule, BANGOR DAILY NEWS, PORTLAND PRESS HERALD, and COMMERCIAL FISHERIES NEWS.
 6. Date(s)/place(s) of hearing(s): Monday, February 27, 1984, 7:00 p.m., Wiscasset High School, Wiscasset, Maine.
 7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
 8. Name/phone of agency contact person: Kenneth Honey, Department of Marine Resources, Boothbay Harbor, (207) 633-5572.
 9. Certification Statement: I, Spencer Apollonio, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Department of Marine Resources on April 5, 1984
 10. Approved as to form and legality by the Attorney General on April 11 1984
- Signature Kenneth C Young, Deputy Commissioner
Printed Name & Title SPENCER APOLLONIO, Commissioner
- Signature J R Pidot
Printed Name J R Pidot

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES REGULATIONS
CHAPTER 34

34.05 Groundfish Spawning Closure in Booth Bay and Sheepscot Bay.

A. Definitions.

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

B. Closure.

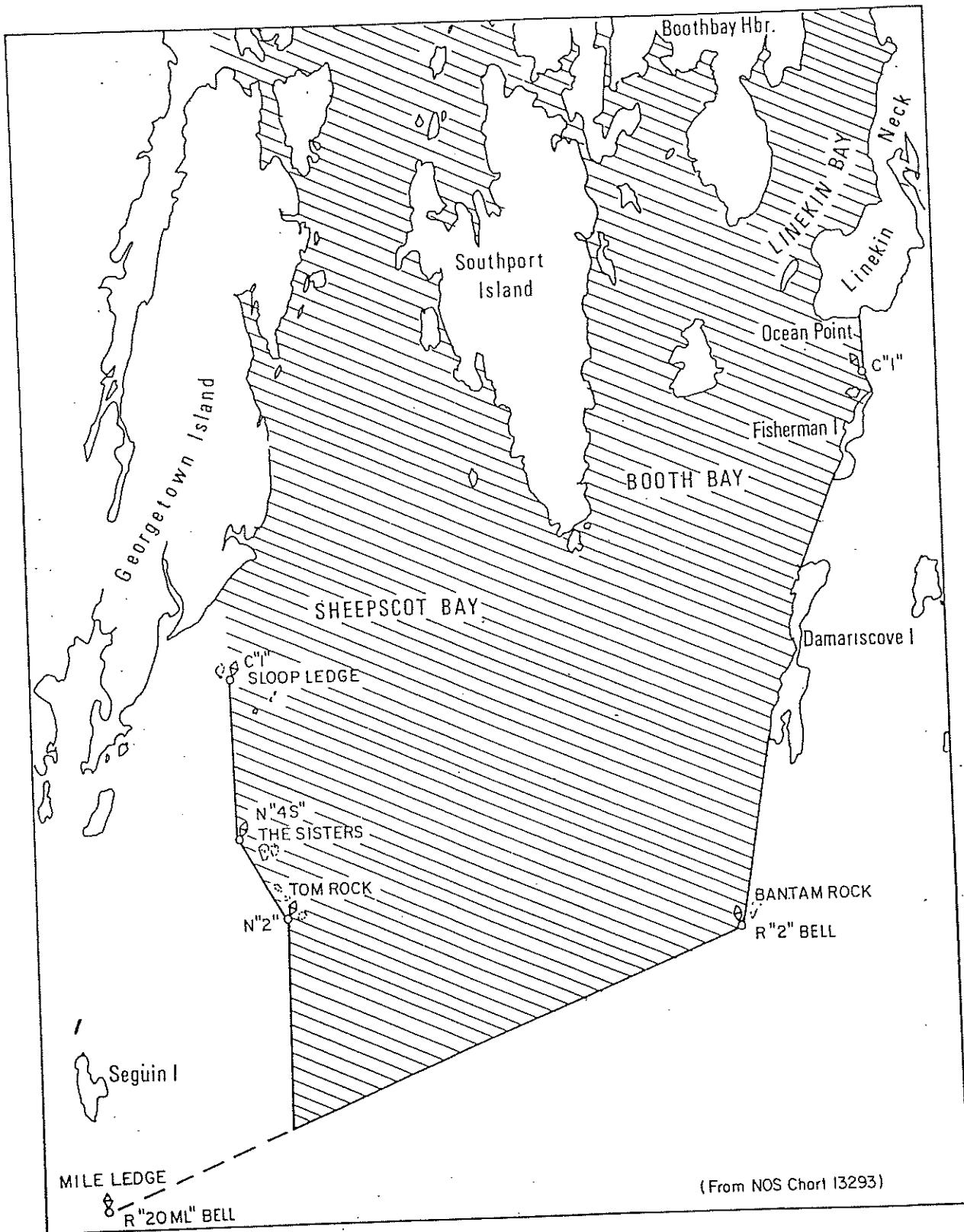
It shall be unlawful to fish for or take groundfish with any type of gear, or to possess groundfish so taken, from the following described area from May 1 through June 30 of any year:

In Booth Bay, 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.

APPENDIX
GROUNDFISH SPECIES

<u>Common English Name</u>	<u>Scientific Name</u>
Atlantic cod	<u>Gadus morhua</u>
Haddock	<u>Melanogrammus aeglefinus</u>
North Atlantic redfishes	<u>Sabastes spp.</u>
Silver hake	<u>Merluccius bilinearis</u>
Red hake	<u>Urophycis chuss</u>
Pollock (Saithe)	<u>Pollachius virens</u>
Redfish	<u>Sabastes marinus</u>
American plaice (Dab)	<u>Hippoglossoides platessoides</u>
Witch flounder (Gray sole)	<u>Glyptocephalus cynoglossus</u>
Yellowtail flounder	<u>Limanda ferruginea</u>
Greenland halibut	<u>Reinhardtius hippoglossoides</u>
Atlantic halibut	<u>Hippoglossus hippoglossus</u>
Winter flounder (Lemon sole)	<u>Pseudopleuronectes americanus</u>
Summer flounder	<u>Paralichthys dentatus</u>
Windowpane flounder	<u>Scophthalmus aquosus</u>
American angler (Goosefish)	<u>Lophius americanus</u>
Atlantic searobins	<u>Prionotus spp.</u>
Atlantic tomcod	<u>Microgadus tomcod</u>
Cunner	<u>Tautogolabrus adspersus</u>
Cusk (Tusk)	<u>Brosme brosme</u>
Ocean pout	<u>Macrozoarces americanus</u>
Sandeels (Sand lances)	<u>Ammodytes spp.</u>
Sculpins	<u>Myoxocephalus spp.</u>
White hake	<u>Urophycis tenuis</u>
Wolffishes (Catfishes)	<u>Anarhichas spp.</u>
Atlantic wolffish	<u>Anarhichas lupus</u>



Groundfish Spawning Closure in Booth Bay and Sheepscot Bay

Basis Statement

As authorized by 5 M.R.S.A. § 8052 and 12 M.R.S.A. §§ 6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts this regulation to protect and give refuge to spawning populations of cod and other groundfish that concentrate in Booth Bay and Sheepscot Bay each spring.

The regulation makes it unlawful to fish for or take groundfish with any type of gear, or to possess groundfish so taken from May 1 to June 30 inclusive in portions of Sheepscot Bay and Booth Bay.

This regulation is identical to the regulation promulgated by the Department in April 1982, except this regulation has no automatic expiration date.

The closure area is widely recognized as a major spawning ground for codfish. Prior to 1982 the Sheepscot/Booth Bay area had experienced heavy commercial fishing pressure, not only from local boats, but from vessels that came from far off areas to engage in this fishery. Sizeable reductions in the total landings of cod and other groundfish species from this area had been reported by local fishermen and area processors.

Following a public hearing in late March 1982, this area was closed to groundfishing during May and June for two trial seasons.

At the sparsely attended public hearing in Wiscasset on February 27, 1984, the three area fishermen attending the hearing did not support further regulations. They felt closures should be adopted for other areas along the Maine coast, but when questioned for specifics did not offer any suggestions as to alternative areas.

They also felt head boats should not be subject to these regulations. However, when questioned by the Commissioner, they all felt groundfish spawning closures were a good idea, but stressed closures should be spread around.

There will be no additional costs incurred to the state by the adoption of this regulation. Existing enforcement personnel will monitor compliance of this regulation when conducting their routine patrols.

NOTICE OF RULE ADOPTION

Agency: Department of Marine Resources

Type of Rule: New Rule

Rule Number and Title: 34.05 - Groundfish Spawning Closure in Booth Bay
and Sheepscot Bay

Concise Summary: This rule makes it unlawful to fish for or take groundfish with any type of gear, or to possess groundfish so taken from May 1 to June 30 inclusive in portions of Booth Bay and Sheepscot Bay.

Statutory Authority: 12 M.R.S.A. §§ 6171 and 6191

Effective Date: Friday, April 20, 1984

Agency Contact Person: Kenneth Honey, Department of Marine Resources,
West Boothbay Harbor, Maine 04575. Phone
633-5572.

Leave Blank

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING
NOV 8 1986

86-412

1. Agency: * Department of Marine Resources

SECRETARY OF STATE

2. Agency umbrella and unit #: 13-188A

3. Title of rule(s): Amendments to Groundfish Regulations

NOV 13 1986

4. Number assigned to the rule(s): 34.10B

DEPARTMENT OF MARINE
AGENCIES

5. Date(s)/method(s) of notice: July 16, 1986 - Secretary of State Notice of Agency Rule-Making. August 1986 Edition COMMERCIAL FISHERIES NEWS.

6. Date(s)/place(s) of hearing(s): Monday, August 4, 1986 Rockland Recreation Building, Rockland, Maine; Wednesday, August 6, 1986 Public Safety Building, Portland, Maine; Monday, August 11, 1986 City Hall Auditorium, Ellsworth, Maine.

7. Type of rule: new rule amendment of existing rule suspension of existing rule

repeal of existing rule emergency rule

8. Name/phone of agency contact person: Ken Honey 633-5572

9. Certification Statement: I,...SPENCER APOLLONIO....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by The Department of Marine Resources on October 2, 1986.

Signature

Printed Name & Title SPENCER APOLLONIO, Commissioner

10. Approved as to form and legality by the Attorney General on November 3, 1986

Signature

Printed Name Peggy B. McCloskey

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

BASIS STATEMENT

As authorized by 12 M.R.S.A. § 6191 the Commissioner of Marine Resources with the advice and consent of the Department of Marine Resources Advisory Council adopts this amendment to existing Department regulations to expand the present minimum size regulations on cod, haddock and yellowtail flounder to include pollock, witch flounder (grey sole), American plaice (dab) and winter flounder (blackback). The purpose of the regulations is to protect small fish which are just entering the fishery but are of minimal market value. The recommended regulations would allow a portion of the young fish in the named species to spawn at least once.

The Department recommends that no groundfish smaller than the following minimum sizes may be possessed within the limits of the jurisdiction of the State of Maine:

<u>Species</u>	<u>Proposed minimum size (inches)</u>	<u>Percent retention 5½-inch mesh</u>	<u>Size of females at 50% maturity (inches)</u>
commercially-caught pollock	17	34%	22-28
witch flounder (grey sole)	14	95%	13
American plaice (dab)	12	28%	12
winter flounder (blackback)	11	17%	10

Similar minimum size regulations are either in effect or being proposed in other states or by the New England Fishery Management Council so that most groundfishermen will be constrained by these sizes when they fish beyond Maine's territorial waters. The minimum size regulations for groundfish that are now in effect or proposed throughout New England are:

<u>Jurisdiction</u>	<u>Now in Effect</u>	<u>Proposed</u>
Maine	17" commercial cod and haddock 15" recreational cod and haddock 11" yellowtail flounder	17" commercial pollock 14" witch flounder (grey sole) 12" American plaice (dab) 11" winter flounder (blackback)
New Hampshire	17" commercial cod and haddock 15" recreational cod and haddock 11" yellowtail flounder 11" winter flounder (blackback)	"
Massachusetts	17" commercial cod and haddock 15" recreational cod and haddock 11" yellowtail flounder 11" winter flounder (blackback) 12" American plaice (dab) 12" witch flounder (grey sole)	"
Offshore New England (federal waters)	17" commercial cod and haddock 15" recreational cod and haddock 11" yellowtail flounder	19" commercial cod and haddock 19" pollock 14" witch flounder (grey sole) 12" yellowtail flounder 12" American plaice (dab) 11" winter flounder (blackback)

DMR Regulation 34.10B is amended as follows:

3410.B Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

commercially-caught cod, haddock and pollock less than 17 inches total length;

recreationally-caught cod and haddock less than 15 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder and winter flounder (blackback) less than 11 inches total length;

Upon adoption or amendment of the Atlantic Demersal Finfish (ADF) Plan by the New England Fishery Management Council and promulgation of implementing federal regulations, the minimum legal sizes under this regulation of cod, haddock, pollock, witch flounder, American plaice, winter flounder and yellowtail flounder shall be as follows:

commercially-caught cod, haddock and pollock, 19 inches;

recreationally-caught cod and haddock, 15 inches;

witch flounder (grey sole), 14 inches;

American plaice (dab), 12 inches;

yellowtail flounder, 12 inches;

winter flounder (blackback), 11 inches;

DEPARTMENT OF MARINE RESOURCES

Chapter 25 - Lobster and Crab Regulations

25.60. Closed Season on Fishing for Crabs in Medomak River

It shall be unlawful to fish for or take crabs, from December 1 to April 30, both days inclusive, in the Medomak River, from the waters inside and upstream of a line drawn from the southernmost tip of Jones Neck in Waldoboro northwest to the southernmost tip of Hardy Island then true west to Keene Neck in Bremen, including all waters of Broad Cove, Eastern Branch and Western Branch.

25.75. Reconsignment of Illegal-Size Lobsters by Wholesale Seafood License Holders

A. Definitions

1. Illegal-Size Lobsters. "Illegal-size lobster" means any lobster which is less than 3 3/16 inches (81 mm) or more than 5 inches (127 mm) in length, as determined by the State double gauge lobster measure, in accordance with 12 M.R.S.A. §6431(1).
2. Seals.
 - a. Preculling Seal. Shall mean a red waterproof paper seal issued by the Department of Marine Resources, to be stapled to lobster containers in such a manner that they cannot be opened. This seal shall only be used prior to culling.
 - b. Shipping Seal. Shall mean a green waterproof seal, issued by the Department of Marine Resources, to be stapled to lobster containers in such a manner that they cannot be opened.
 - c. Vehicle Seal. Shall mean a self-locking device issued by the Department of Marine Resources, to be attached to the cargo doors of a vehicle in such a manner that they cannot be opened and containers removed, except at a Wholesale Seafood Dealer's business when receiving a partial shipment of lobsters.
3. Permit Holder. Shall mean a Wholesale Seafood Dealer, licensed by the Department of Marine Resources, who has applied for and been issued a special permit authorizing the activities set forth in the regulation.

B. Lobster Size Restriction Exception for Wholesale Seafood Dealers.

As provided by 12 M.R.S.A. §6431(6), the minimum and maximum length restrictions for lobsters shall not apply to lobsters reconsigned intact in the original crates by the holder of a Wholesale Seafood License permit to another Wholesale Seafood License permit holder if the crates are sealed in accordance with these regulations.

DEPARTMENT OF MARINE RESOURCES

Chapter 25 - Lobster and Crab Regulations

25.75 Reconsignment of Illegal-Size Lobsters by Wholesale Seafood License Holders (Cont.)

C. Permitted Activity by Wholesale Seafood Dealers

1. Handling Procedures.

a. Receipt of Shipment.

Upon receiving a shipment containing illegal-size lobsters, a permit holder shall:

- (1) Immediately seal the containers holding illegal-size lobsters with a preculling seal and mark the seal with the date of receipt of the shipment, or
- (2) Immediately cull illegal-size lobsters from the shipment and seal the container(s) holding the illegal-size lobsters with a shipping seal. No other procedures are permissible.

b. Pre-Culling Procedures.

As permitted by C (1) (a) (1) above, a permit holder may, upon receipt of a shipment of illegal lobsters, immediately seal the container with a preculling seal. This container must be opened and the illegal lobsters culled from the shipment within 72 hours from the date the shipment was received. Immediately after culling, all containers holding illegal lobsters shall be sealed with a shipping seal.

c. Culling Procedures.

As permitted by C (1) (a) (2) above, the wholesale seafood licensee may open a container of illegal-size lobsters only for the purpose of culling. During the culling process, illegal-size lobsters may be removed from the original container or placed in holding tanks only as follows:

- (1) Illegal-size lobsters may be removed from the original shipment only if dead or diseased or for the purpose of measurement or consolidation with other lobsters in the original shipment.
- (2) Illegal-size lobsters may never be released into the wholesale seafood licensee's holding tanks or mingled with lobsters not part of the original shipment.

DEPARTMENT OF MARINE RESOURCES

Chapter 25 - Lobster and Crab Regulations

25.75 Reconsignment of Illegal-Size Lobsters by Wholesale Seafood License Holders (Cont.)

- (3) Once sealed in accordance with C (1), containers of illegal-size lobsters may be floated in the wholesale seafood licensee's holding tanks or lobster pounds.
- (4) Once culled and sealed in accordance with C (1) (a) (2), containers of illegal-size lobsters may only be re-opened for inspection with prior approval from a Marine Patrol Officer or by calling your Regional Marine Patrol Headquarters and notifying the officer on duty. In the event there is no one in the office, you would leave a message on the code-a-phone indicating the following information: (a) the number of seals broken, (b) the purpose of breaking the seals, (c) the serial numbers of the seals that will replace the broken seals.

d. Consolidation.

Immediately after culling the legal-size lobsters, and removing any dead or diseased illegal-size lobsters, the wholesale seafood license holder shall seal the illegal-size lobsters in a container used in the original shipment. A dealer may consolidate illegal-size lobsters from several different containers within the original shipment, in order to make up a full container of lobsters.

e. Shipment.

The permit holder shall seal containers of illegal-size lobsters for shipment in accordance with C (1) (a) (2) and ship or transport out of the State as soon as possible.

2. Monthly Reports. Each wholesale seafood licensee receiving shipments containing illegal-size lobsters shall submit a monthly report, to be filed with the Department of Marine Resources by the fifteenth day of the following month, containing the following information:

a. Date.

The date of each shipment containing illegal-size lobsters received by the dealer;

DEPARTMENT OF MARINE RESOURCES

Chapter 25 - Lobster and Crab Regulations

25.75 Reconsignment of Illegal-Size Lobsters by Wholesale Seafood License Holders (Cont.)

b. Total weight.

The total number of pounds of lobsters in each shipment;

c. Under-size lobsters.

If the shipment is culled by the wholesale seafood licensee, the total number of pounds of lobsters less than 3 3/16 inches (81 mm) in length in each shipment and the shipping seal number attached to each crate so sealed;

d. Over-size lobsters.

If the shipment is culled by the wholesale seafood licensee, the total number of pounds of lobsters more than 5 inches (127 mm) in length in each shipment and the shipping seal number attached to each crate so sealed; and

e. Destination.

To what destination the lobsters less than 3 3/16 inches (81 mm) or more than 5 inches (127 mm) in length were sold, shipped or transported.

D. Issuance of Seals.

Department of Marine Resources seals shall be issued only for sealing of lobster containers shipped or transported by air or land, and may only be used on the original shipping container or vehicle as noted in these regulations.

E. Penalty.

Any purchase, sale, processing or shipping of illegal-size lobsters which does not comply with these regulations shall be a violation of 12 M.R.S.A. §6431(7).

CHAPTER 34
GROUNDFISH
INDEX

34.01. Nonresident Groundfish Reporting Regulations

Hearing Notice: 3/23/79 Portland Press Herald,
Kennebec Journal,
Bangor Daily News

3/28/79 Portland Press Herald,
Bangor Daily News

3/29/79 Kennebec Journal

Hearing: 3/15/79 Portland
4/5/79 Portland

Adopted: 8/17/79

34.05. Groundfish spawning closure in Booth Bay and Sheepscot

Hearing Notice: 2/08/84 Bangor Daily News
Portland Press Herald
March 1984 Issue Commercial Fisheries News

Hearing: 2/27/84 Wiscasset

Rule Adopted: 9/05/84

Rule Effective: 4/20/84

34.10. Maine Groundfish Management Plan

Hearing Notice: 7/16/86 Secretary of State Notice of Agency Rule-Making
August 1986 Edition Commercial Fisheries News

Hearing: 8/4/86 Rockland
8/6/86 Portland
8/11/86 Ellsworth

Rule Adopted: 10/2/86

Rule Effective: 11/3/86

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

commercially-caught cod, haddock and pollock less than 17 inches total length;

recreationally-caught cod and haddock less than 15 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder and winter flounder (blackback) less than 11 inches total length;

Upon adoption or amendment of the Atlantic Demersal Finfish (ADF) Plan by the New England Fishery Management Council and promulgation of implementing federal regulations, the minimum legal sizes under this regulation of cod, haddock, pollock, witch flounder, American plaice, winter flounder and yellowtail flounder shall be as follows:

commercially-caught cod, haddock and pollock, 19 inches;

recreationally-caught cod and haddock, 15 inches;

witch founder (grey sole), 14 inches;

American plaice (dab), 12 inches;

yellowtail flounder, 12 inches;

winter flounder (blackback), 11 inches;

C. Maine waters from the New Hampshire border to 69° 20' W.

1. Minimum mesh size.

In Maine territorial waters west of a line beginning where the shore intersects 69° 20' W and ending where 69° 20' intersects the outer limit of Maine territorial waters, vessels using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, must use nets having cod ends with mesh of at least 5-1/2 inches, unless such vessels are exempted under the provisions of the optional settlement program. Vessels using gill nets within the area specified above must use nets having mesh of at least 5-1/2 inches.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

2. Optional Settlement Program.

A fisherman engaged in fishing with an otter trawl, pair trawl, beam trawl, Scottish seine mid-water trawl or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, for silver hake, red hake, redfish, squid, northern shrimp, herring, mackerel, dogfish or any other species that the Regional Director shall specify as legitimately taken with small mesh gear, may register with the Regional Director his intent to fish for the above species for a specified period of time. During that period he may use mesh smaller than the legal size, provided that at least 50% of his total catch by round weight for the specified period consists of the above species and that no more than 15% (or any other percentage specified by the Regional Director) of his total catch by weight, consists of groundfish.

3. Documentation.

Anyone engaged in fishing under the Optional Settlement Program will be required to keep a record of his catch by species and by weight and surrender such a record to the National Marine Fisheries Service upon completion of the declared period. Documentation shall be submitted on NOAA form 88-153 or other forms specified by the National Marine Fisheries Service.

4. Fishing for groundfish in the Optional Settlement Program.

During the time he is in the optional settlement program, a fisherman may have his groundfish catch exempted from the 15% maximum catch limit set forth in subsection 2 above, if the fisherman complies with the following requirements:

- a. The fisherman shall call the Chief of Marine Patrol, Department of Marine Resources, (207-289-2291), during normal business hours and give his name, the vessel name, permit number and state that he is in the Optional

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

Settlement Program and will fish with only the regular mesh described in C(1) above for a specified number of days;

- b. The fisherman shall, during the period specified in subparagraph a, have only the regulation mesh size described in C(1) above on board between the time he leaves the dock and returns; and
- c. The Fisherman shall at the end of his optional settlement period, request that the Department send to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, a certification of the time period during which the fisherman should be exempted from optional settlement restrictions.

5. Department records.

- a. The Department shall maintain a log of all optional settlement exemption requests from fishermen and send written confirmation of the requests to the requesting fishermen as soon as possible.
- b. The department shall maintain a current list of fishermen exempted from optional settlement requirements. Names will be removed automatically from this list at the end of the exemption time period requested by the fisherman, unless the fisherman contacts the Department to request a modified exemption time period.

6. Enforcement.

The Department periodically shall board vessels participating in the optional settlement exemption program in order to ensure compliance with these regulations.

D. Regulation Supplementation.

In the event that the Regional Director, National Marine Fisheries Service, Gloucester, designates additional types of gear pursuant to C(1) or (2) above, specifies

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulation

34.10. Maine Groundfish Management Plan (Cont.)

additional species qualifying for use of small size mesh gear in the Optional Settlement Program pursuant to C(2) above, or specifies additional form of documentation acceptable under C(3) above, the Department shall file written confirmation of this action from the Regional Director with the Maine Secretary of State as a supplement to this rule.

EFFECTIVE DATE:

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

Leave Blank

APR 28 1987

87-149

SECRETARY OF STATE

1. Agency: * Department of Marine Resources

2. Agency umbrella and unit #: 13-188A

3. Title of rule(s): Amendments to Maine Groundfish Management Plan

RECEIVED

MAY 1 1987

4. Number assigned to the rule(s): 34.10

DEPT. MARINE RESOURCES
DIV. OF STATE PLANNING
AUGUSTA

5. Date(s)/method(s) of notice: November 12, 1986 - Secretary of State, Notice
of Agency Rule-Making - December 1986 edition of Commercial FISHERIES
NEWS

6. Date(s)/place(s) of hearing(s): None held - None requested

7. Type of rule: new rule amendment of existing rule suspension of existing rule

repeal of existing rule emergency rule

8. Name/phone of agency contact person: Ken Honey 633-5572

9. Certification Statement: I, WILLIAM J. BRENNAN, hereby
certify that the attached is a true copy of the rule(s) described above and
lawfully adopted by the Department of Marine Resources
on April 2, 1987

Signature

Printed Name & Title WILLIAM J. BRENNAN, Commissioner

10. Approved as to form and legality by the Attorney General on April 27, 1987

Signature

Printed Name Peggy B. McCloskey

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similiar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of ten consecutive meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock and yellowtail flounder taken for personal use by hand-held hook and line gear or spear gun.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

commercially-caught cod, haddock and pollock less than 17 inches total length;

recreationally-caught cod and haddock less than 15 inches total length;

witch flounder (grey sole), less than 14 inches total length

American plaice (dab) less than 12 inches total length;

yellowtail flounder, less than 12 inches total length;

winter flounder (blackback) less than 11 inches total length;

Upon adoption or amendment of the Atlantic Demersal Finfish (ADF) Plan by the New England Fishery Management Council and promulgation of implementing federal regulations, the minimum legal sizes under this regulation of cod, haddock, pollock, witch flounder, American plaice, winter flounder and yellowtail flounder shall be as follows:

commercially-caught cod, haddock and pollock, 19 inches;

recreationally-caught cod and haddock, 15 inches;

witch flounder (grey sole), 14 inches;

American plaice (dab), 12 inches;

yellowtail flounder, 12 inches;

winter flounder (blackback), 11 inches;

C. Maine Territorial Seas

1. Minimum Mesh Size. It shall be unlawful in Maine Territorial Seas for a vessel using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls, gill nets, or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, to use nets having cod ends with mesh of less than 5½ inches, unless such vessels are exempt under the Exempted Fisheries Program as prescribed in 50 CFR - part 651.22.

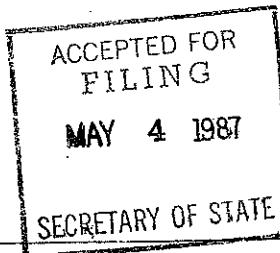
BASIS STATEMENT

As authorized by 12 M.R.S.A. §§ 6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts these amendments to bring existing Department Groundfish Regulations into conformity with the New England Fisheries Management Council's Dermersal Finfish Management Plan implemented by the National Marine Fisheries Service on September 19, 1986.

These amendments mirror constraints placed on Maine's ground-fishermen by the federal regulations. Maine's groundfish industry will be subject to identical regulations no matter where they fish. Parity with federal regulations is obviously desirable and sensible.

There would be no additional costs to the Department as existing enforcement personnel would monitor compliance during their routine patrols.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333



Leave Blank

87-156

1. Agency: * Department of Marine Resources

2. Agency umbrella and unit #: 13-188A

3. Title of rule(s): Amendments to Maine Shrimp Management Plan

RECEIVED

4. Number assigned to the rule(s): 45.00

MAY 7 1987

DEPT. MARINE RESOURCES
AUGUSTA

5. Date(s)/method(s) of notice: November 12, 1986 - Secretary of State, Notice
of Agency Rule-Making - December, 1986 edition of COMMERCIAL FISHERIES
NEWS

6. Date(s)/place(s) of hearing(s): None held - None requested

7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule

8. Name/phone of agency contact person: Ken Honey 633-5572

9. Certification Statement: I, WILLIAM J. BRENNAN, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Department of Marine Resources on April 2, 1987

Signature

Printed Name & Title WILLIAM J. BRENNAN, Commissioner

10. Approved as to form and legality by the Attorney General on May 4, 1987

Signature

Printed Name Peggy B. McCloskey

DEPARTMENT OF MARINE RESOURCES REGULATIONS

MAINE SHRIMP MANAGEMENT PLAN

Chapter 45

45.01 Definitions

- A. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, scottish seine or mid-water trawl in which the catch is normally retained.
- B. Primary dealer. "Primary dealer" means any person who purchases shrimp in excess of 120 pounds per day as a first purchase from a vessel engaged in the taking of shrimp.
- C. Process. "Process" means to clean, shell, freeze, package or otherwise alter the form or condition of shrimp.
- D. Shrimp. "Shrimp" means all Pandalid species including, but not limited to, Pandalus borealis.

45.05 Shrimp season

A. Harvest and transport.

- 1. Closed season. It shall be unlawful to fish for, take, land, ship, transport or possess any shrimp in Maine or Maine ~~coastal~~ waters except during the period from December 1 through May 31 of any year.

- 2. Extension. In conformity with recommendations of the Northern Shrimp Section of the Atlantic State Marine Fisheries Commission the Commissioner may extend the shrimp season for a period not to exceed 15 days and not to extend later than June 15. The Commissioner may extend the season where he finds that the levels of fishing effort, the accumulated catch and the quality of catch indicates that the resource will not be harmed by the extension. If the Commissioner determines that the landed product during a 15-day extension period exceeds 70 count per lb. for any one trip, the Commissioner shall immediately close the fishery.

B. Processing.

It shall be unlawful to process shrimp in Maine except during the period from December 1 through

June 5 of any year. The Commissioner may extend the processing season concurrently with a harvest season extension as permitted in Paragraph A above.

1. Exception. A processor may process shrimp during the period from June 6, through November 30 of any year upon obtaining a permit from the Maine Department of Marine Resources.

2. Documentation. The Department of Marine Resources shall issue a permit to a shrimp processor for processing of shrimp during the period from June 6, through November 30 of any year if that processor produces documented evidence proving that the shrimp to be processed were lawfully harvested.

45.10 Net restrictions

A. Mesh size.

1. It shall be unlawful to fish for, take, transport or possess any shrimp on board any vessel rigged for otter trawling with a net having a mesh opening of less than 1 3/4 inches between knots. It shall also be unlawful to possess a net or netting with an opening of less than 1 3/4 inches between knots on board any vessel rigged for otter trawling which is engaged in the fishing for, taking, or transport of shrimp or which carries shrimp for any purpose.

2. Mesh measurement. Mesh sizes are to be measured by a flat wedged-shaped gauge having a taper of 4 cm. in 20 cm. and having a thickness of 2.3 mm., inserted into the meshes under a pressure or pull of 1.90 kg. The mesh size of a net shall be the average of the measurements of a series of any 20 consecutive meshes, at least 10 meshes from the lacing, and when measured in the cod end of the net beginning at the after end and running parallel to the long end axis.

B. Chafing gear and liner.

It shall be unlawful to fish for, take, transport or possess any shrimp on board a boat rigged for otter trawling with a net of more than one layer or with a liner of any kind attached. However, it shall be lawful to attach chafing gear to the lower half of the circumference of the cod end or to enclose the cod end with a single layer of netting of not less than 5 1/8 inch stretched mesh opening to serve the purpose of chafing gear. Any such netting or chafing gear shall be attached in such a manner as to ensure that the effective mesh opening in the cod end is not diminished.

C. Tolerance in mesh measurement.

A tolerance of 1/8 inch may be applied to the average mesh size in the body and wings of a net and a tolerance of 1/4 inch may be applied to the average mesh size in the extension piece and cod end of the net. The tolerance on the cod end shall terminate on May 31, 1987.

D. Exception.

It shall be lawful to possess herring seines or purse seines for the purpose of transporting those seines from one location to another on board a vessel rigged for otter trawling, as described in 45.10(A) as long as a permit is obtained in advance from the Maine Department of Marine Resources.

45.24 Reporting

Any person who is a primary dealer or processor of shrimp shall file weekly reports of all shrimp purchased with the Maine Department of Marine Resources. The reports shall contain the information listed below and must be received by the Maine Department of Marine Resources by the Wednesday of the week following the conclusion of the reporting week. Forms for shrimp purchase reporting will be furnished by the Maine Department of Marine Resources.

- A. Name of person or company buying shrimp
- B. Name of person or company selling shrimp
- C. Quantity of shrimp sold
- D. Date of sale
- E. Port of landing of shrimp sold

45.50 Penalty

Any violation of these regulations shall be a Class D crime.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§ 6171 and 6173 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts these amendments to the Department's Maine Shrimp Management Plan.

These amendments bring the dates in the Shrimp Management Plan into conformity with the dates established by the Northern Shrimp Section of the Atlantic States Marine Fisheries Commission following a public hearing held on October 16, 1986 in Portland, Maine. The Commonwealth of Massachusetts, the State of New Hampshire, and the State of Maine set the dates for the Northern Shrimp (family Pandalidae) fishing season for the period December 1 through May 31 inclusive. All other portions of existing regulations remain in effect without change.

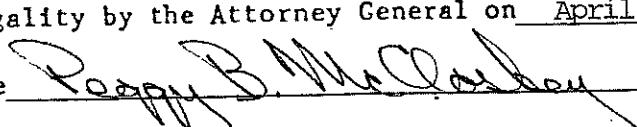
There will be no additional costs incurred to the State by the promulgation of these amendments. Existing Enforcement personnel would monitor compliance of this proposal while conducting their routine patrols.

Leave Blank

TO: Secretary of State
 ATTN: Administrative Procedure Officer
 State House, Augusta, Maine 04333

ACCEPTED FOR
 FILING
 APR 28 1987

87-147

1. Agency: * Department of Marine Resources SECRETARY OF STATE
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendment to the Department Regulation permitting the use of purse, drag or stop seines for the taking of menhaden in the Georges River. RECEIVED
4. Number assigned to the rule(s): 55.05,D MAY 1 1987
5. Date(s)/method(s) of notice: January 14, 1987 - Secretary of State - Notice of Agency Rule-Making - February, 1987 edition of COMMERCIAL FISHERIES NEWS AUGUSTA DEPT. OF MARINE RESOURCES
6. Date(s)/place(s) of hearing(s): Tuesday, February 3, 1987 at 7:00 p.m.
 St. George School, St. George, Maine.
7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-5572
9. Certification Statement: I, WILLIAM J. BRENNAN, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Department of Marine Resources on April 2, 1987
- Signature 
 Printed Name & Title WILLIAM J. BRENNAN, Commissioner
10. Approved as to form and legality by the Attorney General on April 28, 1987
- Signature 
 Printed Name Peggy B. McCloskey

Chapter 55 - Gear Restrictions

55.05 Use of purse, drag or stop seines in certain waters prohibited; regulation of fishing therein.

- D. In the Georges River, above a straight line drawn from Hooper's Point in the Town of St. George, westerly across the northern point of Caldwell's Island to a point on the opposite shore of Gay Island in the Town of Cushing, or take smelts in said river and its tributaries in any other way than by hook and line, or dip nets, except that purse, drag or stop seines may be used by holders of permits issued by, and under the conditions of the Commissioner of Marine Resources, for the taking of menhaden during the period from June 1 to December 31. Boats transporting menhaden are limited to 30,590 pounds, 437 bushels or 25 hogsheads, and must be measured, plainly marked and sealed by the State Sealer of Weights and Measures. Any violation of this regulation shall be cause for suspension of permit.

EFFECTIVE DATE: May 3, 1987

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§ 6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts this amendment to an existing regulation. This amendment removes the line that bans the taking of menhaden by purse, drag or stop seines in the upper portions of the Georges River. Boats participating in a menhaden fishery in the Georges River will still have to be issued a permit by DMR and will have to abide by all of the other restrictions of the existing regulation.

Lobster bait fishermen approached the Department and requested this change in the regulation. They pointed out menhaden usually remain in the upper portions of the Georges River and certain other Maine Rivers, long after menhaden have left other coastal areas. These bait fishermen told the Department by eliminating this line then menhaden lobster bait fishery would be extended by at least two weeks, at a time of year when lobster bait is usually very scarce along the Maine Coast.

At the public hearing and during the comment period the Department received no opposition to this action.

There will be no additional costs to the State by the promulgation of this amendment. Existing Department enforcement personnel will monitor compliance during their routine patrols.

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE REPEAL AND PROMULGATION: DMR Regulation 95.03 L, Closed Area No. 18-A, Gurnet, promulgated on January 16, 1987, and all previous promulgations of Regulation 95.03 L, are repealed and replaced with the following rule:

TEXT OF RULE: 95.03 L, Closed Area No. 18-A, Gurnet.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from all shores, flats and waters easterly and westerly of the Gurnet Bridge, between a line drawn from a red painted post located on the Indian Rest Public Landing, so-called, Harpswell, Cumberland County, thence 585 yards, more or less, northwesterly to a red painted post located on Weir Point, so-called, Brunswick, and a line drawn from a red painted post located on the northern end of Coffin Farm Point, so-called, Harpswell, thence 110 yards more or less, northwesterly to a red painted post located on the Holden Pier, so-called, Prince Point, Brunswick.
2. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204).

EFFECTIVE DATE: May 7, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House - Station #21
Augusta, Maine 04333

TIMES RECORD
May 12, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Sections 6172 and 6192, the Commissioner of the Maine Department of Marine Resources repeals the emergency DMR Regulation 95.03 L, Closed Area No. 18-A, Gurnet, which was promulgated on January 16, 1987 and enacts a new regulation. Department personnel have determined that the area is subject to intermittent microbiological pollution and that harvesting of clams, quahogs, oysters, mussels and other marine mollusks could pose a threat to the public health.


E. PENN ESTABROOK
Deputy Commissioner

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE REPEAL AND PROMULGATION: DMR Regulation 95.03 N, Closed Area No. 18-C, Mere Point, Brunswick, promulgated on December 4, 1986, and all previous promulgations of DMR Regulation 95.03 N, are repealed and replaced with the following rule:

TEXT OF RULE: 95.03 N, Closed Area No. 18-C, Mere Point, Brunswick.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from all shores and flats of that portion of Mere Point Bay, Brunswick, Cumberland County, within and shoreward of a line drawn from the north end of the wharf at Paul's Marina on the east side of Mere Point, southwesterly around the southern tip of Mere Point, thence northeasterly 1/2 mile to a red post located at Monument Point, so-called.
2. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204).

EFFECTIVE DATE: May 7, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House - Station #21
Augusta, Maine 04333

TIMES RECORD
May 12, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Sections 6172 and 6192, the Commissioner of the Maine Department of Marine Resources repeals the emergency DMR Regulation 95.03 N, Closed Area No. 18-C, Mere Point, Brunswick, promulgated on December 4, 1986 and enacts a new regulation. Department personnel have determined that the area is subject to intermittent microbiological pollution and that harvesting of clams, quahogs, oysters, mussels and other marine mollusks could pose a threat to the public health.


E. PENN ESTABROOK
Deputy Commissioner

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE REPEAL AND PROMULGATION: DMR Regulation 95.03 0, Closed Area No. 18-D, Bailey-Orr's Island, Harpswell, promulgated on February 3, 1987, and all previous promulgations of DMR Regulation 95.03 0, are repealed and replaced with the following rule:

TEXT OF RULE: 95.03 0, Closed Area No. 18-D, Bailey-Orr's Island, Harpswell.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of Bailey Island and the southern portion of Orr's Island, Harpswell, Cumberland County, lying between a red painted post located one-half mile northerly of the Bailey Island-Orr's Island Bridge, on the western shore of Orr's Island, and a red painted post located at David Orr Cove Point, two miles, more or less, northerly of said bridge, on the eastern shore of Orr's Island.
2. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204).

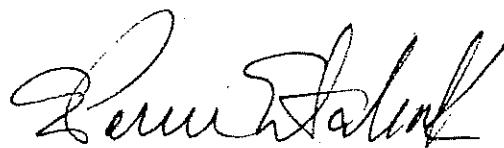
EFFECTIVE DATE: May 7, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House - Station #21
Augusta, Maine 04333

THE TIMES RECORD
May 12, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Sections 6172 and 6192, the Commissioner of the Maine Department of Marine Resources repeals the emergency DMR Regulation 95.03 0, Closed Area No. 18-D, Bailey-Orr's Island, Harpswell, promulgated on February 3, 1987 and enacts a new regulation. Department personnel have determined that the area is subject to intermittent microbiological pollution and that harvesting of clams, quahogs, oysters, mussels and other marine mollusks could pose a threat to the public health.



E. PENN ESTABROOK
Deputy Commissioner

JG

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE REPEAL AND PROMULGATION: DMR Regulation 95.09 A, Closed Area No. 52-B, Pigeon Hill, Steuben, promulgated on February 6, 1987, and all previous promulgations of Regulation 95.09 A, are repealed and replaced with the following rule:

TEXT OF RULE: 95.09 A, Closed Area No. 52-B, Pigeon Hill, Steuben.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of the southern Pigeon Hill shoreline in Steuben, Washington County, from the easternmost tip of Chitman Point to a red painted post located in a southerly direction one mile, more or less, below Chitman Point.
2. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204).

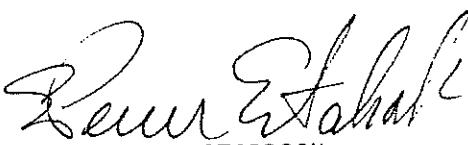
EFFECTIVE DATE: May 6, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House Station 21
Augusta, Maine 04333

BANGOR DAILY NEWS
May 11, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Sections 6172 and 6192, department personnel have determined that the above described area is subjected to intermittent micro-biological pollution whereby clams, quahogs, oysters, mussels and other marine mollusks in these waters would pose a threat to the public health. The Commissioner adopts this emergency rule to prevent taking of all shellfish from this area in order to protect the public health.


E. PENN ESTABROOK
Deputy Commissioner

TJPa

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE NUMBER AND TITLE: DMR Regulation 95.11, Closed Area No. 500, Lincoln, Sagadahoc, Cumberland and York Counties, promulgated on May 8, 1987, is repealed and replaced with the following:

TEXT OF RULE: 95.11, Closed Area No. 500.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters, mussels or other marine mollusks taken from the shores, flats or waters of that portion of the coast of Maine between the New Hampshire border and Seguin Island and westerly of a line extending from Seguin Island northeasterly to Hendricks Head Light, Southport, Lincoln County.
 - A. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters of Casco Bay, inside and northerly of a line extending from the southernmost tip of Prince Point, Yarmouth, to Deer Point, Great Chebeague Island, to the southern end of Cliff Island, thence easterly to the southernmost tip of Jewell Island, Cumberland County, thence in an easterly direction to the southwesternmost tip of Cape Small, Phippsburg, Sagadahoc County.
 - B. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters upstream and northerly of the Westport Island Bridge and northerly and inside of a line extending from Kehail Point on the southwest shore of Westport Island, Lincoln County, southerly through Hendricks Head Light, Southport.
 - C. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters of York River, York County, from its source easterly to a line drawn from a red painted post located on the eastern section of Fort Point, southerly, 500 yards, more or less, to a red painted wood post located on the eastern extremity of Western Point.
 - D. EXCEPTION: Effective immediately, clams, oysters and mussels may be taken from the shores, flats and waters inside and westerly of a line extending from the western tip of Prouts Neck, Scarborough, Cumberland County, to the eastern tip of Fletcher's Neck (Eastern Point), Biddeford, York County.
2. All other DMR Regulations concerning closures of shellfish areas due to paralytic shellfish poisoning and bacterial pollution are not affected by this emergency rule and will remain in full force and effect.

3. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204). Shellfish harvesting in this area may be subject to municipal ordinance.

EFFECTIVE DATE: May 11, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House Station 21
Augusta, Maine 04333

BANGOR DAILY NEWS
PORTLAND PRESS HERALD
May 16, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Section 6171 and 6192, the Commissioner of the Department of Marine Resources repeals the emergency DMR Regulation 95.11, Closed Area No. 500, Hancock, Waldo, Knox, Lincoln, Sagadahoc, Cumberland and York Counties, which was promulgated on May 8, 1987. Acceptable water quality and shoreline surveys by department personnel indicate that portions of the area are no longer affected by pollution from flooded rivers and streams and may be opened for harvest of shellfish effective immediately without threat of danger to the public health. This regulation rescinds the pollution closure caused by flooded rivers and streams east of the Sheepscot River.



E. PENN ESTABROOK
Deputy Commissioner

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE NUMBER AND TITLE: DMR Regulation 95.11, Closed Area No. 500, Hancock, Waldo, Knox, Lincoln, Sagadahoc, Cumberland and York Counties, promulgated on May 1, 1987, is repealed.

TEXT OF RULE: 95.11, Closed Area No. 500.

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters, mussels or other marine mollusks taken from the shores, flats or waters of that portion of the coast of Maine between the New Hampshire border and Monhegan Island and westerly of a line extending from Monhegan Island northeasterly to Blake Point, Cape Rosier, Brooksville, Hancock County.
 - A. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters of Casco Bay, inside and northerly of a line extending from the southernmost tip of Prince Point, Yarmouth, to Deer Point, Great Chebeague Island, to the southern end of Cliff Island, thence easterly to the southernmost tip of Jewell Island, Cumberland County, thence in an easterly direction to the southwesternmost tip of Cape Small, Phippsburg, Sagadahoc County.
 - B. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters upstream and northerly of the Westport Island Bridge and northerly and inside of a line extending from Kehail Point on the southwest shore of Westport Island, Lincoln County, southerly through Hendricks Head Light to Cape Newagen, Southport, thence easterly to the southwestern tip of Metinic Island, thence northerly to Otter Point, Owls Head, Knox County, and in the Medomak River southerly of a line extending from Hollis Point westerly to Waltz Point, both in Waldoboro, Lincoln County, and in the St. George River, southerly of a line extending from a red painted post on Hospital Point, Thomaston, westerly to a red painted post located at the Cushing - Thomaston town line, both in Knox County.
 - C. EXCEPTION: Effective immediately, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters of York River, York County, from its source easterly to a line drawn from a red painted post located on the eastern section of Fort Point, southerly, 500 yards, more or less, to a red painted wood post located on the eastern extremity of Western Point.
 - D. EXCEPTION: Effective immediately, clams, oysters and mussels may be taken from the shores, flats and waters inside and westerly of a line extending from the western tip of Prouts Neck, Scarborough, Cumberland County, to the eastern tip of Fletcher's Neck (Eastern Point), Biddeford, York County.

2. All other DMR Regulations concerning closures of shellfish areas due to paralytic shellfish poisoning and bacterial pollution are not affected by this emergency rule and will remain in full force and effect.
3. Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204). Shellfish harvesting in this area may be subject to municipal ordinance.

EFFECTIVE DATE: May 8, 1987

AGENCY CONTACT PERSON: Robert D. Lewis
Department of Marine Resources
State House Station 21
Augusta, Maine 04333

BANGOR DAILY NEWS
PORTLAND PRESS HERALD
May 13, 1987

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Section 6171 and 6192, the Commissioner of the Department of Marine Resources repeals the emergency DMR Regulation 95.11, Closed Area No. 500, Hancock, Waldo, Knox, Lincoln, Sagadahoc, Cumberland and York Counties, which was promulgated on May 1, 1987. Acceptable water quality and shoreline surveys by department personnel indicate that portions of the area are no longer affected by flooded rivers and streams and may be opened for harvest of shellfish effective immediately without threat of danger to the public health. This regulation enlarges the area of the St. George River estuary that is open for shellfish harvesting.



E. PENN ESTABROOK
Deputy Commissioner

CHAPTER 34

GROUNDFISH

INDEX

34.01. Nonresident Groundfish Reporting Regulations

Hearing Notice: 3/23/79 Portland Press Herald,
Kennebec Journal,
Bangor Daily News

3/28/79 Portland Press Herald,
Bangor Daily News

3/29/79 Kennebec Journal

Hearing: 3/15/79 Portland
4/5/79 Portland

Adopted: 8/17/79

34.05. Groundfish spawning closure in Booth Bay and Sheepscot

Hearing Notice: 2/08/84 Bangor Daily News
Portland Press Herald
March 1984 Issue Commercial Fisheries News

Hearing: 2/27/84 Wiscasset

Rule Adopted: 9/05/84

Rule Effective: 4/20/84

34.10. Maine Groundfish Management Plan

Hearing Notice: 11/12/86 Secretary of State Notice of Agency Rule-Making
December 1986 Edition Commercial Fisheries News

Hearing: None held - none requested

Rule Adopted: 4/2/87

Rule Effective: 4/27/87

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

commercially-caught cod, haddock and pollock less than 17 inches total length;

recreationally-caught cod and haddock less than 15 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder less than 12 inches total length;

winter flounder (blackback) less than 11 inches total length;

Upon adoption or amendment of the Atlantic Demersal Finfish (ADF) Plan by the New England Fishery Management Council and promulgation of implementing federal regulations, the minimum legal sizes under this regulation of cod, haddock, pollock, witch flounder, American plaice, winter flounder and yellowtail flounder shall be as follows:

commercially-caught cod, haddock and pollock, 19 inches;

recreationally-caught cod and haddock, 15 inches;

witch founder (grey sole), 14 inches;

American plaice (dab), 12 inches;

yellowtail flounder, 12 inches;

winter flounder (blackback), 11 inches;

C. Maine Territorial Seas

1. Minimum mesh size. It shall be unlawful in Maine Territorial Seas for a vessel using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls, gill nets, or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, to use nets having cod ends with mesh of less than $5\frac{1}{2}$ inches, unless such vessels are exempt under the Exempted Fisheries Program as prescribed in 50 CFR - part 651.22.

CHAPTER 45

SHRIMP

INDEX

45.00. Maine Shrimp Management Plan

Hearing Notice: November 12, 1986 - Secretary of State, Notice of Agency Rule-Making
December, 1986 Issue Commercial Fisheries News

Hearing: None held - none requested

Rule Adopted: 4/2/87

Rule Effective: 5/4/87

45.01. Definitions

45.05. Shrimp Season

45.10. Net Restrictions

45.24. Reporting

45.50. Penalty

DEPARTMENT OF MARINE RESOURCES

Chapter 45 - Shrimp

45.01. Definitions

- A. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, scottish seine or mid-water trawl in which the catch is normally retained.
- B. Primary dealer. "Primary dealer" means any person who purchases shrimp in excess of 120 pounds per day as a first purchase from a vessel engaged in the taking of shrimp.
- C. Process. "Process" means to clean, shell, freeze, package or otherwise alter the form or condition of shrimp.
- D. Shrimp. "Shrimp" means all Pandalid species including, but not limited to, Pandalus borealis.

45.05. Shrimp season

A. Harvest and transport.

1. Closed season. It shall be unlawful to fish for, take, land, ship, transport or possess any shrimp in Maine or Maine coastal waters except during the period from December 1 through May 31 of any year.
2. Extension. In conformity with recommendations of the Northern Shrimp Section of the Atlantic State Marine Fisheries Commission the Commissioner may extend the shrimp season for a period not to exceed 15 days and not to extend later than June 15. The Commissioner may extend the season where he finds that the levels of fishing effort, the accumulated catch and the quality of catch indicates that the resource will not be harmed by the extension. If the Commissioner determines that the landed product during a 15-day extension period exceeds 70 count per lb. for any one trip, the Commissioner shall immediately close the fishery.

B. Processing.

It shall be unlawful to process shrimp in Maine except during the period from December 1 through June 5 of any year. The Commissioner may extend the processing season concurrently with a harvest season extension as permitted in Paragraph A Above.

1. Exception. A processor may process shrimp during the period from June 6, through November 30 of any year upon obtaining a permit from the Maine Department of Marine Resources.

DEPARTMENT OF MARINE RESOURCES

Chapter 45 - Shrimp

45.05 Shrimp season (Cont.)

2. Documentation. The Department of Marine Resources shall issue a permit to a shrimp processor for processing of shrimp during the period from June 6, through November 30 of any year if that processor produces documented evidence proving that the shrimp to be processed were lawfully harvested.

45.10. Net restrictions

A. Mesh size.

1. It shall be unlawful to fish for, take, transport or possess any shrimp on board any vessel rigged for otter trawling with a net having a mesh opening of less than 1 3/4 inches between knots. It shall also be unlawful to possess a net or netting with an opening of less than 1 3/4 inches between knots on board any vessel rigged for otter trawling which is engaged in the fishing for, taking, or transport of shrimp or which carries shrimp for any purpose.
2. Mesh measurement. Mesh sizes are to be measured by a flat wedged-shaped gauge having a taper of 4 cm. in 20 cm. and having a thickness of 2.3 mm., inserted into the meshes under a pressure or pull of 1.90 kg. The mesh size of a net shall be the average of the measurements of a series of any 20 consecutive meshes, at least 10 meshes from the lacing, and when measured in the cod end of the net beginning at the after end and running parallel to the long end axis.

B. Chafing gear and liner.

It shall be unlawful to fish for, take, transport or possess any shrimp on board a boat rigged for otter trawling with a net of more than one layer or with a liner of any kind attached. However, it shall be lawful to attach chafing gear to the lower half of the circumference of the cod end or to enclose the cod end with a single layer of netting of not less than 5 1/8 inch stretched mesh opening to serve the purpose of chafing gear. Any such netting or chafing gear shall be attached in such a manner as to ensure that the effective mesh opening in the cod end is not diminished.

C. Tolerance in mesh measurement.

A tolerance of 1/8 inch may be applied to the average mesh

DEPARTMENT OF MARINE RESOURCES

Chapter 45 - Shrimp

45.10 Net restrictions (Cont.)

size in the body and wings of a net and a tolerance of 1/4 inch may be applied to the average mesh size in the extension piece and cod end of the net. The tolerance on the cod end shall terminate on May 31, 1987.

D. Exception.

It shall be lawful to possess herring seines or purse seines for the purpose of transporting those seines from one location to another on board a vessel rigged for otter trawling, as described in 45.10(A) as long as a permit is obtained in advance from the Maine Department of Marine Resources.

45.24. Reporting

Any person who is a primary dealer or processor of shrimp shall file weekly reports of all shrimp purchased with the Maine Department of Marine Resources. The reports shall contain the information listed below and must be received by the Maine Department of Marine Resources by the Wednesday of the week following the conclusion of the reporting week. Forms for shrimp purchase reporting will be furnished by the Maine Department of Marine Resources.

- A. Name of person or company buying shrimp
- B. Name of person or company selling shrimp
- C. Quantity of shrimp sold
- D. Date of sale
- E. Port of landing of shrimp sold

45.50. Penalty

Any violation of these regulations shall be a Class D crime.

CHAPTER 55
GEAR RESTRICTIONS
INDEX

55.01. Fishing in Fore River, Cumberland County
P&SL 1959, c. 155, §8

55.02. Gear Restriction for Birch Point, Cousins Island

Hearing Notice: 1/7/81 Kennebec Journal and Portland Press Herald
1/21/81 Kennebec Journal and Portland Press Herald
January Issue Commercial Fisheries News

Hearing: 1/27/81 Yarmouth

Comment Period Closed: February 6, 1981

Rule Adopted: May 6, 1981

Effective Date: May 23, 1981

55.05. Use of purse, drag or stop seines in certain waters prohibited;
regulation of fishing therein
P&SL 1959, c. 155, §9

55.05.(C) Amended 1976

Hearing: 9/19/75 Newcastle

Rule Adopted: 5/17/76

Final Rule Published: 5/20/76 Boothbay Register
5/25/76 Portland Press Herald
5/27/76 Lincoln County News

Effective Date: 6/1/76

55.05.(D) Amended 1987

Hearing Notice: 1/14/87 Secretary of State - Notice of Agency
Rule-Making
February, 1987 Edition of Commercial Fisheries News

Hearing: 2/3/87 Saint George

Regulation Adopted: 4/2/87

Rule Effective: 4/28/87

DEPARTMENT OF MARINE RESOURCES

Chapter 55 - Gear Restrictions

55.01. Fishing in Fore River, Cumberland County

It shall be unlawful to obstruct in any way by any net, seine, weir or other contrivance for taking fish, more than 1/8 part of the channel of the Fore River, Cumberland County.

55.02. Gear Restriction for Birch Point, Cousins Island

It shall be unlawful between August 15 and December 15 of each year to fish for, or take finfish in any manner, except by a single hook and line, within a radius of 2,000 feet of the fish ladder located on the southern end of Birch Point, on Cousins Island, Yarmouth.

This regulation does not apply to the riparian owner, owner of fish ladder, or their designees.

55.05. Use of purse, drag or stop seines in certain waters prohibited; regulation of fishing therein

A. In Kennebec River above a line drawn across said river from Fort Popham in the Town of Phippsburg to a point opposite at the lower end of Long Island in the Town of Georgetown.

B. In Sheepscot River above a bridge leading from Wiscasset to Edgecomb.

C. In the Damariscotta River above a straight line drawn across the River from a point on the shore of Back Narrows on the west side of the River in the Town of Boothbay intersecting the southwestern point of Fort Island and the red nun navigational buoy #10 to a point on the opposite shore in the Town of South Bristol, except that purse, drag or stop seines may be used by holders of permits issued by, and under the conditions of the Commissioner of Marine Resources, up to a straight line drawn from the northernmost point of Fitch Point on the east side of the River in the Town of South Bristol intersecting the day beacon to a point on the opposite shore in the Town of Edgecomb on the west side of the River for the taking of menhaden during the period from June 1 to December 31 of each year. Boats transporting menhaden are limited to 30,590 pounds, 437 bushels, or 25 hogsheads, and must be measured, plainly marked and sealed by the State Sealer of Weights and Measures. Any violation of this regulation shall be cause for suspension of permit.

D. In the Georges River, above a straight line drawn from Hooper's Point in the Town of St. George, westerly across the northern point of Caldwell's Island to a point on the opposite shore of

DEPARTMENT OF MARINE RESOURCES

Chapter 55 - Gear Restrictions

55.05. Use of purse, drag or stop seines in certain waters prohibited; regulation of fishing therein (Cont.)

Gay Island in the Town of Cushing, or take smelts in said river and its tributaries in any other way than by hook and line, or dip nets, except that purse, drag or stop seines may be used by holders of permits issued by, and under the conditions of the Commissioner of Marine Resources, for the taking of menhaden during the period of June 1 to December 31. Boats transporting menhaden are limited to 30,590 pounds, 437 bushels or 25 hogsheads, and must be measured, plainly marked and sealed by the State Sealer of Weights and Measures. Any violation of this regulation shall be cause for suspension of permit.

- E. Purse, drag or stop seines may be used, from May 15th to December 1st of each year in all bays, inlets, rivers, and harbors east of the west shore of the Penobscot Bay and River, except in which places where sections of this chapter are to the contrary, in which places purse seines, drag seines and stop seines may be used from May 15th to November 15th of each year for the purpose of catching herring.

55.10. Use of purse and drag seines in the waters of Sargentville Harbor, Hancock County

The use of purse and drag seines is prohibited in the waters of Sargentville Harbor, known as Billings Cove.

55.15. Fishing in the Bagaduce River upstream of the North Brooksville Sedgwick Bridge

- A. No person shall use any weir, seine, trap or any other contrivance in catching, fishing for or taking fish in the Bagaduce River or any of its tributaries, in the Towns of Castine, Penobscot and Brooksville, Hancock County, except by the use of gill nets, and permanent weirs, with not less than 50 poles, constructed of laths, brush, wire or twine.
- B. The trapping of eels in the Bagaduce River shall be lawful.
- C. Notwithstanding the provisions of 55.15(A) and (B) above, it shall be unlawful to fish for, take or possess fish from the Bagaduce River or any of its tributaries upstream of the North Brooksville-Sedgwick Bridge in the Towns of Penobscot, Brooksville and Sedgwick in Hancock County.

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.03. Cumberland County (Cont.)

K. Closed Area No. 18; Potts Harbor, Harpswell: Effective immediately (9/9/83), because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels or other marine mollusks taken from all shores, flats, and waters of Potts Harbor, Harpswell, Cumberland County, inside a line drawn from Estes Lobster House, on the western shore of Potts Point, southerly to Potts Point, thence northerly to the Intervale Cable Crossing.

L. Closed Area No. 18-A; Gurnet:

1. Effective immediately, May 7, 1987, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from all shores, flats and waters easterly and westerly of the Gurnet Bridge, between a line drawn from a red painted post located on the Indian Rest Public landing, so-called, Harpswell, Cumberland County, thence 585 yards, more or less, north-westerly to a red painted post located on Weir Point, so-called, Brunswick, and a line drawn from a red painted post located on the northern end of Coffin Farm Point, so-called, Harpswell, thence 110 yards more or less, northwesterly to a red painted post located on the Holden Pier, so-called, Prince Point, Brunswick.

M. Closed Area No. 18-B; New Meadows River: See Sagadahoc County.

N. Closed Area No. 18-C; Mere Point, Brunswick:

1. Effective immediately, May 7, 1987, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from the shores and flats of that portion of Mere Point Bay, Brunswick, Cumberland County, within and shoreward of a line from the north end of the wharf at Paul's Marina on the east side of Mere Point, southwesterly around the southern tip of Mere Point, thence northeasterly $\frac{1}{2}$ mile to a red post located at Monument Point, so-called.

O. Closed Area No. 18-D; Bailey-Orr's Island, Harpswell:

1. Effective immediately, May 7, 1987, because of pollution it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of Bailey Island and the southern portion of Orrs Island, Harpswell, Cumberland County, lying between a red painted post located one-half mile northerly of the Bailey Island-Orr's Island Bridge, on the western shore of Orr's Island, and a red painted post located at David Orr Cove Point, two miles, more or less, northerly of said bridge, on the eastern shore of Orr's Island.

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.03. Cumberland County (Cont.)

- P. Closed Area No. 18-E; Cundy's Harbor, Harpswell: Effective immediately, January 13, 1984, because of pollution it shall be unlawful to dig, take, or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of Cundy's Harbor, Harpswell, Cumberland County, between a red painted post established on a point of land northerly of the tip of Little Island, and a red painted post located on a point of land at the southern end of the harbor, southeasterly of Holbrook's Wharf, so-called.
- Q. Closed Area No. 18-F; Dyer Cove, Sebascodegan Island, Harpswell: Effective immediately, January 13, 1984, because of pollution it shall be unlawful to dig, take, or possess any clams, quahogs, oysters, mussels and other marine mollusks from the shores, flats and waters of Card and Dyer Coves, Quahog Bay, Sebascodegan Island, Harpswell, Cumberland County, and the area lying between a red painted post located on Stover's Point so-called, at the mouth of Card Cove and a red painted post located one-half mile, more or less, northerly of Dyer Cove.
- R. Closed Area No. 18-I; Harpswell Fuel Depot, Harpswell: Effective immediately, January 13, 1984, because of pollution it shall be unlawful to dig, take, or possess any clams, quahogs, oysters, mussels or other marine mollusks from the western shores and flats of that portion of Harpswell Neck, Harpswell, Cumberland County, between a red painted post located about 300 feet north of the U. S. Navy Harpswell Fuel Depot pier and a red painted post located about 1400 feet south of said pier.
- S. Closed Area No. 18-K; Stovers Cove, Harpswell: Effective immediately (9/9/83), because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters, mussels and other marine mollusks taken from the shores, flats, and waters of that portion of Stovers Cove, Harpswell, Cumberland County, inside and southerly of a line drawn between a red painted post located on the western side of the cove, approximately 360 feet more or less, northerly of the tarred boat ramp, and a red painted post located on the east side of the cove, approximately 480 feet more or less, northeasterly of the tarred boat ramp.
- T. Closed Area No. 18-G, Birch Island, Harpswell: Effective immediately, September 2, 1986, because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters, mussels and other marine mollusks taken from all shores and flats of Birch Island, Harpswell, Cumberland County, inside and southeasterly of a line drawn from the large boulder on the western side of Birch Island (1000 feet south of Gallows Island), southerly along the western shore of Birch Island to a red post located on the southwestern tip of Birch Island at Hayward Point.

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.06. LINCOLN COUNTY

- A. Closed Area No. 22; Sheepscot River: Effective immediately, February 8, 1979, the day of publication, it shall be unlawful to dig or take in any manner or to have in possession any clams, quahogs, oysters, mussels or other marine mollusks taken from the shores, flats or waters of the Sheepscot River, Lincoln County, between a line drawn from Old Fort Edgecomb on Davis Island to the northern tip of Birch Point in Wiscasset, and a line drawn from the southern tip of Clarks Point, to the most northern point on Davis Island.
- B. Closed Area No. 22-A; Westport Island: Effective immediately, July 15, 1986, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of that portion of the northern end of Westport Island, in the Sheepscot River, Westport, Lincoln County, known as Clough Point inside a line beginning at the eastern end of the Westport Island Bridge, northerly around Clough Point, thence southerly and ending at a red post located 1000 yards, more or less, south of the northern tip of Clough Point.
- C. Closed Area No. 23; Boothbay Harbor Area: Effective immediately May 7, 1987, because of pollution it shall be unlawful to dig, take or possess any clams, quahogs, oysters, and mussels and other marine mollusks from all shores, flats and waters of that portion of Ebenecook Harbor and the western shore of Southport, Lincoln County, southerly and inside of a line drawn from a red painted post located on a point of land on the eastern shore of Pierce Cove, at the end of Joppa Road, so-called, to the northern tip of Dogfish Head, then along the shores and flats southerly from Dogfish Head to Hendricks Head, so-called, then inside and northerly of a line drawn from Hendricks Head to the northern tip of Pratts Island, thence southeasterly along the shores and flats of the eastern shore of said island to a red post located at the southeastern tip of Pratts Island, thence easterly to a red post located on the opposite shore.
- D. Closed Area No. 23-A; Ebenecook Harbor, Southport: Effective immediately, May 8, 1985, because of pollution it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of Ebenecook Harbor and the western shore of Southport, Lincoln County, between a red painted post located on a point of land on the eastern shore of Pierce Cove, at the end of Joppa Road, so-called, and a red painted post located on the northern end of Pratt's Island, thence southeasterly along the eastern shore of said island to a red painted post located at the northwestern end of the Pratt's Island Bridge thence easterly to a red painted post located at the northeastern end of the Pratt's Island Bridge.

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.06. Lincoln County (Cont.)

- E. Closed Area No. 24; East Boothbay: Because of pollution it shall be unlawful to dig or take in any manner or to have in possession any clams, quahogs, oysters, mussels or other marine mollusks from the shores, and flats of East Boothbay west of a line drawn from Montgomery Point to Farnham Point, in the Town of Boothbay, Lincoln County.
- F. Closed Area No. 25; Damariscotta River: Effective December 24, 1981, because of pollution it shall be unlawful to dig or take in any manner or to have in possession any clams, quahogs, oysters, mussels or other marine mollusks taken from all shores, flats, waters and tributaries of the Damariscotta River, Lincoln County from the most northern point of Great Salt Bay in the Town of Nobleboro, extending southerly along the east shore to the southern tip of Hall Point, in the Town of Damariscotta, thence in a northwesterly direction to the northern point of Little Point, in the Town of Newcastle, thence following the shoreline along the western shore to the point of beginning in the Town of Nobleboro.
- G. Closed Area No. 25-A; South Bristol: Effective immediately, February 23, 1987, because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters, mussels or other marine mollusks taken from the shores, flats and waters of that portion of South Bristol, Lincoln County, inside and easterly of a line drawn from a red post located one-half mile, more or less, north of the southwesterly tip of the South Bristol Peninsula to the northern end of the South Bristol Gut draw bridge AND Rutherford Island, inside and easterly of a line from Fellows Point, so-called, on the northwestern end of the island to a red post located at the southernmost tip of Rutherford Island.
- H. Closed Area No. 25-B; Pemaquid River, Pemaquid Harbor:
1. Effective immediately, April 17, 1987, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from the shores, and flats of the Pemaquid River, Pemaquid Harbor, Bristol, Lincoln County, from its source to a line drawn from Fish Point to Thurston Point.
- I. Closed Area No. 25-C; New Harbor, Bristol: Effective immediately, July 16, 1986, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.09. WASHINGTON COUNTY

A. Closed Area No. 52-B; Pigeon Hill, Steuben:

1. Effective immediately, May 7, 1987, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from all shores, flats and waters of the southern Pigeon Hill shoreline in Steuben, Washington County, from the easternmost tip of Chitman Point to a red painted post located in a southerly direction one mile, more or less, below Chitman Point.

B. Closed Area No. 53; Milbridge:

1. Effective immediately, April 8, 1987, because of pollution it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from the shores, flats and waters of the Narraguagus River in the Town of Milbridge, Washington County, inside and upstream of a line drawn from Turner Point, on the western shore, to a point of land on the easternmost tip of Fickett Point, on the east side of Sinclair Cove, so-called.

C. Closed Area No. 54; Jonesport and West Jonesport: Effective immediately, March 1, 1985, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks from the shores, flats and waters of Jonesport and West Jonesport, Washington County, inside and northerly of a line from Hopkins Point to Henry Point.

D. Closed Area No. 54-A; Beals Island: Because of pollution, it shall be unlawful to dig or take in any manner or to have in possession any clams, quahogs, oysters, mussels and other marine mollusks taken from all shores, flats and waters of that portion of Beals Island, Washington County, lying between a red painted post located at the most westerly point of Mill Creek, east to the most eastern point of Perio Point, then to the most north-easterly point of Aunt Elsie's Point (so-called), thence to a red painted post located on the eastern end of "The Cliff" so-called.

E. Closed Area No. 55; Machias and East Machias Rivers:

1. Effective immediately, April 17, 1987, because of pollution it shall be unlawful to dig, take or possess any clams, quahogs, oysters, mussels and other marine mollusks taken from the shores, flats and waters of the Machias and East Machias Rivers, Washington County, inside and upstream of a line drawn from the easternmost tip of Birch Point, Machiasport, northerly to a red painted post located 2,500 feet more or less east of the southernmost tip of Randall Point, Machiasport.

DEPARTMENT OF MARINE RESOURCES

Chapter 95 - Closed Polluted Areas

95.11. Hancock, Waldo, Knox, Lincoln, Sagadahoc, Cumberland and York Counties

1. Effective immediately, April 17, 1987, because of pollution, it shall be unlawful to dig, take or possess clams, quahogs, oysters or mussels or other marine mollusks taken from the shores, flats or waters of that portion of the coast of Maine between the New Hampshire border and Sequin Island and westerly of a line extending from Sequin Island northeasterly to Hendricks Head Light, Southport, Lincoln County.
 - A. EXCEPTION: Effective immediately, April 17, 1987, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats and waters of Casco Bay, inside and northerly of a line extending from the southernmost tip of Prince Point, Yarmouth, to Deer Point, Great Chebeague Island, to the southern end of Cliff Island, thence easterly to the southernmost tip of Jewell Island, Cumberland County, thence in an easterly direction to the southwesternmost tip of Cape Small, Phippsburg, Sagadahoc County.
 - B. EXCEPTION: Effective immediately, May 11, 1987, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats, and waters upstream and northerly of the Westport Island Bridge and northerly and inside of a line extending from Kehail Point on the southwest shore of Westport Island, Lincoln County, southerly through Hendricks Head Light, Southport.
 - C. EXCEPTION: Effective immediately, April 29, 1987, clams, quahogs, oysters, mussels and other marine mollusks may be taken from the shores, flats, and waters of York River, York County, from its source easterly to a line drawn from a red painted post located on the eastern section of Fort Point, southerly, 500 yards, more or less, to a red painted wood post located on the eastern extremity of Western Point.
 - D. EXCEPTION: Effective immediately, May 1, 1987, clams, oysters and mussels may be taken from the shores, flats and waters inside and westerly of a line extending from the western tip of Prouts Neck, Scarborough, Cumberland County, to the eastern tip of Fletcher's Neck (Eastern Point), Biddeford, York County.
2. All other DMR Regulations concerning closures of shellfish areas due to bacterial pollution are not affected by this emergency rule and will remain in full force and effect.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

Leave Blank

ACCEPTED FOR
FILING
DEC 16 1987

87-433

1. Agency: * Department of Marine Resources SECRETARY OF STATE
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Maine Groundfish Management Plan
4. Number assigned to the rule(s): 34.10
5. Date(s)/method(s) of notice: August 26, 1987 - Secretary of State,
Notice of Agency Rule-Making.
6. Date(s)/place(s) of hearing(s): None held - None requested
7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey, 633-5572
9. Certification Statement: I,..WILLIAM J...BRENNAN....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by The Department of Marine Resources on December 9, 1987
- Signature W. J. Brennan
- Printed Name & Title WILLIAM J. BRENNAN, Commissioner
10. Approved as to form and legality by the Attorney General on December 16, 1987
- Signature Peggy B. McCloskey
- Printed Name Peggy B. McCloskey

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similiar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock, witch flounder, American plaice, winter flounder and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of ten consecutive meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock, witch flounder, American plaice, winter flounder and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

commercially-caught cod, haddock and pollock less than 17 inches total length;

recreationally-caught cod and haddock less than 15 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder less than 12 inches total length;

winter flounder (blackback) less than 11 inches total length;

Upon adoption or amendment of the Atlantic Demersal Finfish (ADF) Plan by the New England Fishery Management Council and promulgation of implementing federal regulations, the minimum legal sizes under this regulation of cod, haddock, pollock, witch flounder, American plaice, winter flounder and yellowtail flounder shall be as follows:

commercially-caught cod, haddock and pollock, 19 inches;

recreationally-caught cod and haddock, 15 inches;

witch founder (grey sole), 14 inches;

American plaice (dab), 12 inches;

yellowtail flounder, 12 inches;

winter flounder (blackback), 11 inches;

C. Maine Territorial Seas

Minimum mesh size. It shall be unlawful in Maine Territorial Seas for a vessel using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls, gill nets, or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, or to use gill nets on seines, or to use nets having cod ends with mesh of less than 5½ inches, unless such vessels are exempt under the Exempted Fisheries Program as prescribed in 50 CFR - part 651.22.

It shall not be a violation of Section C of this regulation to set gill nets with a mesh size less than 5½ inches if these gill nets are being used to obtain bait fish for fishing. Bait fish are identified as species not identified in 34.10, B of the

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont).

regulation. Nothing in this regulation shall allow the taking of any Maine species in violation of any other statute or Department regulation.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts these amendments to Chapter 34.10 Maine Groundfish Management Plan. These Amendments correct errors and omissions in 34.10 and brings Maine's Groundfish Management Plan into conformity with the New England Fisheries Management Council's Demersal Finfish Management Plan implemented by the National Marine Fisheries Service on September 19, 1986.

These Amendments mirror constraints placed on Maine's groundfishermen by the federal regulations. Through this action Maine's groundfish industry will be subject to identical regulations whether they are fishing in federal or Maine territorial waters. Parity in fishing regulations is obviously desirable and sensible.

There would be no additional costs incurred to the State by the promulgation of these Amendments. Existing enforcement personnel will monitor compliance of these Amendments while conducting their routine enforcement duties.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§6171 and 6191 the Commissioner of Marine Reosources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts these amendments to Chapter 34.10 Maine Groundfish Management Plan. These Amendments correct errors and omissions in 34.10 and brings Maine's Groundfish Management Plan into conformity with the New England Fisheries Management Council's Demersal Finfish Management Plan implemented by the National Marine Fisheries Service on September 19, 1986.

These Amendments mirror constraints placed on Maine's groundfish fishermen by the federal regulations. Through this action Maine's groundfish industry will be subject to identical regulations whether they are fishing in federal or Maine territorial waters. Parity in fishing regulations is obviously desirable and sensible.

There would be no additional costs incurred to the State by the promulgation of these Amendments. Existing enforcement personnel will monitor compliance of these Amendments while conducting their routine enforcement duties.

No comments were received regarding this rule.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

SEP 7 1988

SECRETARY OF STATE

Leave Blank

88-321

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Maine Groundfish Management Plan
4. Chapter Number Assigned to the rule(s) 34.10
5. Date(s)/method(s) of notice: May 4, 1988 - Secretary of State Notice of Agency Rule-Making
6. Date(s)/place(s) of hearing(s):
7. Type of rule:
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-5572
9. Certification Statement: I, WILLIAM J. BRENNAN....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by THE Department of Marine Resources on August 4, 1988
Signature WILLIAM J. BRENNAN
Printed Name & Title WILLIAM J. BRENNAN, Commissioner
10. Approved as to form and legality by the Attorney General on September 7, 1988
Signature Peggy B. McCloskey
Printed Name Peggy B. McCloskey

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similiar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock, witch flounder, American plaice, winter flounder and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of twenty consecutive meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock, witch flounder, American plaice, winter flounder and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10. Maine Groundfish Management Plan (Cont.)

commercially-caught cod, haddock and pollock less than 19 inches total length;

recreationally-caught cod and haddock less than 17 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder less than 12 inches total length; and

winter flounder (blackback) less than 11 inches total length;

C. Maine Territorial Seas

1. Minimum mesh size. It shall be unlawful in Maine Territorial Seas for a vessel using otter trawls, pair trawls, beam trawls, Scottish seines, mid-water trawls, gill nets, or any other gear specified by the Regional Director of the Northeast Region, National Marine Fisheries Service, or to use gill nets on seines, or to use nets having cod ends with mesh of less than $5\frac{1}{2}$ inches, unless such vessels are exempt under the Exempted Fisheries Program as prescribed in 50 CFR - part 651.22.

It shall not be a violation of Section C of this regulation to set gill nets with a mesh size less than $5\frac{1}{2}$ inches if these gill nets are being used to obtain bait fish for fishing. Bait fish are identified as species not identified in 34.10, B of the regulation. Nothing in this regulation shall allow the taking of any Maine species in violation of any other statute or Department regulation.

BASIS STATEMENT

As required by 12 M.R.S.A. §§6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts these amendments to the Maine Groundfish Management Plan (34.10). These amendments bring Maine's groundfish regulations in conformity with the New England Fishery Management Council-Northeast Multi-species Plan.

These amendments to Maine's Groundfish Management Plan establish a minimum size of seventeen inches for recreationally-caught cod and haddock. In addition the term "mesh size" will be defined using the average measurements from any series of twenty (instead of the present ten) consecutive meshes in the cod end.

These amendments mirror constraints placed on Maine's ground-fishermen by federal regulations. Maine's groundfish industry will now be subject to identical regulations no matter where they fish.

There will be no additional costs to the Department as a result of these amendments; existing enforcement personnel will monitor compliance during their routine patrols.

EFFECTIVE DATE: September 12, 1988

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

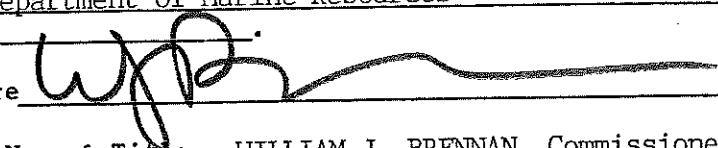
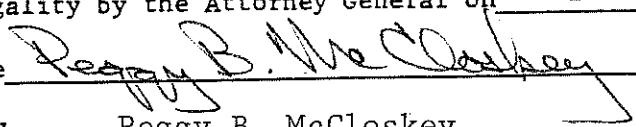
ACCEPTED FOR
FILING

MAR 16 1989

SECRETARY OF STATE

Leave Blank

89-108

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Maine Groundfish Management Plan
4. Chapter Number Assigned to the rule(s) 34.10
5. Date(s)/method(s) of notice: November 30, 1988 and January 11, 1989 -
Secretary of State Notice of Agency Rule-Making, and February, 1989 edition of
COMMERCIAL FISHERIES NEWS.
6. Date(s)/place(s) of hearing(s): December 19, 1988, Rockland Recreation Building;
December 20, 1988, Holiday Inn, Ellsworth; December 21, 1988 Holiday Inn by the
Bay, Portland; and January 30, 1989, Augusta Civic Center
7. Type of rule:
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey - 633-5572
9. Certification Statement: I, ..., WILLIAM J. BRENNAN, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Department of Marine Resources on February 27, 1989
Signature 
Printed Name & Title WILLIAM J. BRENNAN, Commissioner
10. Approved as to form and legality by the Attorney General on March 16, 1989
Signature 
Printed Name Peggy B. McCloskey

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminus portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similiar to the material of the cod end and have a mesh size of at least twice the minimum mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock, pollock, witch flounder, American plaice, winter flounder, summer flounder and yellowtail flounder for the purposes of this management plan.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan (Cont.)

4. Mesh size. "Mesh size" is the average of the measurements from any series of seventy-five (75) consecutive meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock, witch flounder, American plaice, winter flounder, summer flounder and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan (Cont.)

commercially-caught cod, haddock and pollock less than 19 inches total length;

recreationally-caught cod and haddock less than 17 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 12 inches total length;

yellowtail flounder less than 12 inches total length;

winter flounder (blackback) less than 11 inches total length;

summer flounder less than 13 inches total length;

C. Maine Territorial Seas

1. Minimum Mesh Size. It shall be unlawful in Maine Territorial seas for a vessel using otter trawls, pair trawls, beam trawls, scottish seines, or mid-water trawls, to use nets having less than 5 $\frac{1}{2}$ inches per average mesh size for at least 75 meshes forward of the terminus of the net.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan (Cont.)

It shall also be unlawful to use bottom-tending gill nets, or bottom-tending seines with an average mesh size of less than 5 $\frac{1}{2}$ inches.

2. Exception:

Vessels properly permitted under the Federal Exempted Fisheries Program (50 CFR-Part 651.22) may fish in Maine Territorial seas January 1 to March 31 both days inclusive.

3. Effective Jan 1, 1990

Except as provided in 34.10 (c)(2) it shall be unlawful in Maine Territorial seas for a vessel using otter trawls, pair trawls, beam trawls, scottish seines, mid-water trawls, bottom-tending gill nets or bottom-tending seines, to use nets with a mesh size of less than 5 $\frac{1}{2}$ inches throughout the net. Nothing in this regulation shall allow the taking of any Maine species in violation of any other statute or Department regulation.

BASIS STATEMENT

As required by 12 M.R.S.A. §§6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts these Amendments to the Maine Groundfish Management Plan (34.10).

The Commissioner received a petition, dated July 28, 1988, requesting that he hold a public hearing establishing a large mesh fishing area in Maine's territorial waters. The petitioners stated that it was their belief that small mesh gear was needlessly slaughtering juvenile groundfish and flatfish. They felt if the Department would enact a small mesh ban in State waters, it would be a good first step towards protecting the future of the Maine groundfish fishery.

The Department's proposed regulation would have prohibited the use of groundfish gear having cod ends with less than 5½ inches average mesh size. The proposal would have also made it unlawful for vessels participating in the Federal Exempted Fisheries Program to fish in Maine territorial seas with small mesh gear. Without this program it would no longer be possible to trawl shrimp in Maine's territorial seas.

Early in the January 30 hearing one of the original petitioners suggested a compromise that would allow shrimp fishing with small mesh gear January, February and March. The fishermen attending the hearing highly endorsed and supported this compromise. No testimony was offered to the contrary.

During the public hearing testimony was also taken on the proposal requiring a minimum mesh size of 5½ inches throughout the groundfish nets by January 1, 1990. This requirement has already been adopted by the New England Fisheries Management Council as part of Amendment 2 to the Northeast Multispecies Plan. All of the fishermen testifying at the January 30 hearing approved implementation of the 5½ inch mesh throughout the groundfish net for State waters.

There will be no additional costs to the Department as a result of these Amendments. Existing enforcement personnel will monitor compliance during their routine patrols.

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04331

ACCEPTED FOR
FILING

SEP 14 1989

SECRETARY OF STATE

Leave Blank

89-367

1. Agency: * Department of Marine Resources

2. Agency umbrella and unit #: 13-188A

3. Title of rule(s): Maine Groundfish Management Plan, Amendments

4. Chapter Number Assigned to the rule(s) 34.10

5. Date(s)/method(s) of notice: April 12, 1989 - Secretary of State

Notice of Agency Rule-Making Proposal.

6. Date(s)/place(s) of hearing(s): No hearing held; none requested

7. Type of rule: new rule amendment of existing rule suspension of existing rule

repeal of existing rule emergency rule

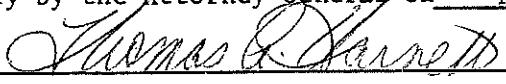
8. Name/phone of agency contact person: Ken Honey 633-5572

9. Certification Statement: I,... WILLIAM J. BRENNAN....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Department of Marine Resources on August 29, 1989

Signature 

Printed Name & Title WILLIAM J. BRENNAN, Commissioner

10. Approved as to form and legality by the Attorney General on Sept. 14, 1989

Signature 

Printed Name Thomas A. Harnett

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminus portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that strengtheners consist of mesh similar to the material of the cod end and have a mesh size of at least twice the mini mesh size.
2. Commercial catch. "Commercial catch" means all groundfish taken with any type of gear except groundfish taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" means cod, haddock, pollock, witch flounder, American plaice, winter flounder, and yellowtail flounder for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of meshes in the cod end. The cod end shall be measures equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
5. Recreational catch. "Recreational catch" are those cod, haddock, witch flounder, American plaice, winter flounder, and yellowtail flounder taken for personal use by hand-held hook and line gear.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

commercially-caught cod, haddock and pollock less than 19 inches total length;

recreationally-caught cod and haddock less than 19 inches total length;

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 14 inches total length;

yellowtail flounder less than 13 inches total length;

winter flounder (blackback) less than 11 inches total length;

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§ 6171 and 6191, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to the Maine Groundfish Management Plan (34.10).

These changes increase the minimum size of recreationally caught cod and haddock to 19 inches; increase the minimum size of American plaice (dab) to 14 inches; and yellowtail flounder to 13 inches. All other portions of the regulation remain unchanged with these changes the Maine Groundfish regulations will once again be in conformity with the New England Fishery Management Council's Northeast Multispecies Plan. Maine's groundfish industry will now be subject to identical fish size restrictions no matter where they fish.

There will be no additional costs to the Department as a result of these amendments. Existing enforcement personnel will monitor compliance during their routine patrols.

TO: Secretary of State (JAH - 9/129)
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
FILING

Leave Blank

DEC 13 1989

89-552

SECRETARY OF STATE

1. Agency: * Department of Marine Resources

2. Agency umbrella and unit #: 13-188

3. Title of rule(s): Removal of Heads and Tails of Groundfish

4. Number assigned to the rule(s): 34.15

5. Date(s)/method(s) of notice: Portland Press Herald, Bangor Daily News and
Kennebec Journal - December 13, 1989.

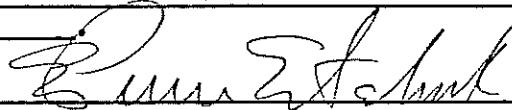
6. Date(s)/place(s) of hearing(s): None

7. Type of rule:
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule

8. Name/phone of agency contact person: Col. Perley M. Sprague - 289-2291

9. Certification Statement: I, E. PENN ESTABROOK, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by Department of Marine Resources on December 13, 1989

Signature _____



Printed Name & Title E. PENN ESTABROOK, Deputy Commissioner

10. Approved as to form and legality by the Attorney General on December 13, 1989

Signature _____

Printed Name THOMAS A. HARNETT

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

NOTICE OF EMERGENCY RULE ADOPTION

AGENCY: Department of Marine Resources

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

TEXT OF RULE: DMR Regulations, Chapter 34.15 - Removal of Heads and Tails of Groundfish

1. It shall be unlawful to remove the head or tail from groundfish as defined in Chapter 34.05 or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.

EFFECTIVE DATE: December 13, 1989

AGENCY CONTACT PERSON: Colonel Perley M. Sprague
Department of Marine Resources
State House - Station #21
Augusta, Maine 04333-0021

PORLAND PRESS HERALD
BANGOR DAILY NEWS
KENNEBEC JOURNAL
December 13, 1989

STATEMENT OF FACT AND POLICY

As authorized by 12 M.R.S.A. Section 6171 (3), the Commissioner of the Department of Marine Resources has determined that groundfish are being cut (heads and tails removed) thus rendering the fish unusable for accurate measure.

DMR Regulation 34 requires groundfish to be a particular length in order to be legal. Allowing fish to be cut aboard a vessel rigged for fishing, effectively makes the enforcement of this Chapter impossible.

Regulation 34.15 shall now read that it shall be unlawful to remove the head or tail from groundfish as defined in Chapter 34.15 or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.



E. PENN ESTABROOK
Deputy Commissioner

ACCEPTED FOR
FILING

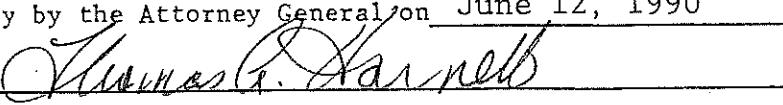
JUN 13 1990

SECRETARY OF STATE

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90-232

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

1. Agency: * Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Removal of Heads and Tails of Groundfish
4. Chapter Number Assigned to the rule(s) Secretary of State Notice of Agency Rule-Making April 25, 1990.
5. Date(s)/method(s) of notice: No hearing held - none requested
6. Date(s)/place(s) of hearing(s):
7. Type of rule: new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-5572
9. Certification Statement: I,.....WILLIAM J. BRENNAN....., hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Department of Marine Resources on May 31, 1990
- Signature 
- Printed Name & Title WILLIAM J. BRENNAN, COMMISSIONER
10. Approved as to form and legality by the Attorney General on June 12, 1990
- Signature 
- Printed Name Thomas A. Harnett

*For instructions on completing this cover sheet see "A Guide to Rule-making for State Agencies", pp.8-10.

34.15 REMOVAL OF HEADS AND TAILS OF GROUNDFISH

It shall be unlawful to remove the head or tail from groundfish as defined in Chapter 34.05 or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§6171 and 6191 the Commissioner of Marine Resources, with the advice and consent of the Department of Marine Resources Advisory Council, adopts this rule making it unlawful to remove the head or tail of groundfish or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.

The Department of Marine Resources and the New England Fishery Management Council require groundfish to be a certain minimum length to be legal. The Commissioner of DMR has determined that some vessels fishing for groundfish are cutting fish (removing heads and/or tails) thus rendering these fish unvaluable for accurate length measurement. This cutting of fish is clearly being conducted to circumvent groundfish size requirements. This rule will prevent this practice.

The fiscal impact of this rule will be minimal. Department enforcement personnel will monitor compliance during their routine patrols.

BRIEF SUMMARY
(for Lucille Weeks)

This rule makes it unlawful to remove the head or tail from groundfish as defined in Chapter 34.05 or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.

SUMMARY OF COMMENTS

No comments were received by the Department during the comment period.

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

PROPOSED RULE

1. Was this rule listed on the last or previous regulatory agendas? No
2. Date of Notification of:
 Anyone on mailing list April 11, 1990
 Any trade, industry or professional group April 11, 1990
 Any trade publications April 11, 1990
3. Date Notice of Rulemaking Proposal sent to Secretary of State April 11, 1990
4. Date fact sheet sent to Exec. Dir. of Legislative Council April 11, 1990
5. Date of Publication in Secretary of State's Rulemaking Ad April 25, 1990
6. Date of Hearing: none held Was it continued? no Until when? _____
7. Comment Deadline: May 28, 1990 Was it extended? no Until When?
Was notice of the extension of the comment period published in the rulemaking ad? N/A Date? _____

ADOPTED RULE:

8. Was rule adopted within 120 days from comment deadline? yes
9. Is rule consistent with what was proposed? yes
(If not, please address the changes in the Summary of Comments).
10. Was the comment period reopened because of numerous changes to the proposed rule? no
10. Is Basis Statement included? yes Is Summary of Comments included? yes
11. Is the person signing Certification Statement (MAPA-1 #9) authorized by statute to adopt the rule for the department? yes
12. Was the rule approved & signed by the Attorney General's Office? yes
Within 150 days from comment deadline? _____
13. Date adoption notice was published in the Secretary of State's rulemaking ad unknown

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR

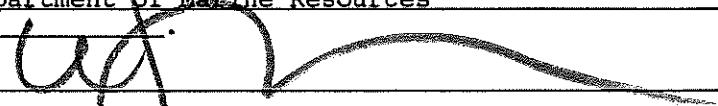
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DEC 21 1994

94-517

SECRETARY OF STATE

1. Agency: Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Maine Groundfish Management Plan
4. Chapter Number Assigned to the rule(s) Chapter 34.10
5. Date(s)/method(s) of notice: August 3, 1994 Secretary of State Notice of Rule Making Proposal
6. Date(s)/place(s) of hearing(s): None held - none requested
7. Type of
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-9500
9. Certification Statement: I.....WILLIAM J. BRENNAN..... hereby certify that the attached is a true copy of the rule(s) described and lawfully adopted by the Department of Marine Resources on November 30, 1994

Signature 

Printed Name & Title William J. Brennan, Commissioner

10. Approved as to form and legality by the Attorney General on 12/21/94

Signature 

Printed Name Thomas A. Harnett
Assistant Attorney General

*For instructions on completing this cover sheet see "A Guide to Rule-Making for State Agencies", pp.8-10.

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34 - Maine Groundfish Management Plan - Minimum Fish Size

ADOPTED RULE NUMBER:

LEAVE BLANK-WILL BE FILLED IN BY SECRETARY OF STATE

CONCISE SUMMARY:

This regulation makes it unlawful to retain on board a vessel, land, ship, transport or possess winter flounder (blueback) less than 12 inches total length or redfish less than 9inches total length.

EFFECTIVE DATE:

TO BE FILLED IN BY SECRETARY OF STATE

AGENCY CONTACT PERSON:

NAME: Ken Honey
ADDRESS: Department of Marine Resources
P. O. Box 8
West Boothbay, Maine 04578

PHONE NUMBER: 633-9500

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT

DATE:

12-19-94

FUND
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1000APP
102

JOB

OBJT
4946

AMOUNT

34.10 Maine Groundfish Management Plan

B. Minimum Fish Size

Winter Flounder (blackback) less than ~~11~~ 12 inches total length.

Redfish less than 9 inches total length

STATEMENT OF COMMENTS

No comments were received by the Department on this proposal.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §§6171 the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts these minimum groundfish size requirements to the Maine Groundfish Management Plan regulations.

The Department adopts these minimum fish sizes for winter flounder and redfish to bring Maine's minimum size requirements into compliance with the fish size requirements for federal waters.

There should be no negative economic impact on groundfish harvesters because these fishermen already have to adhere to these fish size requirements while fishing in federal waters.

Promulgation of these minimum fish size requirements ensures that Maine groundfish harvesters will now be fishing under identical size requirements in both federal and state waters.

STATE OF MAINE

Inter-Departmental Memorandum

Date December 14, 1994

To Sarah Tubbesing

Dept Legislative Council #115

From Ken Honey

Dept Marine Resources

Subject Fact Sheet for Agency Rule Making Proposal

Pursuant to Section 7, 5 M.R.S.A., §8057-A I am submitting information regarding a Department of Marine Resources proposed rule change. The Department proposes these regulations under the authority of 12 M.R.S.A., §6171.

1. Rule Title Maine Groundfish Management Plan - Minimum Fish Size

2. Concise Summary of the Proposed Rule

The Department proposes to make it unlawful to retain on board a vessel, land, ship, transport or possess the following: Winter flounder (blackback) less than 12 inches total length; redfish less than 9 inches total length.

3. Regulatory Goals and Objectives

The Commissioner proposes these minimum fish sizes for winter flounder and redfish to bring these size requirements into compliance with size requirements for federal waters.

4. Estimated Economic Impact on Small Business

These proposed size restrictions will have a small impact on Maine groundfish fishermen. However the vast majority of these fishermen have had to abide by these size requirements for winter flounder and redfish while fishing in federal waters.

5. Estimated Fiscal Impact of the Proposed Rule

Enforcement of these size requirements will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

AGENCY: Department of Marine Resources

CHAPTER # AND TITLE OF RULE: Chapter 34 - Maine Groundfish Management Plan

1. Was this rule listed on the last regulatory agenda? Yes
2. Date of notification of:
Anyone on mailing list July 19 1994
Any trade, industry or professional group July 19, 1994
Any trade publications July 19, 1994
3. Date Notice of Rulemaking Proposal sent to Secretary of State: July 20, 1994a
4. Date fact sheet sent to Exec. Dir. of Legislative Council: July 20, 1994
5. Date of Publication in Secretary of State's Rulemaking Ad: August 3, 1994
6. Date of Hearing: none scheduled 7. Comment Deadline: September 6, 1994
8. Was comment deadline extended or comment period reopened? No
If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? yes
(If not, please address the changes in the Statement of Comments).
10. Is the person signing the Certification Statement (MAPA-1 #9) authorized to do so as stated in your statutes or by 5 M.R.S.A., Chapter 71 which defines major policy-influencing position? yes
11. Was rule adopted within 120 days from the comment deadline? yes
12. Was the rule approved & signed by the Attorney General's Office within 150 days from comment deadline? yes
13. Is Basis Statement included? yes Is Statement of Comments included? yes
14. Is copy of fact sheet included? yes

TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACQUISITION
FILED

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APR 18 1995

95-176

SECRETARY OF STATE

1. Agency: Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Maine Groundfish Management Plan
4. Chapter Number Assigned to the rule(s) 34.10
5. Date(s)/method(s) of notice: January 18, 1995 - Secretary of State Notice of Agency Rule Making Proposal
6. Date(s)/place(s) of hearing(s): None held - None requested
7. Type of
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-9500
9. Certification Statement: I.....ROBIN ALDEN..... hereby certify that the attached is a true copy of the rule(s) described and lawfully adopted by the Department of Marine Resources on April 6, 1995.

Signature Robin Alden

Printed Name & Title Robin Alden Commissioner

10. Approved as to form and legality by the Attorney General on 4/18/95

Signature Thomas A. Harnett

Printed Name Thomas A. Harnett

Assistant Attorney General

*For instructions on completing this cover sheet see "A Guide to Rule-Making for State Agencies", pp.8-10.

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34 - Maine Groundfish Management Plan

ADOPTED RULE NUMBER:

LEAVE BLANK-WILL BE FILLED IN BY SECRETARY OF STATE

CONCISE SUMMARY:

These amendments delete and reword sections of the Maine Groundfish Management Plan regulations bringing the language in these regulations into conformity with the language contained in the federal groundfish management plan.

EFFECTIVE DATE:

TO BE FILLED IN BY SECRETARY OF STATE

AGENCY CONTACT PERSON:

NAME: Ken Honey
ADDRESS: Department of Marine Resources
P. O. Box 8
West Boothbay, Maine 04578

PHONE NUMBER: 633-9500

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT

DATE: 4-13-95

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4946

AMOUNT

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

A. Definitions

1. Cod end. "Cod end" means the terminus portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained. No means or device may be used on the cod end which would have the effect of reducing mesh size, except that chafing gear which does not obstruct the meshes of the cod end may be attached and net strengtheners may be used provided that such strengtheners consist of mesh similar to the material of the cod end and have a mesh size of at least twice the mini mesh size.
1. Codend. "Codend" means the terminal section of a trawl net in which captured fish may accumulate.
2. Commercial catch. "Commercial catch" means all groundfish multispecies taken with any type of gear except groundfish multispecies taken for personal use by hand-held hook and line gear.
3. Groundfish. "Groundfish" Regulated species. "Regulated species" means cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake for the purposes of this management plan.
4. Mesh size. "Mesh size" is the average of the measurements from any series of meshes in the cod end. The cod end shall be measured equidistant from the lacings, (gore ropes) beginning at the after end and running parallel to the long axis. The mesh is to be measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters, and a thickness of 2.3 millimeters. The gauge is to be inserted into the meshes under pressure or pull of five kilograms.
4. Mesh measurements. Mesh sizes are measured by a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3 mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.
5. Recreational catch. "Recreational catch" are those cod, haddock, witch flounder, American plaice, winter flounder, summer flounder and yellowtail flounder taken for personal use by hand-held hook and line gear.
5. Recreational fishing. "Recreational fishing" means fishing that is not intended to, nor does it result in the barter, trade, or sale of fish.
6. Total length. "Total length" means from the tip of the snout to the tip of the tail.

7. Minimum Size. "Minimum size" applies to whole fish or to any part of a fish while possessed on board a vessel. 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.

B. Minimum Fish Size

It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:

commercially-caught cod, haddock and pollock less than 19 inches total length;

recreationally-caught cod and haddock less than 19 inches total length; 

witch flounder (grey sole), less than 14 inches total length;

American plaice (dab) less than 14 inches total length;

yellowtail flounder less than 13 inches total length;

winter flounder (blackback) less than 12 inches total length; and

summer flounder less than 13 inches total length;

red fish less than 9 inches total length.

C. Maine Territorial Seas

1. Minimum Mesh Size. It shall be unlawful in Maine Territorial seas for a vessel using otter trawls, pair trawls, beam trawls, scottish seines, or mid-water trawls, to use nets having less than 5 $\frac{1}{2}$ inches per average mesh size for at least 75 meshes forward of the terminus of the net. It shall also be unlawful to use bottom-tending gill nets, or bottom-tending seines with an average mesh size of less than 5 $\frac{1}{2}$ inches.

1. Mesh-size restrictions. The minimum mesh size for any trawl net, sink gillnet, Scottish seine, or midwater trawl, on a vessel, or used by a vessel fishing in Maine's territorial seas shall be 6 inches diamond or square mesh throughout the entire net.

2. Exception:
Vessels properly permitted under the Federal Exempted Fisheries Program (50 CFR Part 651.22) may fish in Maine territorial seas January 1 to March 31 both days inclusive.

2. Small-mesh exemption area. A vessel may fish for shrimp with nets less than 6 inches within Maine's territorial seas from January 1st to March 31st, both days inclusive.

3. Effective Jan 1, 1990
Except as provided in 34.10 (C)(2) it shall be unlawful in Maine Territorial seas for a vessel using otter

~~trawls, pair trawls, beam trawls, scottish seines, mid-water trawls, bottom-tending gill nets or bottom-tending seines, to use nets with a mesh size of less than 5 $\frac{1}{2}$ inches throughout the net. Nothing in this regulation shall allow the taking of any Maine species in violation of any other statute or department regulation.~~

34.15 Removal of Heads and Tails of Groundfish

~~It shall be unlawful to remove the head or tail from groundfish as defined in Chapter 34.05 or possess such fish aboard any vessel rigged for taking groundfish by otter trawl, pair trawl, beam trawl or gill net unless the length of the cut fish is equal to or greater than the legal length.~~

BASIS STATEMENT

As authorized by 12 M.R.S.A. §6171, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to existing Maine Groundfish Management Plan regulations.

The Commissioner is taking this action to bring the language in Maine's Groundfish Management Regulations into conformity with the language contained in the federal groundfish management plan. Enforcement will be much smoother and easier with this duplication.

SUMMARY OF COMMENTS

No comments were received by the Department on this proposal.

STATE OF MAINE
Inter-Departmental Memorandum

Date April 12, 1995

To Sarah Tubhesing

Dept Legislative Council #115

From Ken Honey

Dept Marine Resources

Subject Fact Sheet for Agency Rule Making Proposal

Pursuant to Section 7, 5 M.R.S.A., §8057-A I am submitting information regarding a Department of Marine Resources rule proposal. The Department proposes this regulation amendment under the authority of 12 M.R.S.A., §6171.

1. Rule Title Amendment to 34.10 Maine Groundfish Management Plan

2. Concise Summary of the Proposed Rule

The Department proposes these amendments to the Maine Groundfish Management Plan (34.10) to revise, delete and reword sections in 34.10 to bring the language in 34.10 into conformity with the language contained in the federal groundfish management plan.

3. Regulatory Goals and Objectives

The Commissioner proposes these amendments to 34.10 to bring the language in Maine Groundfish Management Regulations into conformity with the language contained in the federal groundfish management plan. Enforcement will be much smoother and easier with duplication of state and federal regulations.

4. Estimated Economic Impact on Small Business

These proposed amendments will have no impact on small business in Maine. These amendments are being made simply to duplicate state and federal regulatory language.

5. Estimated Fiscal Impact of the Proposed Rule

Enforcement of these proposed amendments will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

AGENCY: Department of Marine Resources

CHAPTER # AND TITLE OF RULE: Chapter 34.10 Amendments to the Maine
Groundfish Management Plan

1. Was this rule listed on the last regulatory agenda? yes

2. Date of notification of: Anyone on mailing list January 3, 1995

Any trade, industry or
professional group January 3, 1995

Any trade publications January 3 1995

3. Date Notice of Rulemaking Proposal sent to Secretary of State: January 4, 1995

4. Date fact sheet sent to Exec. Dir. of Legislative Council: January 4, 1995

5. Date of Publication in Secretary of State's Rulemaking Ad: January 18, 1995

6. Date of Hearing: none scheduled 7. Comment Deadline: February 20, 1995

8. Was comment deadline extended or comment period reopened? No

If yes, date of second notice publication in Secretary of
State's rulemaking ad: _____

9. Is adopted rule consistent with what was proposed? Yes
(If not, please address the changes in the Statement of Comments).

10. Is the person signing the Certification Statement (MAPA-1 #9)
authorized to do so as stated in your statutes or by 5 M.R.S.A.,
Chapter 71 which defines major policy-influencing position? Yes

11. Was rule adopted within 120 days from the comment deadline? Yes

12. Was the rule approved & signed by the Attorney General's Office
within 150 days from comment deadline? Yes

13. Is Basis Statement included? Yes Is Statement of Comments included? Yes

14. Is copy of fact sheet included? Yes



TO: Secretary of State
ATTN: Administrative Procedure Officer
State House, Augusta, Maine 04333

ACCEPTED FOR
PRINTING

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JUN 26 1995

95-253

SECRETARY OF STATE

1. Agency: Department of Marine Resources
2. Agency umbrella and unit #: 13-188A
3. Title of rule(s): Amendments to Maine Groundfish Management Plan
4. Chapter Number Assigned to the rule(s) 34.10
5. Date(s)/method(s) of notice: April 26, 1995 - Secretary of State Notice of Agency Rule Making Proposal
6. Date(s)/place(s) of hearing(s): None held - None requested
7. Type of
 new rule amendment of existing rule suspension of existing rule
 repeal of existing rule emergency rule
8. Name/phone of agency contact person: Ken Honey 633-9500
9. Certification Statement: I.....ROBIN ALDEN....., hereby certify that the attached is a true copy of the rule(s) described and lawfully adopted by the Department of Marine Resources on June 19, 1995.

Signature Robin Alden

Printed Name & Title Robin Alden Commissioner

10. Approved as to form and legality by the Attorney General on June 26, 1995

Signature Thomas A. Harnett

Printed Name Thomas A. Harnett
Assistant Attorney General

*For instructions on completing this cover sheet see "A Guide to Rule-Making for State Agencies", pp.8-10.

34.10 Maine Groundfish Management Plan

A. Definitions

1. Codend. "Codend" means the terminal section of a trawl net in which captured fish may accumulate.
- 1A. Sink Gillnet means any gillnet, 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.
2. 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.
3. Regulated species. "Regulated species" means cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake for the purposes of this management plan.
4. Mesh measurements. For any trawl nets, Scottish seines, midwater trawls mesh sizes are measured by a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3 mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.
- 4A. Gillnets. "Gillnets" mesh size is measured by using a tape measure, measuring ten consecutive meshes on the diamond. The mesh size will be the average of the measurement of any series of ten consecutive meshes.

BASIS STATEMENT

As authorized by 12 M.R.S.A. §6171, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to existing Maine Groundfish Management Plan regulations.

These amendments define sink gillnets and describe how gillnets will be measured. The Commissioner takes this action at the request of members of Maine's groundfish industry. The Department contacted other coastal state officials and members of Maine's gillnet industry regarding practical methods of measuring gillnets. These amendments have the endorsement of most of the industry members we have contacted and are similar to measures used in other coastal states.

SUMMARY OF COMMENTS

No comments were received by the Department on this proposal.

STATE OF MAINE

Inter-Departmental Memorandum

Date June 7, 1995

To Sarah Tubbesing

Dept. Legislative Council #115

From Ken Honey

Dept. Marine Resources

Subject Fact Sheet for Agency Rule Making Proposal

Pursuant to Section 7, 5 M.R.S.A., §8057-A I am submitting information regarding a Department of Marine Resources rule proposal. The Department proposes this regulation amendment under the authority of 12 M.R.S.A., §6171.

1. Rule Title Amendment to Chapter 34 Maine Groundfish Management Plan

2. Concise Summary of the Proposed Rule

These proposed amendments define sink gillnets and describes how gillnets are measured.

3. Regulatory Goals and Objectives

The Department proposes these amendments at the request of representatives of the Maine Groundfish industry. The Department has contacted other coastal State officials and members of Maine's gillnet industry regarding practical methods of measuring gillnets. Our proposal has the endorsement of most industry members we have contacted and is similar to how other coastal states measure their industries gill nets.

We believe the proposed measuring scheme clears up a lot of the misunderstanding and ambiguity of our present system.

4. Estimated Economic Impact on Small Business

These amendments will have no impact on small business in Maine.

5. Estimated Fiscal Impact of the Proposed Rule

Enforcement and administration of these proposed amendments will not require any additional activity. Existing department personnel will monitor compliance during their routine activities.

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

AGENCY: Department of Marine Resources

CHAPTER # AND TITLE OF RULE: Chapter 34 - Amendments to the Maine Groundfish Management Plan

1. Was this rule listed on the last regulatory agenda? Yes _____
2. Date of notification of: Anyone on mailing list April 14, 1995 _____
Any trade, industry or professional group April 14, 1995 _____
3. Any trade publications April 14, 1995 _____
4. Date Notice of Rulemaking Proposal sent to Secretary of State: April 14, 1995 _____
5. Date fact sheet sent to Exec. Dir. of Legislative Council: April 14, 1995 _____
6. Date of Publication in Secretary of State's Rulemaking Ad: April 26, 1995 _____
7. Date of Hearing: none scheduled Comment Deadline: May 29, 1995 _____
8. Was comment deadline extended or comment period reopened? No _____
If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? yes _____
(If not, please address the changes in the Statement of Comments).
10. Is the person signing the Certification Statement (MAPA-1 #9) authorized to do so as stated in your statutes or by 5 M.R.S.A., Chapter 71 which defines major policy-influencing position? yes _____
11. Was rule adopted within 120 days from the comment deadline? yes _____
12. Was the rule approved & signed by the Attorney General's Office within 150 days from comment deadline? yes _____
13. Is Basis Statement included? Is Statement of Comments included? yes _____
14. Is copy of fact sheet included? yes _____

Rule-Making Cover Sheet

AUG 26 1997

97-286

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: Maine Groundfish Management Plan
4. Chapter number assigned to rule: 34.10
5. Date(s)/method(s) of notice: Secretary of State Notice of Agency Rule Making Column June 18, 1997
6. Date(s)/place(s) of hearing(s): July 7, 1997, City Hall Auditorium, Ellsworth and July 8, 1997, DMR Conference Room, West Boothbay Harbor
7. Type: new rule partial amendment(s) of existing rule
suspension of existing rule repeal of rule emergency rule
repeal and replace; complete replacement of existing chapter, with former version simultaneously repealed.
8. Name/phone of agency contact person: Laurice U. Churchill, Tel: (207) 633-9584
9. If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:
Provisional adoption (prior to Legislative review) Final adoption

10. Certification Statement: I, Robin Alden, hereby certify that
(name of official empowered to adopt rules)
the electronic text identified as follows: DMR34-10.lwp 41KB 8/26/97 8:29
is a true copy of the rule(s) described above. I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on August 26, 1997.
(name of agency) (date)

Signature: Robin Alden (original signature, personally signed by the head of agency)

Printed Name & Title: Robin Alden, Commissioner

11. Approved as to form and legality by the Attorney General on August 26, 1997
(date)

Signature: Thomas C. Harnett (original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Thomas Harnett, Assistant Attorney General
File with the APA Office, Secretary of State, 101 State House Station, Augusta, ME 04333

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

A. Definitions

1. Cod end.

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

1A. Sink Gillnet.

Sink Gillnet means any gillnet, 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.

2. 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.

3. Regulated species.

"Regulated species" means cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake for the purposes of this management plan.

4. Mesh measurements.

For any trawl nets, Scottish seines, midwater trawls mesh sizes are measured by a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3 mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

4A. Gillnets.

"Gillnets" mesh size is measured by using a tape measure, measuring ten consecutive meshes on the diamond. The mesh size will be the average of the measurement of any series of ten consecutive meshes.

5. Recreational fishing.

"Recreational fishing" means fishing that is not intended to, nor does it result in the barter, trade, or sale of fish.

6. Total length.
"Total length" means from the tip of the snout to the tip of the tail.
7. Minimum size. "Minimum size" applies to whole fish or to any part of a fish while possessed on board a vessel. 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.
7. Charter or party boat.
Charter or party boat means any vessel that carries passengers for hire to engage in recreational fishing.
8. 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. Minimum Fish Size Size, Possession and Gear Restrictions

~~It shall be unlawful to retain on board a vessel, land, ship, transport or possess the following:~~

~~commercially caught cod, haddock and pollock less than 19 inches total length;~~
~~recreationally caught cod and haddock less than 19 inches total length;~~
~~witch flounder (grey sole), less than 14 inches total length;~~
~~American plaice (dab) less than 14 inches total length;~~
~~yellowtail flounder less than 13 inches total length;~~
~~winter flounder (blackback) less than 12 inches total length;~~
~~summer flounder less than 13 inches total length; and~~
~~redfish less than 9 inches total length.~~

1. Commercial - size, possession and gear restrictions

- a. All commercial vessels are subject to the following minimum fish sizes:

Minimum Fish Sizes (TL)

<u>Species</u>	<u>Size Inches (cm)</u>
Cod.....	19 (48.3 cm)
Haddock.....	19 (48.3 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)

<u>Winter Flounder (blackback).....</u>	<u>12 (30.48 cm)</u>
<u>Redfish.....</u>	<u>9 (22.9 cm)</u>
<u>Summer Flounder.....</u>	<u>14 (35.6 cm)</u>

- 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.
- 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.
 - 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.

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)



<u>Species</u>	<u>Size inches (cm)</u>
Cod.....	21 (53.3 cm)
Haddock.....	21 (53.3 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)
Winter Flounder (blackback).....	12 (30.5 cm)
Redfish.....	9 (22.9 cm)
Summer Flounder.....	14.5 (36.8 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.

- c. Possession restrictions.
Each person on a recreational vessel may not possess more than 10 cod and/or haddock combined.
- 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. Cod and haddock harvested by recreational 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 and operator.
- Indent → iii
not 3.
3. Cod and haddock must be stored so as to be readily available for inspection.
- d. 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 vessels, or recreational fishing vessels.
 - e. Gear restrictions. Persons aboard charter, party vessels or recreational fishing vessels are prohibited from fishing for groundfish as defined under Chapter 34.05 A. Definitions, with more than two hooks per line and one line per angler and must stow all other fishing gear on board the vessel.

34.05(A)

Basis Statement

As authorized by 12 M.R.S.A. §6171, the Commissioner of the Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to the existing Maine Groundfish Management Plans regulations.

The Commissioner is taking this action to protect depleted groundfish stocks. These changes to the Maine's Groundfish Management Plan compliment regulations contained in the federal groundfish management plan. Compliance by groundfish fishermen will be enhanced by adopting identical rules for both federal and state waters.

Summary of Comments

Two public hearings were held. One in Ellsworth on July 7, and one in West Boothbay Harbor on July 8, 1997. No public comment was received. Tim Tower, a charter boat captain and a member of the DMR Recreational Fishing Advisory Council, informed the Department that the proposed rule omitted the charter and party boat exemption from the 10 cod and haddock per day possession restriction which is allowed in the federal groundfish rules. This item has been addressed by adding the federal definition for recreational fishing vessel and specifying that the 10 cod and haddock per day possession restriction applies only to recreational fishing vessels.

ADMINISTRATIVE PROCEDURE ACT CHECKLIST

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 34 - Maine Groundfish Management Plan

1. Was this rule listed on the last regulatory agenda? yes
2. Date of notification of:
 Anyone on mailing list June 18, 1997

 Any trade, industry or
 professional group June 18, 1997

 Any trade publications June 18, 1997
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: June 10, 1997
4. Date Fact Sheet sent to Executive Director of Legislative Council: June 10, 1997
5. Date of publication in Secretary of State's rule-making ad.: June 18, 1997
6. Date of hearing(s): July 7 & 8, 1997 7. Comment deadline: July 18, 1997
8. Was comment deadline extended or comment period reopened? no
9. Is adopted rule consistent with what was proposed? yes
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9)
authorized to do so as stated in your statutes or in 5 MRSA, c.71? yes
11. Was the rule adopted within 120 days of the comment deadline? yes
12. Was the rule approved and signed by the Office of the
Attorney General within 150 days of the comment deadline? yes
13. Is a Basis Statement included? yes Is a copy of the Fact Sheet included? yes
Are comments, with names and organizations, and your responses included? yes

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:
Laurice U. Churchill, 21 State House Station, Augusta, ME 04333-0021 ; telephone: 633-9584.

CHAPTER NUMBER AND RULE Chapter 34. Maine Groundfish Management Plan

STATUTORY AUTHORITY: 12 M.R.S.A. §6171 (2-A)

DATE AND PLACE OF PUBLIC HEARING:

Monday, July 7, 1997, 5:30 pm, City Hall Auditorium, Ellsworth and
Tuesday, July 8, 1997, 5:30 pm, DMR Conference Room, West Boothbay Harbor

COMMENT DEADLINE: Wednesday, July 18, 1997

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The Department proposes these amendments to the Maine Groundfish Management Plan (34.10) to revise, delete and reword sections 34.10 to bring the language of that section into conformity with the language contained in the federal groundfish management plan.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

These rules will apply to all commercial and recreational groundfishermen within Maine Territorial Seas and provide conformity with the federal groundfish management plan in federal waters.

FISCAL IMPACT OF THE RULE:

Enforcement of these proposed amendments will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

(File 20 copies with the Executive Director of Legislative Council, attn. S. Tubbesing, Rm#115, within 1-2 days after filing with SOS.)

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34 - Maine Groundfish Management Plan

ADOPTED RULE NUMBER:

(LEAVE BLANK - ASSIGNED BY
SECRETARY OF STATE)

CONCISE SUMMARY:

These amendments repeal and replace some sections of the Maine Groundfish Management Plan regulations and make those regulations conform to the language contained in the federal groundfish management plan.

EFFECTIVE DATE: August 31, 1997

(TO BE FILLED IN
BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Laurice U. Churchill

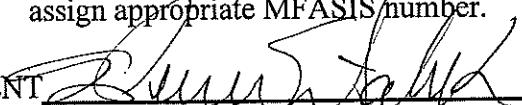
AGENCY NAME: Department of Marine Resources

ADDRESS: P.O. Box 8
West Boothbay Harbor, Maine 04575

TELEPHONE: 633-9584

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

APPROVED FOR PAYMENT

 DATE: 8/27/97

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A100	102		4946	

Rule-Making Cover Sheet

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.

AUG 20 1998

98-363

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: Maine Groundfish Management Plan, Maine Territorial Seas, Groundfish Spawning Closure
4. Chapter number assigned to rule: 34.10(1)(C)(3)
5. Date(s)/method(s) of notice: Wednesday, June 17, 1998,
Sec. of State Notice of Agency Rule Making Column
6. Date(s)place(s) of hearing(s): None held - none requested
7. Type: new rule partial amendment(s) of existing rule
suspension of existing rule repeal of rule emergency rule
repeal and replace; complete replacement of existing chapter, with former
version simultaneously repealed.
8. Name/phone of agency contact person: Laurice U. Churchill, Tel: (207) 633-9584
9. If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:
Provisional adoption (prior to Legislative review) Final adoption
10. Certification Statement: I, Lewis N. Flagg, Commissioner (Acting), hereby certify that
(name of official empowered to adopt rules)
the electronic text identified as follows: DMR34-10(1)(C)(3).lwp size date time
is a true copy of the rule(s) described above. I further certify that all portions of this rule are
adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on 19 August 1998.
(name of agency) (date)

Signature: Lewis N. Flagg
(original signature, personally signed by the head of agency)

Printed Name & Title: Lewis N. Flagg, Commissioner (Acting)

11. Approved as to form and legality by the Attorney General on August 19, 1998
(date)

Signature: Thomas L. Harnett
(original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Thomas Harnett, Assistant Attorney General

NOTICE OF AGENCY RULE-MAKING ADOPTION**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 34.10(1)(C)(3) Maine Groundfish Management Plan, Maine Territorial Seas, Groundfish Spawning Closure**ADOPTED RULE NUMBER:**

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY: The proposed regulation establishes a closure during the months of April, May and June west of a line drawn 180 degrees Magnetic from West Quoddy Head in Lubec to the Canadian international border to protect spawning groundfish. The closure affects all commercial groundfishermen who fish in Maine's territorial seas. The closure does not apply to recreational fishing of groundfish from shore, wharves, attached floats or to recreational fishing as allowed under the provisions of Chapter 34.10(1)(B)(2). This measure is considered necessary to protect Maine's groundfish stocks.**EFFECTIVE DATE:** August 25, 1998

(TO BE FILLED IN

BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Laurice U. Churchill**AGENCY NAME:** Department of Marine Resources**ADDRESS:** P.O. Box 8

West Boothbay Harbor, Maine 04575

TELEPHONE: (207) 633-9584

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

APPROVED FOR PAYMENT



DATE: 9/21/98

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	13A	A100	102		4946	

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.01 Nonresident Groundfish Reporting Regulations

1A. It shall be unlawful for any nonresident fisherman to enter the territorial waters of the State of Maine for purposes of commercial fishing for groundfish or to depart such waters after commercial fishing for groundfish without reporting the following information to the Department of Marine Resources:

A4. Information required day before entering Maine's territorial waters:

- (1)a. Time of entering Maine's territorial waters.
- (2)b. Exact location of area where fishing operations will be conducted.
- (3)c. Weight of each species on board when Maine's territorial waters are entered.

B2. Information required before departing Maine's territorial waters:

- (1)a. Areas fished within Maine's territorial waters.
- (2)b. Type and size of gear used within Maine's territorial waters.
- (3)c. Species harvested within Maine's territorial waters.
- (4)d. Weight of each species caught within Maine's territorial waters.
- (5)e. Length of majority of fish of each species caught within Maine's territorial waters.

2B. Information shall be reported in the following manner:

A4. By telephoning the office of the Maine Chief of the Bureau of Marine Patrol: 207-624-6550 between the hours of 8:00 a.m. and 5:00 p.m. on the day before entering and the day of departure; and,

B2. By written report with exact data to be mailed by registered mail within three (3) days of landing of any fish caught within Maine's territorial waters.

3C. Upon notification, the nonresident fisherman may be required to take a department observer on board and provide proper accommodations for said observer.

4D. Penalty for a violation of these regulations shall be assessed pursuant to 12 M.R.S.A. Section 6204 and may involve suspension of any applicable license issued by the Commissioner of Marine Resources.

34.05 Groundfish Spawning Closure in Boothbay and Sheepscot Bay

1A. 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, 259I4.4 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.

APPENDIX A GROUNDFISH SPECIES

Common English Name	Scientific Name
Atlantic cod	<i>Gadus morhua</i>
Haddock	<i>Melanogrammus aeglefinus</i>
North Atlantic redfishes	<i>Sabastes spp.</i>
Silver hake	<i>Merluccius bilinearis</i>
Red hake	<i>Urophycis chuss</i>
Pollock (Saithe)	<i>Pollachius virens</i>
Redfish	<i>Sabastes marinus</i>
American plaice (Dab)	<i>Hippoglossoides platessoides</i>
Witch flounder (Gray sole)	<i>Glyptocephalus cynoglossus</i>
Yellowtail flounder	<i>Limanda ferruginea</i>
Greenland halibut	<i>Reinhardtius hippoglossoides</i>
Atlantic halibut	<i>Hippoglossus hippoglossus</i>
Winter flounder (Lemon sole)	<i>Pseudopleuronectes americanus</i>
Summer flounder	<i>Paralichthys dentatus</i>
Windowpane flounder	<i>Scophthalmus aquosus</i>
American angler (Goosefish)	<i>Lophius americanus</i>
Atlantic searobins	<i>Prionotus spp.</i>
Atlantic tomcod	<i>Microgadus tomcod</i>
Cunner	<i>Tautogolabrus adspersus</i>
Cusk (Tusk)	<i>Brosme brosme</i>
Ocean pout	<i>Macrozoarces americanus</i>
Sandeels (Sand lances)	<i>Ammodytes spp.</i>
Sculpins	<i>Myoxocephalus spp.</i>
White hake	<i>Urophycis tenuis</i>
Wolfishes (catfishes)	<i>Anarhichas spp.</i>
Atlantic wolffish	<i>Anarhichas lupus</i>

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.

(1A2)- Sink Gillnet.

Sink Gillnet means any gillnet, 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.

(23)- 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.

(34)- Regulated species.

"Regulated species" means cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake for the purposes of this management plan.

(45)- Mesh measurements.

For any trawl nets, Scottish seines, midwater trawls mesh sizes are measured by a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

(4A6)- Gillnets.

"Gillnets" mesh size is measured by using a tape measure, measuring ten consecutive meshes on the diamond. The mesh size will be the average of the measurement of any series of ten consecutive meshes.

(57)- Recreational fishing.

"Recreational fishing" means fishing that is not intended to, nor does it result in the barter, trade, or sale of fish.

(68)- Total length.

"Total length" means from the tip of the snout to the tip of the tail.

(79)- Charter or party boat.

Charter or party boat means any vessel that carries passengers for hire to engage in recreational fishing.

(810)- 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.....	19 (48.3 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)
Winter Flounder (blackback).....	12 (30.48 cm)
Redfish.....	9 (22.9 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.

(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.
- (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.

(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.....	21 (53.3 cm)
Haddock.....	21 (53.3 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)
Winter Flounder (blackback).....	12 (30.5 cm)
Redfish.....	9 (22.9 cm)
Summer Flounder.....	14.5 (36.8 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.

(c)- Possession restrictions.

Each person on a recreational vessel may not possess more than 10 cod and/or haddock combined.

- (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) Cod and haddock harvested by recreational 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 and operator.
- (iii) Cod and haddock must be stored so as to be readily available for inspection.
- (d) 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 vessels, or recreational fishing vessels.
- (e) Gear restrictions. Persons aboard charter, party vessels or recreational fishing vessels are prohibited from fishing for groundfish as defined under Chapter 34.05(1A) Definitions, with more than two hooks per line and one line per angler and must stow all other fishing gear on board the vessel.

C. Maine Territorial Seas

- (1) Mesh Size restrictions. The minimum mesh size for any trawl net, sink gillnet, Scottish seine, or midwater trawl, on a vessel, or used by a vessel fishing in Maine's territorial seas shall be 6 inches diamond or square mesh throughout the entire net.
- (2) Small-mesh exemption area. A vessel may fish for shrimp with nets less than 6 inches within Maine's territorial seas from January 1st to March 31st, both days inclusive.
- (3) Groundfish Spawning Closure. Except as provided in this section and for recreational fishermen fishing under the provisions of Chapter 34.10(1)(B)(2), it shall be unlawful during the months of April, May, and June to fish for, take, or have in possession groundfish as described in Chapter 34.10(1)(C)(3)(a) taken from Maine's territorial seas, (3-mi.) as follows:
All waters west of a line drawn 180° magnetic from West Quoddy Head, in Lubec, to the Canadian international border. This section does not apply to the taking of groundfish from the shore, wharves or attached floats. Commercial ground fishing vessels must have all fishing gear securely stowed and covered when transiting this area during the closed period. The stowage requirements will not apply to vessels secured to or moving between docks or moorings within a harbor. This section expires July 1, 2002.

(a)

GROUNDFISH SPECIES

Common English Name	Scientific Name
Atlantic cod	<u><i>Gadus morhua</i></u>
Witch flounder (Gray sole)	<u><i>Glyptocephalus cynoglossus</i></u>
American plaice (Dab)	<u><i>Hippoglossoides platessoides</i></u>
Yellowtail flounder	<u><i>Pleuronectes ferrugineus</i></u>
Ocean pout	<u><i>Macrozoarces americanus</i></u>
Haddock	<u><i>Melanogrammus aeglefinus</i></u>
Silver hake	<u><i>Merluccius bilinearis</i></u>
Pollock (Saithe)	<u><i>Pollachius virens</i></u>
Winter flounder (Lemon sole)	<u><i>Pleuronectes americanus</i></u>
Windowpane flounder	<u><i>Scophthalmus aquosus</i></u>
Redfish	<u><i>Sebastes fasciatus</i></u>
Red hake	<u><i>Urophycis chuss</i></u>
White hake	<u><i>Urophycis tenuis</i></u>

Basis Statement

The Maine Legislature, the DMR Advisory Council, various fishing groups and members of the public, over the past several years, have requested the Department to develop and implement a groundfish spawning closure in state waters. Before making such a proposal the Department waited until the New England Fisheries Management Council (NEFMC) finalized its management plan, Framework Adjustment 25 to the Northeast Multispecies Fishery Management Plan (FA25-FMP), for groundfish which is directed at an immediate reduction in fishing mortality that minimizes all directed fishing and bycatch on this stock. FA25-FMP includes a year round closure of Jeffreys Ledge/ Stellwagon Bank area, one month rolling closures that affect the western half of the state, the late summer downeast closure, and a 700 pound per day codfish trip limit. The focus of this action is to maximize fishing mortality reduction and is not directly targeted at spawning protection.

The Department acknowledges the numerous concerns expressed in the past few years for the necessity of a spawning closure. It must weigh the equity of these actions on the affected fishermen yet insure the measures implemented will have the greatest chance for success for future fishermen. The Department also recognizes the need for monitoring of this action to insure management strategies that are effective for the return of sustainable inshore groundfish stocks.

The best data available to the Department, the historical spawning ground data indicated spawning to occur throughout the range of the coast, except for the Cobscook Bay region, for most of the spring into summer. Coupled with scientific advice that longer closures have better results, because the displacement effect of shorter closures reduces their effectiveness, the Department therefore has chosen a proactive plan of a closure for all waters west of a line drawn 180° magnetic from West Quoddy Head, in Lubec, to the Canadian international border, targeting nearly a coast wide coverage for historical spawning grounds. This action compliments the federal NEFMC management plan measures. The Department recognizes this will affect commercial fishermen. However, the Department also believes the action taken now will greatly increase the chances of rebuilding inshore groundfish stocks.

The Department considers use of the NEFMC FA25-FMP groundfish list to be reasonable instead of the Department's list of groundfish species listed in Chapter 34.05. The additional species listed by the Department in Chapter 34.05 are not considered over fished nor in danger of being over fished in the near future.

The use of the NEFMC FA25-FMP groundfish list also addresses any concern that the measure would have been over burdensome to the recreational fishing industry. Existing Department regulations for recreational fishing restrictions apply to charter, party and recreational fishing vessels, not to fishing from shore. The list provides consistency with other state restrictions and is considered reasonable in view of the intent of the rule given the limited amount of fishing from shore that occurs, particularly during April and May. The best months, July, August and September are still open for recreational fishing of the listed species.

If the Department determines the rule is effective and therefore be continued after review then an expiration demonstrates good faith effort by the Department to correct the impression of implementing rules which are never repealed. The rule will therefore expire after (five) years. The Department adds this with the understanding that changes to the rule can take place at any time to modify or renew these measures and other similar actions may be taken to carry out its intent.

Language has been used to address the transit of commercial fishing vessels without being over burdensome to smaller vessels fishing only day trips and not using a net reel. Enforcement regarding commercial vessels applies to those vessels fishing for groundfish and requires them to securely stow and cover their net used to catch groundfish. This also eliminates the need to allow for specific exemptions for overlapping seasons with other fisheries such as shrimp, herring and scallops.

As authorized by 12 M.R.S.A. §6171, the Commissioner of the Marine Resources, with the advice and consent of the Department's Advisory Council adopts these amendments to the existing Maine Groundfish Management Plans regulations.

Summary of Comments

A public hearing was not held on this rule.

A letter of support was received from the Island Institute located in Rockland, Maine. The Island Institute also expressed willingness to work cooperatively with the Department on monitoring the effectiveness of the closure.

A letter of general support was received from the Conservation Law Foundation (CLF), Rockland, Maine. The CLF however, also expressed objections to the sunset date, lack of specific monitoring requirements on the effectiveness of the rule and the exemptions provided for recreational fishing. An expiration date should only be implemented after evidence of a measured recovery has occurred in view of recent data that indicates a continued decline particularly in codfish stocks. It was proposed that the Department require reporting by fishermen in the recreational fishing industry and bycatch by the lobster and other state fisheries during the closure.

Department response: Regarding the sunset date, the Department intends to develop a monitoring plan and time table. Development of a specific monitoring program prior to implementation of the rule was considered over burdensome to the rulemaking process given the numerous issues that required extensive effort among the various fishing industries to agree upon. The rule includes an expiration date as a way for the Department to demonstrate good faith effort to review its effectiveness. It must be noted that changes to the rule can take place at any time to modify or renew these measures and other similar actions may be taken to carry out its intent.

Regarding the request for reporting requirements the Department routinely conducts surveys of the recreational fishery. As part of the development of the monitoring program the suggestions for additional reporting requirements by all fisheries will be taken under consideration.

A letter of support was received from Coastal Conservation Association - Maine (CCA-Maine), Yarmouth, Maine. CCA-Maine requested that the Department develop a monitoring program for commercial and recreational fisheries to measure the effectiveness of the closure.

Department response: See above response regarding monitoring.

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:
Laurice U. Churchill, 21 State House Station, Augusta, ME 04333-0021 ; telephone: 633-9584.

CHAPTER NUMBER AND RULE Chapter 34.10 Maine Groundfish Management Plan, Maine
Territorial Seas, Groundfish Spawning Closure

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

DATE AND PLACE OF PUBLIC HEARING: None

COMMENT DEADLINE: Friday, July 17, 1998

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The Department proposes these amendments to the Maine Groundfish Management Plan as necessary action to protect groundfish spawning stocks from further decline.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

These rules will apply to all commercial and recreational groundfishermen within Maine Territorial Seas and provide additional protection in concert with the New England Fisheries Management Council groundfish management plan in federal waters.

FISCAL IMPACT OF THE RULE:

Enforcement of these proposed amendments will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

(File 20 copies with the Executive Director of Legislative Council, attn. S. Tubbesing, Rm#115, within 1-2 days after filing with SOS.)

ADMINISTRATIVE PROCEDURE ACT CHECKLIST

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 34.10(1)(C)(3) Maine Groundfish Management Plan, Maine Territorial Seas, Groundfish Spawning Closure

1. Was this rule listed on the last regulatory agenda? yes
2. Date of notification of:
 Anyone on mailing list June 17, 1998

 Any trade, industry or professional group June 17, 1998

 Any trade publications June 17, 1998
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: June 9, 1998
4. Date Fact Sheet sent to Executive Director of Legislative Council: June 9, 1998
5. Date of publication in Secretary of State's rule-making ad.: June 17, 1998
6. Date of hearing(s): None 7. Comment deadline: July 17, 1998
8. Was comment deadline extended or comment period reopened? no
9. Is adopted rule consistent with what was proposed? yes
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9)
authorized to do so as stated in your statutes or in 5 MRSA, c.71? yes
11. Was the rule adopted within 120 days of the comment deadline? yes
12. Was the rule approved and signed by the Office of the
Attorney General within 150 days of the comment deadline? yes
13. Is a Basis Statement included? yes Is a copy of the Fact Sheet included? yes

Are comments, with names and organizations, and your responses included? yes

Rule-Making Cover Sheet

DEC 7 1998

98-493

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: Maine Groundfish Management Plan; Size, Possession and Gear Restrictions; Pollock exemption
4. Chapter number assigned to rule: 34.10(1)(B)(3)
5. Date(s)/method(s) of notice: October 7, 1998, Sec. of State Notice of Agency Rule Making Column
6. Date(s)place(s) of hearing(s):
7. Type: new rule partial amendment(s) of existing rule
suspension of existing rule repeal of rule emergency rule
repeal and replace; complete replacement of existing chapter, with former version simultaneously repealed.
8. Name/phone of agency contact person: Lewis N. Flagg, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6341
9. If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:
Provisional adoption (prior to Legislative review) Final adoption

10. Certification Statement: I, George D. Lapointe, Commissioner, hereby certify that

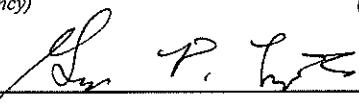
(name of official empowered to adopt rules)

the electronic text identified as follows: DMR34-10.lwp size date time
is a true copy of the rule(s) described above. I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on 3 December 1998.

(name of agency)

(date)

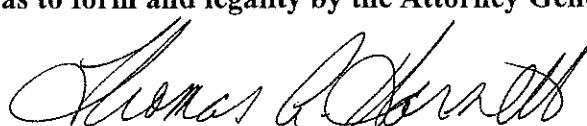
Signature: 

(original signature, personally signed by the head of agency)

Printed Name & Title: George D. Lapointe, Commissioner

11. Approved as to form and legality by the Attorney General on Dec. 3, 1998

(date)

Signature: 

(original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Thomas Harnett, Assistant Attorney General

File with the APA Office, Secretary of State, 101 State House Station, Augusta, ME 04333

MAPA-1

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

1. Groundfish Management Plan

B. Size, Possession and Gear Restrictions

3. Pollock exemption.

It shall be unlawful for any commercial and recreational fishermen who fish from vessels under the provisions of Chapter 34.10(1)(B)(1) and (2) and for all commercial and recreational fishermen who fish from the shore, wharves or attached floats to possess more than six (6) pollock each of which is less than 19 inches total length per person per day.

Basis Statement

As authorized by 12 M.R.S.A. §§6171, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, approves this regulation which amends the Maine Groundfish Management Plan. Currently, there is no limit to the taking of pollock from shore. The taking of pollock from vessels (commercial, charter or recreational) is limited under the Plan by the size of the fish taken.

Undersized pollock (pollock less than 19 inches total length) has traditionally been used as bait in Southern Maine, where other species (such as mackerel) are not readily available. While such undersized pollock could be caught and used from shore without limit, this practice is currently prohibited under the Plan if the undersized pollock is caught and used from vessels.

This amendment establishes a creel limit of six pollock per person per day that are under 19 inches total length, for both shore and boat fisherman in Maine territorial seas. This limited exemption will allow small numbers of undersized pollock to be used as bait from vessels, but will also limit the number of undersized pollock that can be caught from shore. This will rectify the inconsistency between the shore-based and the boat-based fisheries.

Summary of Comments

One public hearing was held on Wednesday, October 28, 1998, at the Naval Reserve Center, in Portland. Eight persons were in attendance. One person spoke in opposition to the proposed regulation, two persons spoke in favor of the proposed regulation, and no one offered neutral comment.

Attendees at the October 28, 1998, Portland hearing:

Pete Ripley, East Boothbay

Brad Burns, Falmouth

Arnold Banner, Gorham

Barry Bush, Kittery

Bill Coite, York Harbor

Dick Witham, York

Herb Poole, York

Dave Gittins, York

Comments in opposition:

Arnold Banner, marine biologist and recreational fisherman: He questioned whether the taking of undersized pollock would threaten the stock. Perhaps the limit should be smaller than six, such as two. He thought that substitute bait could be used, such as mackerel, marine worms, or cut bait.

Department response: The Department does not believe that the proposed regulation should increase the overall mortality of the pollock stock, as the regulation will limit shore-based fishing which is not currently limited. However, the Department will attempt to monitor the take, and may modify numbers in the future. The Department believes that other species are not readily available in Southern Maine to be used as bait, as they are in other parts of the coast.

Comments in favor:

Brad Burns, Falmouth. He advised that the Coastal Conservation Association Board voted in favor of the proposed regulation. Any depletion of the stock is not related to the small amount taken by recreational and charter fishermen, but by commercial fishermen.

Department response: The Department does not believe that the proposed regulation should increase the overall mortality of the pollock stock. Commercial fishermen will still be subject to the current minimum fish sizes relating to fish for sale.

Rick Poole, York. He spoke on behalf of several charter boat captains in attendance in favoring the rule. Very few pollock are used on the charter boats; those that are not used are released at the end of the day. Allowing children on board to catch and release the pollock instills love of the sport; they are not capable of landing stripers. By spending some time of the charter catching pollock for bait, less time is spent catching stripers which in some ways conserves this species.

Department response: The Department concurs that the numbers of pollock taken under the proposed regulation should be minimal, but the Department will attempt to monitor the take.

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:
Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine
04333-0021 Telephone: (207) 633-9584

CHAPTER NUMBER AND RULE Chapter 34.10(1)(B)(3)
Maine Groundfish Management Plan;
Size, Possession and Gear Restrictions;
Pollock exemption

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

DATE AND PLACE OF PUBLIC HEARING:
Wednesday, October 28, 1998, at 7:00 p.m.
Naval Reserve Center, 350 Commercial Street, Portland

COMMENT DEADLINE: November 7, 1998

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The Department proposes the amendment to the Maine Groundfish Management Plan as necessary action to provide consistency in the possession of pollock in both shore based and fishing from vessels. The proposed rule addresses concerns regarding the traditional use of small pollock for bait particularly in southern Maine.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

These rules will apply to all recreational and commercial fishermen within Maine Territorial Seas.

FISCAL IMPACT OF THE RULE:

Enforcement of these proposed amendments will not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

(File 20 copies with the Executive Director of Legislative Council, attn. S. Tubbasing, Rm#115, within 1-2 days after filing with SOS.)

ADMINISTRATIVE PROCEDURE ACT CHECKLIST

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 34.10(1)(B)(3) Maine Groundfish Management Plan; Size, Possession and Gear Restrictions; Pollock exemption

1. Was this rule listed on the last regulatory agenda? yes
2. Date of notification of: Anyone on mailing list October 7, 1998
Any trade, industry or professional group October 7, 1998
Any trade publications October 7, 1998
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: September 29, 1998
4. Date Fact Sheet sent to Executive Director of Legislative Council: September 29, 1998
5. Date of publication in Secretary of State's rule-making ad.: October 7, 1998
6. Date of hearing(s): October 28, 1998 7. Comment deadline: November 7, 1998
8. Was comment deadline extended or comment period reopened? no
9. Is adopted rule consistent with what was proposed? yes
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9)
authorized to do so as stated in your statutes or in 5 MRSA, c.71? yes
11. Was the rule adopted within 120 days of the comment deadline? yes
12. Was the rule approved and signed by the Office of the
Attorney General within 150 days of the comment deadline? yes
13. Is a Basis Statement included? yes Is a copy of the Fact Sheet included? yes
Are comments, with names and organizations, and your responses included? yes

NOTICE OF AGENCY RULE-MAKING ADOPTION**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 34.10(1)(B)(3) Maine Groundfish Management Plan; Size, Possession and Gear Restrictions; Pollock exemption**ADOPTED RULE NUMBER:**(LEAVE BLANK - ASSIGNED BY
SECRETARY OF STATE)**CONCISE SUMMARY:** This regulation amends the Maine Groundfish Management Plan, establishing a creel limit of six pollock per person per day that are under 19 inches total length, for both shore and boat fisherman in Maine territorial seas. This limited exemption will allow the use of small numbers of undersized pollock to be used as bait from vessels, but will also limit the number of undersized pollock that can be caught from shore. This will rectify the inconsistency between the shore-based and the boat-based fisheries. This regulation addresses concerns regarding the traditional use of small pollock for bait, particularly in southern Maine.**EFFECTIVE DATE:** December 12, 1998**AGENCY CONTACT PERSON:** Lewis N. Flagg**AGENCY NAME:** Department of Marine Resources**ADDRESS:** State House Station #21
Augusta, Maine 04333**TELEPHONE:** 624-6341

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

APPROVED FOR PAYMENT**DATE***12-4-98*

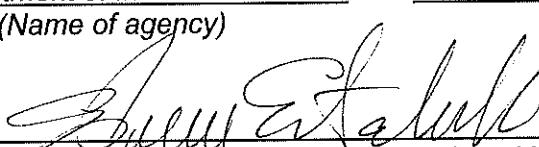
FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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Rule-Making Cover Sheet

1. Agency: Department of Marine Resources
2. Agency umbrella and unit number: 13-188A
3. Title of Rule: Chapter 34.20(A) Summer Flounder - Emergency
4. Chapter number assigned to rule: Chapter 34.20(A) Summer Flounder - Emergency
5. Date(s)/method(s) of notice: February 26, 2001, Portland Press Herald
6. Date(s)place(s) of hearing(s): None held, one may be requested
7. Type: new rule partial amendment(s) of existing rule
repeal of rule X emergency rule
repeal and replace; complete replacement of existing chapter, with former version simultaneously repealed.
8. Name/phone of agency contact person: Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Tel: (207) 633-9584
9. If a major substantive rule under Title 5 c. 375 sub-c. II-A, check one of the following:
Provisional adoption (prior to Legislative review) Final adoption

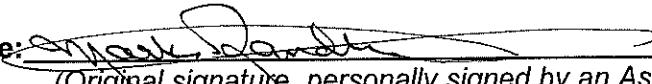
10. Certification Statement: I, E. Penn Estabrook, hereby certify that
(Name of official empowered to adopt rules)
the electronic text identified as follows: DMR34.20(A).doc
is a true copy of the rule(s) described above. I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Department of Marine Resources on 2/21/01
(Name of agency) (date)

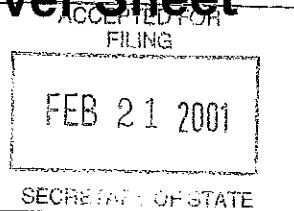
Signature: 
(Original signature, personally signed by the head of agency)

Printed Name & Title: E. Penn Estabrook, Deputy Commissioner

11. Approved as to form and legality by the Attorney General on 2/21/01
(date)

Signature: 
(Original signature, personally signed by an Assistant Attorney General)

Printed Name & Title: Mark A. Randlett, Assistant Attorney General
File with the APA Office, Secretary of State, 101 State House Station, Augusta, ME 04333



2001-58

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.20 Emergency Regulations

A. Summer Flounder - Emergency

It is unlawful to fish for, take, or have in possession summer flounder, (*Paralichthys dentatus*), aboard any vessel within Maine waters.

Basis Statement

Chapter 34.20(A) Summer Flounder - Emergency

The summer flounder fishery of the Atlantic coast (Maine through North Carolina) is managed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council. Management measures imposed on harvesters of summer flounder include an annual commercial quota and recreational harvest limit, minimum sizes, minimum mesh requirements for trawls, and permit requirements for dealers and harvesters. Fishing mortality is regulated by establishing annual total allowable landings, which allocate 60% of the catch to the commercial sector and 40% to the recreational sector. The commercial quota is allocated to each state based on that state's landings during the baseline period of 1980-1989, and any overages are subtracted from a state's quota for the following year. Maine's commercial quota for 2001 is 3,818 pounds. (Year 2001 quota of 5,851 pounds less 2,033 pounds overage in the year 2000 catch equals 3,818 pounds). On February 19th, 21, 771 pounds of summer flounder were landed in Portland, Maine. Since the 2001 annual quota has been exceeded, the fishery must be closed for the remainder of this calendar year. This immediate action is necessary to prevent overfishing of the summer flounder resource in order to avoid unusual damage or imminent depletion, and to allow for rebuilding of the stock in accordance with the ASMFC and the Mid-Atlantic Fishery Management Council summer flounder management plans. This emergency rule is adopted in accordance with 12 M.R.S.A. §6171(3).

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Laurice U. Churchill, Department of Marine Resources, 21 State House Station, Augusta, Maine
04333-0021 Telephone: (207) 633-9584

CHAPTER NUMBER AND RULE: Chapter 34.20(A) Summer Flounder - Emergency

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

DATE AND PLACE OF PUBLIC HEARING: None held, one may be requested.

COMMENT DEADLINE: None, emergency

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The 2001 Atlantic States Marine Fisheries Commission (ASMFC) annual quota has been exceeded; and the fishery must be closed for the remainder of this calendar year to be in compliance with the ASMFC Summer Flounder Plan. This action is necessary to prevent overfishing of the summer flounder resource in order to avoid unusual damage or imminent depletion, and to allow for rebuilding of the stock in accordance with the ASMFC and Council summer flounder management plans.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The measure will impact vessels fishing federal waters that land summer flounder in Maine ports.

FISCAL IMPACT OF THE RULE:

Enforcement of the proposed regulation would not require much additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

(File 20 copies with the Executive Director of Legislative Council, Rm 107, within 1-2 days after filing with SOS.)

ADMINISTRATIVE PROCEDURE ACT CHECKLIST

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 34.20(A) Summer Flounder – Emergency

1. Was this rule listed on the last regulatory agenda? _____ Yes _____
2. Date of notification of: _____ Anyone on mailing list: _____ February 26, 2001
Any trade, industry or professional group _____ February 26, 2001
-
3. Any trade publications _____ February 26, 2001
4. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: Feb. 21, 2001
5. Date Fact Sheet sent to Executive Director of Legislative Council: Feb. 21, 2001
6. Date of publication in Secretary of State's rule-making ad: NA
7. Date of hearing(s): None 7. Comment deadline: NA
8. Was comment deadline extended or comment period reopened? NA
9. Is adopted rule consistent with what was proposed? Yes
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9)
authorized to do so as stated in your statutes or in 5 MRSA, c.71? Yes
11. Was the rule adopted within 120 days of the comment deadline? Yes
12. Was the rule approved and signed by the Office of the
Attorney General within 150 days of the comment deadline? Yes
13. Is a Basis Statement included? Yes Is a copy of the Fact Sheet included? Yes
Are comments, with names and organizations, and your responses included? NA