



New Hampshire Fish and Game Department

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June 2, 2022

Office of Legislative Services
Division of Administrative Rules
25 Capitol Street, Room 219
Concord, NH 03301

Attn: Kim Reeve, Committee Attorney

Re: Conditional Approval Request for 2020-26
Fis 600 Sections – Marine Fishing Rules

This is a typo and should read "2022-26" as confirmed by the agency.

Dear Attorney Reeve,

The New Hampshire Fish and Game Department (Department) intends to make all the following changes, as suggested, to address your comments:

Remove the redundant language in Fis 602.02(a)(1) – (8);

Remove the typographical error in the footer;

Clarify the language Fis 603.17(b);

And tweak the punctuation and grammar throughout.

Based on the changes the Department is willing to make, we respectfully request a Conditional Approval for Fis 600 Sections and thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Scott R. Mason".

Scott R. Mason
Executive Director

Readopt Fis 602.01 to Fis 602.04, eff. 2-29-12 (Doc #10095), cited and to read as follows:

PART Fis 602 PROHIBITED MARINE ACTIVITIES

Fis 602.01 Closing Off Streams.

(a) No person ~~(s)~~ ~~[, or combination of persons,]~~ shall set or arrange a weir or net in any river or stream at any time to extend greater than from one shoreline to the thread or middle line of the stream.

(b) No person ~~(s)~~ shall set a weir or net within 1000 ~~[]~~ feet of another net. The distance between nets shall be measured in linear feet along the thread of the stream.

(c) The above requirements shall not apply to the ~~[so-called]~~ bow net fishery conducted on the ice for smelt.

Fis 602.02 Fishways Closed.

(a) In addition to the restrictions and closures specified in Fis 402.07 the waters surrounding any dam which contains a fishway shall be closed to all fishing as described below:

(1) Lamprey River, ~~[Closed to all fishing]~~ from the upstream side of the Route 108 Bridge to 275 feet below the downstream side of the Macallen dam, tidal water, in the town of Newmarket;

(2) Exeter River, ~~[Closed to all fishing]~~ from the upstream side of the High Street Bridge to the downstream side of the Chestnut Street String Bridge, on the Squamscott River, in the town of Exeter;

(3) Exeter River, ~~[Closed to all fishing]~~ from the upstream side of the Pickpocket Dam and fishway including a 50 foot radius in front of the fishway on the upstream side to the downstream side of the Cross Roads Bridge in the towns of Brentwood and Exeter;

(4) Taylor River, ~~[Closed to all fishing]~~ from the upstream side of the fishway and dams including a 50 foot radius in front of the fishway on the upstream side to a line perpendicular to the south end of the south overflow culvert on Route 95 to the opposite side of the river, east;

(5) Cocheco River, ~~[Closed to all fishing]~~ from the upstream side of the Central Avenue Bridge to the downstream side of the Washington Street Bridge in the town of Dover;

(6) Oyster River, ~~[Closed to all fishing]~~ from the upstream side of the dam and fishway, including a 50 foot radius in front of the fishway on the upstream side to the downstream side of Route 108 bridge in the town of Durham;

(7) Winnicut River, ~~[closed to all fishing]~~ within a 25 foot radius in the front of the fishway downstream in the tidal waters and within a 6 foot radius in front of the fishway opening upstream; and

(8) Salmon Falls River, ~~[closed to all fishing]~~ from the upstream side of the Route 4 Bridge to 150 feet downstream of South Berwick dam in the town of Rollinsford.

(b) American eels, ~~[*Anguilla rostrata*]~~, may be taken by use of traps, pots, or spears, within the tidal portions of the areas described in Fis 602.02(a) from June 15 to October 1.

(c) No person shall be on or in a fishway without written permission from the executive director or his *or her* agent. The request for permission shall be made in writing and shall include the purpose of the request. A valid request shall be for activities such as scientific research or maintenance.

(d) No person or persons shall take fin fish in fishways.

Fis 602.03 Import, Export, Transport, and Release.

(a) No person shall bring, or have brought, into the state, nor transport, or caused to be transported, from the state to any other state or country, nor take from one point within the state to any other point within the state, any living marine plant, or marine animal, for release, without first procuring written permission to do so from the director.

(b) Applicants shall request permission in writing and shall include the name of the species involved, when and where the release shall occur, the names of the persons involved, and an explanation of why the release is necessary. Permission shall be granted if the director determines no adverse environmental harm will occur.

Fis 602.04 Dumping of Fish.

(a) No person on any commercial fishing vessel or party^[f] or charter vessel shall deposit upon the shores, in the bays, harbors, or rivers of the state any dead fish, or parts thereof, or fish smothered or injured to such an extent that they will die.

(b) Nothing in this section shall be construed to restrict the use of fish, or parts thereof, for chum or bait.

Readopt Fis 603.03, eff. 2-29-12 (Doc #10095), to read as follows:

Fis 603.03 Salmon.

(a) The taking of any species of sea-run salmon, which spends part of its life cycle in fresh, brackish, or salt water under the jurisdiction of the state, shall be permitted. Such taking shall be done only by angling, as described in RSA 207:1, I, and only by anglers licensed under RSA 214:1.

(b) Any salmon taken in coastal and estuarine waters shall be immediately released back into the waters from which it was taken.

(c) Snagging or foul-hooking of salmon shall be prohibited, and any salmon foul-hooked or snagged shall be immediately released unharmed.

Readopt Fis 603.17, eff. 2-29-12 (Doc #10095), to read as follows:

Fis 603.17 Sea Urchins.

(a) No person shall take or possess sea urchins, [~~(c)Strongylocentrotus droebachiensis(j)~~], having shells less than 2 inches in the longest diameter, exclusive of spines, to an amount of more than 5 percent of any bulk pile.

(b) The 5 percent tolerance shall be determined by numerical count of not less than one peck nor more than 3 pecks taken at random from various parts of the bulk pile or by the entire pile if it is less than one peck. ~~S[ub]legal s[ea] urchins~~ not meeting this requirement shall be culled immediately after capture and returned immediately to the sea.

(c) Sea urchins shall only be taken as follows:

(1) By hand or by pot from October 1 through March 15; or

(2) By a single sled from December 15 through March 15 as follows:

- a. The effective fishing width of the sled shall be 48 inches or less;
- b. The sled shall consist of a metal frame, 4 feet wide or less, followed by a checkerboard sweep either of twine or 1/4 inch chain;
- c. The sweep shall be 36 inches or less in length with a maximum of 7 inch mesh, followed by a twine bag;
- d. A tow bar shall be welded to the front of the frame with straps spaced to act as runners; and
- e. The sled shall not be used in the following waters:
 - 1. The Great Bay estuarine system inland of the Memorial Bridge in Portsmouth;
 - 2. Little Harbor and its tributaries inland of its most seaward jetty;
 - 3. Rye Harbor and its tributaries inland of its most seaward jetty; and
 - 4. Inland of the Hampton Harbor Bridge; and

(3) No possession of other marine species including lobsters, finfish, or shellfish shall be allowed.

(d) No person shall take or possess sea urchins from March 16 to September 30.

Readopt Fis 605.02 and Fis 605.03, eff. 2-29-12 (Doc #10095), to read as follows:

Fis 605.02 Identification of Oyster Containers.

(a) Any container used in the taking of oysters, whether on the flats, on a dock or in a boat shall be clearly identified by marking thereon the owner's oyster license number, either by attaching a waterproof tag containing such number to said container, or by painting such number on the outside of the container.

(b) By applying for an oyster license, the licensee shall be deemed to have consented to submit to department inspection for the identifying number referred to in paragraph (a).

Fis 605.03 Restriction on Certain Taking.

(a) No person shall transplant oysters, or take the eggs or larvae thereof, or take metamorphosed oysters, called "set" or "spat", without first obtaining written permission from the director. Applicants shall request permission in writing and shall include origin of the oysters, the transplant site, the names of people involved, and why the transplanting or taking of eggs, larvae or spat is necessary. Permission shall be granted if the director determines no adverse environmental harm will occur.

(b) Nothing in this section shall prohibit a properly licensed person who is observing all provisions of this part, from engaging in the practice known as cleansing.

Readopt Fis 607.04, eff. 2-29-12 (Doc #10095), to read as follows:

Fis 607.04 Waved Whelk, [~~Buccinum undatum~~], and Stimpson's Whelk, [~~Colus stimpsoni~~].

(a) Persons taking whelks for purposes of sale shall be subject to the following:

- (1) One pot, trap, or other contrivance for taking or holding whelks shall be fished on a single line and buoy;

(2) When pots, traps, or other contrivances are set on trawls, buoys plainly marked shall be set on both ends of the trawl;

(3) Each buoy and trap shall be permanently marked with the letter "W" and the first initial and complete last name of the licensee;

(4) No person shall raise, haul, or transfer any whelk trap from any coastal waters from sunset to one hour before sunrise; and

(5) No person shall possess any whelk with an overall shell length of less than 2.5 inches.

(b) The provisions of (a)(3),above, shall not apply to the by-catch of whelks taken from lobster traps by licensed lobster fishermen.

(c) Persons taking whelks for personal use and not for sale shall be subject to the following:

(1) Only residents shall take whelks;

(2) Persons shall take no more than 5 whelks per day; and

(3) The minimum shell height for whelks shall be 2.5 inches.

APPENDIX

Rule	Specific State Statutes which the Rule Implements
Fis 602.01	RSA 206:10, I; RSA 211:62
Fis 602.02	RSA 206:10; I; RSA 211:62
Fis 602.03	RSA 206:10; I; RSA 207:14; RSA 211:62
Fis 602.04	RSA 206:10; I; RSA 211:62
Fis 603.03	RSA 206:10; I; RSA 211:62
Fis 603.17	RSA 206:10; I; RSA 211:62
Fis 605.02	RSA 206:10; I; RSA 211:62; RSA 211:62-a
Fis 605.03	RSA 206:10; I; RSA 211:62; RSA 211:62-a
Fis 607.04	RSA 206:10; I; RSA 211:62