

**RULEMAKING NOTICE FORM**

Notice Number \_\_\_\_\_

Rule Number **Fis 602.06, 602.07, 602.18, 603.04, 604.02**

<p>1. Agency Name &amp; Address:</p> <p><b>NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</b></p>	<p>2. RSA Authority: <u><b>206:10; 211:62 I, II.</b></u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption <u><b>XX</b></u></p> <p>Readoption w/amendment <u><b>XX</b></u></p>
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5. Short Title: **Fish and Game: Marine rules relative to gear restrictions, salters and the Winnicut River**

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

**The Department is proposing to: readopt with amendment Fis 602.06 and 602.07 relative to gill netting restrictions and mobile gear restrictions by adding Atlantic wolffish, Atlantic halibut and ocean pout; readopt Fis 602.18 with no changes to the restrictions for using hook gear , but by an existing reference in the rule the restrictions would also include the species being added to Fis 602.06; readopt Fis 603.04 relative to salters (trout, that spend part of its life cycle in brackish or saltwater) to create an exception to the one fish limit for the Winnicut River in Greenland; and readopt Fis 604.02 relative to the Winnicut River to redefine a section of the river since the dam has been removed and to have a 5 fish or 5 pound limit for salters taken in the section from the Rte 33 bridge to the railroad bridge and to clarify there is no closed season in the same section of river.**

6. (b) Brief description of the groups affected:

The proposed rules would affect persons taking marine fish by gill net, mobile gear or hook gear and persons taking salters (trout) in the Winnicut River in Greenland, NH.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule(s)</b>	<b>State Statute (RSA)</b>	<b>Federal Statute</b>	<b>Federal Regulation</b>
<b>Fis 602.06</b>	<b>RSA 211:62</b>		
<b>Fis 602.07</b>	<b>RSA 211:62</b>	<b>16 USC 1801</b>	<b>50 CFR 648</b>
<b>Fis 602.18</b>	<b>RSA 211:62</b>	<b>16 USC 1801</b>	<b>50 CFR 648</b>
<b>Fis 603.04</b>	<b>RSA 206:10 and RSA 211:62</b>		
<b>Fis 604.02</b>	<b>RSA 206:10 and RSA 211:62</b>		

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Sandra Falicon**

Title: **Legislative/Rules Coordinator**

Address: **NH Fish and Game Department  
11 Hazen Drive  
Concord, NH 03301**

Phone #: **603-271-3511**

Fax#: **603-271-1438**

E-mail: **comments@wildlife.nh.gov**

**Subject line: Winnicut  
River/Marine rules**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **May 20, 2010**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **May 10, 2010 7 pm**

Place: **Urban Forestry Center  
45 Elwyn Road  
Portsmouth, NH 03801**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **10:030** , dated **03/25/10**

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):  
There is no difference in cost when comparing the proposed rules to the existing rules.
2. Cite the Federal mandate. Identify the impact on state funds:  
No federal mandate, no impact on state funds.
3. Cost and benefits of the proposed rules(s):  
There are no additional costs or benefits attributable to the proposed rules.
  - A. To State general or State special funds:  
None.
  - B. To State citizens and political subdivisions:  
None.
  - C. To independently owned businesses:  
None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed readoption of Fis 602.18 or the readoption with amendment of Fis 602.06, Fis 602.07, Fis 603.04, and Fis 604.02 relating to the Winnicut River and other marine rules does not violate the New Hampshire Constitution, Part 1, Article 28-a. The rules do not impose any programs or responsibilities on any political subdivision of the state nor is any political subdivision involved in the process from an administrative perspective.



Readopt with amendment Fis 602.06 and 602.07, effective 8-19-02 (Doc #7753), to read as follows:

Fis 602.06 Gill Netting Restriction.

(a) The taking, transporting or possessing of Atlantic cod, **Atlantic wolffish, Atlantic halibut, ocean pout**, haddock, pollock, white hake, redfish, American plaice, windowpane, witch, winter and yellowtail flounders shall be prohibited on board any boat rigged for gill netting not in accordance with 50 CFR 648.80(a)(3)(iii) and (iv).

(b) The mesh size referred to in paragraph (a) shall be measured in accordance with 50 CFR 648.80(f)(1).

(c) No person shall take any species of fish listed in Fis 602.06(a) by gill netting during April, May and June.

(d) Gill nets used for the taking of finfish, except as specified in (e), shall be subject to the following:

- (1) No more than 25 gill nets shall be used in state waters; and
- (2) Gill nets shall not be longer than 300 feet in length.

(e) Gill nets used for the taking of finfish from the waters of the Great Bay estuarine system inland of the Memorial Bridge in Portsmouth, Little Harbor and its tributaries inland of its most seaward jetty, Rye Harbor and its tributaries inland of its most seaward jetty, and inland of the Hampton Harbor Bridge shall be subject to the following:

- (1) Gill nets shall have a mesh size no larger than 3 inches;
- (2) Gill nets shall be no longer than 100 feet in length and no wider than 7 feet in width;
- (3) Gill netting shall only be permitted from April 16 through October 31;
- (4) Gill netting shall only be permitted between 2 hours before sunrise until 2 hours after sunset, except as provided in RSA 211:48-b; and
- (5) Any person using a gill net to take finfish shall be within unaided eyesight of the net. Unaided eyesight means unaided by devices such as binoculars or spotting scope.

Fis 602.07 Mobile Gear Restriction.

(a) The taking, transporting or possessing of Atlantic cod, **Atlantic wolffish, Atlantic halibut, ocean pout**, haddock, pollock, white hake, redfish, American plaice, windowpane, witch, winter and yellowtail flounders shall be prohibited on board any boat rigged for mobile gear, including but not limited to, purse seine, Scottish seine, beam trawl, midwater trawl, otter trawl, pair trawl, or drag seine in any form not in accordance with 50 CFR 648.80 (a)(3)(i) - (iii).

(b) The mesh openings referred to in paragraph (a) shall be measured in accordance with 50 CFR 648.80 (f)(2).

Readopt Fis 602.18 effective 8-19-02 (Doc #7753), as cited to read as follows:

Fis 602.18 Hook Vessel Restrictions.

(a) "Hook gear" means fishing gear that is comprised of a hook or hooks attached to a line and includes but is not limited to longline, setline, jigs, troll line, rod and reel and line trawl.

(b) Any vessel commercially rigged for hook gear shall:

- (1) Use circle hooks of size 12/0 when using bait;
- (2) Not use more than 800 circle hooks; and
- (3) Have fairlead rollers that have at least 6 inch spacing between the rollers.

(c) No person shall take commercially, any species of fish listed in Fis 602.06(a) by hook gear during April, May, and June.

Readopt with amendment Fis 603.04, effective 5-27-04 (Doc #8087) and amended 6-21-07 (Doc #8913), to read as follows:

Fis 603.04 Salters.

(a) "Salters" means any species of trout which spends part of its life cycle in brackish or salt water under the jurisdiction of the state.

(b) Taking of salters shall be done by angling, as defined in RSA 207:1, I, and only by anglers licensed under RSA 214:1, except as follows:

- (1) Berry Brook shall be closed to all fishing inland of, but not including, the Brackett Road bridge to the beginning of the prominent large rock area in the brook located at the edge of where the marsh and woods meet from March 2 through August 15;
- (2) Fishing in Berry Brook shall be permitted during the open season, August 16 through March 1, by single hook artificial lures and flies only; and
- (3) The area from the beginning of the prominent large rock area in the brook located at the edge of where the marsh and woods meet, upstream to Sagamore Road shall be closed to all fishing all year.

(c) The daily creel limit shall be one fish **except as provided in Fis 604.02.**

(d) There shall be no closed season for the taking of salters, except in those areas described in Fis 603.04(b).

Readopt with amendment Fis 604.02 effective 10-22-08 (Doc #9299), to read as follows:

Fis 604.02 Winnicut River.

(a) The Winnicut River in Greenland from the ~~Winnicut River dam and fish ladder~~ **Rte. 33 bridge** to the south side of the Boston and Maine railroad bridge over the Winnicut River shall be **subject to the following restrictions:**

(1) ~~Open~~ to the taking of all species of fish by angling only except above and below the fish ladder as provided in Fis 602.02(a)(7); **and-**

**(2) The taking of salters as defined in Fis 603.04, shall be subject to the following:**

**a. There shall be no closed season; and**

**b. The daily limit of salters taken in this portion of the Winnicut River shall not exceed 5 fish or 5 pounds and shall be included in the freshwater brook trout limit as in Fis 403.11.**

APPENDIX

<b>Rule(s)</b>	<b>State Statute (RSA)</b>	<b>Federal Statute</b>	<b>Federal Regulation</b>
<b>Fis 602.06</b>	<b>RSA 211:62</b>		
<b>Fis 602.07</b>	<b>RSA 211:62</b>	<b>16 USC 1801</b>	<b>50 CFR 648</b>
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