

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 40 Smelt Regulations

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

CONCISE SUMMARY:
This rulemaking amends the smelt regulations for Zone One (1), which is the area from the New Hampshire border to Owl’s Head Light. The rule allows individuals to fish for smelt by hook and line between October 1 and December 31, or by hook and line through the ice when ice is present. Prior to this rule change, the taking of smelt in Zone One (1) was allowed only by hook and line through the ice. The existing four quart limit applies.

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

AGENCY CONTACT PERSON: Amanda Ellis (207) 624-6573
AGENCY NAME: Department of Marine Resources
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 Augusta, Maine 04333
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Please approve bottom portion of this form and assign appropriate MFASIS number.

APPROVED FOR PAYMENT _____				DATE: _____	
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
<i>Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta</i>					
010	13A	1120	10	4946	regulations

DEPARTMENT OF MARINE RESOURCES

Chapter 40 - Smelt Regulations

40.12 Taking of smelts from the coastal waters of Maine

C. Smelt Management Zone Restrictions

1. Zone One (1)-New Hampshire border to Owl's Head Light

- a. It shall be unlawful to fish for, take or possess smelts in Zone One (1), except by hook and line between October 1-December 31, or by hook and line through the ice, while ice is present.
- b. It shall be unlawful to fish for, take, or possess more than 4 quarts of smelts per day in Zone One.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis (207-624-6573) , Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 E-mail: Amanda.Ellis@maine.gov Web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 40 Smelt Regulations

STATUTORY AUTHORITY: 12 MRS §6171

DATE AND PLACE OF PUBLIC HEARING:

May 16, 2018 3:00 PM DMR Offices, Marquardt Building, 32 Blossom Lane, Augusta, Maine

COMMENT DEADLINE: May 29, 2018

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

DMR received a request from fishermen who have traditionally fished for smelt with hook and line in the fall in Zone 1. DMR has determined that the minimal level of fishing effort anticipated will not have a negative impact on the smelt resource and therefore is proposing this change to allow this activity.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ **X** NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

The rule will allow individuals to fish for smelt by hook and line between October 1 and December 31, or by hook and line through the ice when ice is present.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

In developing this rule, the Department considered input smelt fishermen, scientists within the Division of Sea Run Fisheries and Habitat, and Maine Marine Patrol.

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

No fiscal impact is anticipated.

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

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Basis Statement

This rulemaking was initiated at the request of fishermen who have traditionally fished for smelt with hook and line in the fall in Zone 1. The rule allows individuals to fish for smelt by hook and line between October 1 and December 31, or by hook and line through the ice when ice is present. Prior to this rule change, the taking of smelt in Zone One (1) was allowed only by hook and line through the ice. The existing four-quart limit applies.

Summary of Comments

Notice of this proposed rulemaking appeared on April 25, 2018 in the five major daily newspapers as published by the Secretary of State. On April 25, 2018, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. Public hearings were advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and were held as follows: May 16, 2018, 3:00 PM, DMR – Augusta, 32 Blossom Lane, Augusta. The comment period closed May 29, 2018.

I. Public Hearing:

Attendance:

Name	Affiliation (If specified)
John Melquist Sr.	N/A
Percy Robinson	N/A
Deirdre Gilbert and Amanda Ellis	DMR staff

Hearing Comments Summary:

Opposed	Neutral	Support
0	0	2

Hearing Comments:**John Melquist Sr.**

I am in favor of this rule-making proposal, we would like to be able to continue what we have been doing for the last 70 years and catching fish in the fall with a hook.

Percy Robinson

I am in favor of the rule.

II. Written Comments:

The Department did not receive any written comments on this proposal.

III. Department Response to Comments:

The two comments received support the rule as written. In consideration of public feedback, the Department is not contemplating any additional changes to Chapter 40 at this time.