

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-74

Rule Number Fis 1400

| | |
|---|--|
| <p>1. Agency Name & Address:</p> <p>NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</p> | <p>2. RSA Authority: RSA 206:10, I; RSA 212-B:4</p> <p>3. Federal Authority: Fish and Wildlife Conservation Act of 1980, P.L. 96-366</p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p> |
|---|--|

5. Short Title: **Non-Game**

6. Contact person for copies and questions:

| | | | |
|----------|---|----------|--------------------------------|
| Name: | Dan Bergeron | Title: | Wildlife Division Chief |
| Address: | NH Fish & Game Department 11 Hazen Drive Concord, NH 03301 | Phone #: | 271-1439 |

7. The rulemaking notice appeared in the Rulemaking Register on **May 5, 2022**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
10. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).
11. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

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| | 3. Federal Authority: | Fish and Wildlife Conservation Act of 1980, P.L. 96-366 |
| | 4. Type of Action: | |
| | Adoption | <u> X </u> |
| | Repeal | <u> </u> |
| | Readoption | <u> </u> |
| | Readoption w/amendment | <u> X </u> |

5. Short Title: **Non-Game**

6. (a) Summary of what the rule says and of any proposed amendments:

This proceeding proposes to readopt with amendment Fis 1400, entitled “Non-Game”, which sets out the general provisions as well as the limits for the taking of amphibians and reptiles. The amendments add amphibians to the title of Part Fis 1401; allow for the granting of scientific permits for taking these animals; prohibit the taking or possession of certain amphibians and reptiles; and update the scientific names of certain frog species. This proceeding also proposes to adopt new part Fis 1402, entitled “Release of Information”, to allow the withholding of sensitive information pertaining to threatened non-game species.

Fis 1400 is set to expire 6-5-22. However, pursuant to RSA 541-A:14-a, I, the existing rules will continue in effect for the duration of this rulemaking proceeding.

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

Any person(s) or entity that participates in the taking, importation, possession, release, or sale of non-game amphibians and reptiles.

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

| Rule | Specific State Statute the Rule Implements |
|-------------|--|
| | |
| Fis 1401.01 | RSA 206:10, I; RSA 212-B:4; RSA 214:29 |
| Fis 1401.02 | RSA 206:10, I; RSA 212-B:4 |
| Fis 1401.03 | RSA 206:10, I; RSA 212-B:4 |
| Fis 1402.01 | RSA 206:10, I; RSA 212-B:4 |

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

Name: **Marty Mobley**

Title: **Legal Coordinator**

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

Phone #: **271-1138**

Fax#: **271-5829**

E-mail: **Martha.v.mobley1@wildlife.nh.gov**

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: **June 9, 2022**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, June 2, 2022 at 12:30 pm**

Place: **East Conference Room
11 Hazen Drive
Concord, NH 03301**

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

FIS # 22:079 , dated 04/21/2022

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 rule(s):**

- 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:

This proposal does not mandate any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivisions, and therefore does not violate Part I, Article 28-a of the New Hampshire Constitution.

Readopt with amendment Fis 1400, effective 6-5-12 (Document #10142), to read as follows

CHAPTER Fis 1400 NON-GAME

PART Fis 1401 AMPHIBIANS AND REPTILES

Fis 1401.01 General Provisions for Amphibians and Reptiles.

(a) Importation, possession, release and sale of live amphibians and reptiles shall be in accordance with Fis 803, Fis 804, Fis 805, and Fis 811.

(b) The taking of amphibians and reptiles shall be only by hand capture, including the use of hand held nets.

(c) The taking of amphibians and reptiles shall be as specified in Fis 1401.02 and Fis 1401.03.

(d) Amphibians and reptiles native to New Hampshire, including parts thereof, specified in Fis 1401.02 and Fis 1401.03 shall not be exported from the state.

(e) Scientific permits granted for the taking of amphibians and reptiles, as specified in paragraphs (a) through (d) above, shall be in accordance with RSA 214:29 and Fis 1106.01.

Fis 1401.02 Amphibians.

(a) No person shall take or possess a marbled salamander (*Ambystoma opacum*), Fowler's toad (*Anaxyrus fowleri*), or Northern leopard frog (*Lithobates pipiens*) or any egg or part thereof.

(b) The daily bag limits for the taking of amphibians listed below in Table 1400.1 shall be 5 amphibians of each species:

Table 1400.1 Amphibians

| | |
|-------------------------------|-----------------------------------|
| American toad | <i>Anaxyrus americanus</i> |
| Gray treefrog | <i>Hyla versicolor</i> |
| Spring peeper | <i>Pseudacris crucifer</i> |
| American bullfrog | <i>Lithobates catesbeiana</i> |
| Green frog | <i>Lithobates clamitans</i> |
| Pickerel frog | <i>Lithobates palustris</i> |
| Mink frog | <i>Lithobates septentrionalis</i> |
| Wood frog | <i>Lithobates sylvatica</i> |
| Spotted salamander | <i>Ambystoma maculatum</i> |
| Northern two-lined salamander | <i>Eurycea bislineata</i> |
| Northern dusky salamander | <i>Desmognathus fuscus</i> |
| Eastern red-backed salamander | <i>Plethodon cinereus</i> |
| Red-spotted newt | <i>Notophthalmus viridescens</i> |

Fis 1401.03 Reptiles.

(a) No person shall take or possess a spotted turtle (*Clemmys guttata*), Blanding's turtle (*Emydoidea blandingii*), wood turtle (*Glyptemys insculpta*), Eastern box turtle (*Terrapene carolina carolina*), black racer (*Coluber constrictor*), timber rattlesnake (*Crotalus horridus*), Eastern hognose snake (*Heterodon platirhinos*), or any egg or part thereof.

- (b) The taking of reptiles, cited below in Table 1400.2, shall be taken only as specified in this section:

Table 1400.2 Reptiles

| | |
|---------------------|---|
| Musk turtle | <i>Sternotherus odoratus</i> |
| Painted turtle | <i>Chrysemys picta</i> |
| Snapping turtle | <i>Chelydra serpentina</i> |
| Ring-necked snake | <i>Diadophis punctatus</i> |
| Eastern milksnake | <i>Lampropeltis triangulum triangulum</i> |
| Northern watersnake | <i>Nerodia sipedon</i> |
| Brown snake | <i>Storeria dekayi</i> |
| Red-bellied snake | <i>Storeria occipitomaculata</i> |
| Garter snake | <i>Thamnophis sirtalis</i> |

- (c) The daily bag limit for the taking of reptiles specified in Table 1400.2 shall be 2 reptiles of each species.

- (d) No person shall take any species of indigenous turtle from May 15 to July 15.

- (e) The taking of snapping turtles (*Chelydra serpentina*) shall only be allowed of snapping turtles less than 6 inches or 12 to 15 inches in length as measured from the front to rear along the top of the carapace.

Adopt Fis 1402 to read as follows;

PART Fis 1402 RELEASE OF INFORMATION

Fis 1402.01 Release of Information. The fish and game department shall, at its discretion, withhold from any person information about the location and population of a non-game species if it determines that disclosures of such information would threaten the survival of that or another non-game species in any way.

APPENDIX

| Rule | Specific State Statute the Rule Implements |
|-------------|---|
| | |
| Fis 1401.01 | RSA 206:10, I; RSA 212-B:4; RSA 214:29 |
| Fis 1401.02 | RSA 206:10, I; RSA 212-B:4 |
| Fis 1401.03 | RSA 206:10, I; RSA 212-B:4 |
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