



# NEW HAMPSHIRE RULEMAKING REGISTER

## OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXIII, Number 22, May 30, 2013

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#### NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

## 2. COMMITTEE (JLCAR)

CONTINUED MEETING: **Friday, June 7, 2013** 9:00 a.m.  
Rooms 305/307, Legislative Office Building

REGULAR MEETING: **Friday, June 21, 2013** 9:00 a.m.  
Rooms 305/307, Legislative Office Building

### JLCAR MEETING DATES AND RELATED FILING DEADLINES JUNE, 2013

The JLCAR has voted to hold its regularly scheduled meetings for June, 2013 on the third Friday of the month as listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
May 3	May 17	June 7
June 7	June 21	June 28

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2013-67	He-M 609.06	Department of Health and Human Services Former Div. of Mental Health & Developmental Svcs. Revocation of Conditional Discharge.	1
2013-68	Fis 401-403, 405-411 (various), 502 (various), & 503.04	Fish and Game Department 2014 Fishing Rules.	3
2013-69	Env-Or 300 (nka Env-Wm 1402)	Department of Environmental Services Oil and Remediation Programs Aboveground Petroleum Storage Facilities.	7

Notices of Proposed Interim Rules

<u>Interim Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
(INT 2013-8)	Rab 304.01	Real Estate Appraiser Board Real Estate Appraiser Board Rules Regarding Reciprocity.	10

**JLCAR MEETING DATES AND RELATED FILING DEADLINES  
JULY-DECEMBER, 2013**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2013 on the third Thursdays listed below. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

<b>Regular Meeting Filing Deadline</b>	<b>Regular Meeting Date</b>	<b>Continued Meeting Date</b>
July 3 (Wednesday)	<b>July 18</b>	August 1
August 1	<b>August 15</b>	September 5
September 5	<b>September 19</b>	October 3
October 3	<b>October 17</b>	November 7
November 7	<b>November 21</b>	December 5
December 5	<b>December 19</b>	None

Notice Number	2013-67	Rule Number	He-M 609.06
1. Agency Name & Address: <b>Dept. of Health &amp; Human Services                  Bureau of Behavioral Health                  109 Pleasant Street – Main Building                  Concord, NH 03301</b>		2. RSA Authority:	<b>RSA 135-C:4, III; RSA 135-C:13; RSA 135-C:52; RSA 135-C:61, X</b>
		3. Federal Authority:	_____
		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	<b>X</b>

5. Short Title: **Revocation of Conditional Discharge**

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

**He-M 609 defines the criteria and procedures for implementing, revising, and revoking a conditional discharge (CD) for a person involuntarily admitted to a designated receiving facility (DRF). He-M 609.06 pertains to revocation of CD, and the proposed readoption with amendment is necessary to ensure that the rules comply with the statutory amendments to RSA 135-C:51, I(b), II, III, and IV, as a result of SB 216 of the 2012 session (Chapter 97 of the Laws of 2012).**

**The statutory amendments provide that a written notice of the reasons for revoking a person’s CD must be offered to and explained to the person both prior to and after an examination in which the determination is made to revoke the person’s CD due to a violation and/or due to evidence of the person engaging in dangerous behaviors. The statutory amendments also provide that if such notices cannot be provided without significant possibility of bodily harm to the clinician who is obligated to contact the person, an explanation and copy do not need to be provided to the person, but a description of the circumstances indicating such risk shall be placed in the file by the clinician.**

**The rule is also being amended to allow any DRF to revoke a person’s CD, even if the CD was initially executed by a different DRF in the State of New Hampshire.**

**Finally, the rule is being amended to reflect the current practice of providing the person whose CD has been revoked with advice about his or her rights and the legal implications of the revocation of the CD, and to represent the person in any appeals or hearings challenging the revocation of the CD.**

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

**Groups affected by the rule include: persons with a mental illness who have been involuntarily admitted to a designated receiving facility and have been conditionally discharged and their families; clinicians responsible for evaluating such persons and revoking their conditional discharge; and designated receiving facilities and community mental health centers.**

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

Rule	Statute/Federal Regulations Implemented
He-M 609.06	RSA 135-C:51

## NN 2013-67 Continued

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

Name:	<b>Michael Holt</b>	Title:	<b>Rules Coordinator</b>
Address:	<b>Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301</b>	Phone #:	<b>271-9234</b>
		Fax#:	<b>271-5590</b>
		E-mail:	<b><a href="mailto:michael.holt@dhhs.state.nh.us">michael.holt@dhhs.state.nh.us</a></b>

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

**The proposed rules may be viewed and downloaded at:  
<http://www.dhhs.nh.gov/oos/aru/comment.htm>**

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, July 2, 2013**

Fax                                       E-mail                                       Other format (specify):

9. Public hearings scheduled for:

Date and Time: **Tuesday, June 25, 2013, at 3:00 p.m.**

Place: **DHHS Brown Bldg., Room 232, 129 Pleasant St., Concord, NH**

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

FIS # 13:063, dated 05/21/13

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may reduce general fund expenditures and costs to independently owned businesses. In addition, there may be savings to citizens visiting a family member at one of the designated receiving facilities (DRFs). These amounts cannot be determined.

**2. Cite the Federal mandate. Identify the impact of 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:**

Under current rules, if a patient is conditionally discharged from a DRF and needs to be sent back on a revocation of conditional discharge, the patient must be transported to the facility that originally discharged the patient. The proposed rules allow any DRF authorization to revoke a person's conditional discharge, including the facility closest to the patient's home. General fund savings may result as patients are transported by the sheriff's departments at state expense. There will be no impact on any State special fund.

**B. To State citizens and political subdivisions:**

There are no costs to citizens of the State. Certain citizens and their families may benefit as patients could be conditionally discharged to a facility closer to their home and since there will be more flexibility in re-admitting patients to any DRF. There will be no impact to political subdivisions.

**C. To Independently owned businesses:**

There may be administrative savings to independently owned mental health centers and private hospitals since patients can be treated more locally with a broader source of available beds.

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

**The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.**

Notice Number	2013-68	Rule Number	Fis 401-403, 405-411 (various), Fis 502 (various), and Fis 503.04
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<p>1. Agency Name &amp; Address:</p> <p><b>NH Fish and Game Department</b>  <b>11 Hazen Drive</b>  <b>Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>206:10, I.; 211:4, 211:5, 211:16-b, II.; 214:9-e, III., 214:35</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u>  XX  </u></p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption <u>  XX  </u></p> <p style="padding-left: 20px;">Readoption w/amendment <u>  XX  </u></p>
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5. Short Title: **Fish and Game – 2014 Fishing Rules**

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

**The Fish and Game Department is proposing to:**

**Readopt the following rules without changes:**

**The following definitions in Fis 401** - Fis 401.01 Angling; Fis 401.02 Bag Limit; Fis 401.03 Brook Trout; Fis 401.04 Culling; Fis 401.05 Cusk Fishing Device; Fis 401.07 Ice Fishing; Fis 401.08 Ice Fishing Device; Fis 401.09 Ice-in; Fis 401.10 Minimum Length; Fis 401.11 Net; Fis 401.12 Personal Use; Fis 401.13 Set Line; Fis 401.14 Single Hook Artificial Lure; Fis 401.15 Snagging, Snatching or Lifting; Fis 401.151 Tandem Fly; Fis 401.16 Tip-up; Fis 401.17 Total Length; Fis 401.18 Tributary; and Fis 401.19 Manmade Opening;

**The following general restrictions in Fis 402** - Fis 402.01 Snagging Prohibited; Fis 402.02 Culling Prohibited; Fis 402.03 Set Line Prohibited; Fis 402.04 Possession Exceeding Daily Bag Limit; Fis 402.05 Closed Waters Near Fish Hatcheries; Fis 402.09 Hours for Taking; Fis 402.10 Bob Houses; and Fis 402.11 Use of Gaff Prohibited;

**The following limits for particular species in Fis 403** - Fis 403.01 Statement of Applicability; Fis 403.02 General Restrictions for Length Limits; Fis 403.05 Other Species of Fish; Fis 403.06 Shad; Fis 403.08 Pickerel; Fis 403.09 Northern Pike; Fis 403.10 Smelt; Fis 403.11 Brook Trout; and Fis 403.12 Lake Trout and Salmon;

**The following methods of taking in Fis 405** - Fis 405.01 Statement of Applicability; Fis 405.02 Black Bass; Fis 405.03 Carp; Fis 405.05 Smelt; and Fis 405.06 Suckers;

**The following rules for lakes and ponds and their tributaries in Fis 406** - Fis 406.06 Tributaries to Lakes and Ponds; and Fis 406.07 Wild Trout Waters;

**The following rules for rivers and streams in Fis 407** - Fis 407.01 Applicability; Fis 407.02 Trout Waters; Fis 407.03 Other Waters; and Fis 407.04 Wild Trout Waters;

**The following Connecticut river rules in Fis 408** - Fis 408.01 Validity of Licenses; Fis 408.02 Trout; Fis 408.03 Salmon; Fis 408.05 Walleye or Pike Perch; Fis 408.06 Pickerel; Fis 408.07 Horned Pout; Fis 408.08 Carp; Fis 408.10 Closed Season in Certain Portion of River; Fis 408.11 Liability for Prosecution; Fis 408.13 Northern Pike; Fis 408.14 Fishways Closed; Fis 408.15 Method of Taking in Open Water; and Fis 408.16 Other Species of Fish;

**The following MA/NH interstate rules in Fis 409** - Fis 409.01 Waters Included; Fis 409.02 Seasons for All Species; Fis 409.04 Other Species of Fish; and Fis 409.05 Pickerel;



NN 2013-68 Continued

*(Item 6.(a) continued)*

**The following ME/NH interstate rules in Fis 410 -** Fis 410.01 Waters Included; Fis 410.02 Ice Fishing Restrictions; Fis 410.03 Open Water Restrictions; Fis 410.04 Closed Season; Fis 410.05 Salmon Fall River; Fis 410.06 Great East Lake; and Fis 410.07 Umbagog Lake;

**Fis 411.02 Permit Required** for Atlantic salmon broodstock fishery; and

**The following baitfish rules in Fis 502 -** Fis 502.01 Taking Bait Fish for Personal Use; Fis 502.02 Taking of Bait Fish by Licensed Bait Dealers - Minnows; Fis 502.03 Taking of Smelt by Licensed Bait Dealers; Fis 502.05 Equipment; Fis 502.06 Dealing in Finfish for Bait; Fis 502.08 and Reporting; and Fis 502.081 Wholesale Bait Sales Records;

**Adopt Fis 401.022 to define “black bass” in the definition as meaning largemouth bass (*Micropterus salmoides*) and smallmouth bass (*Micropterus dolomieu*).**

**Readopt with amendment:**

**Fis 401.06 to amend the definition of “fly fishing” to include the use of a fly rod and flyline combination that will allow a Tenkara type flyrod to be used in flyfishing only waters;**

**Fis 403.03 relative to black bass to amend the season dates to use calendar dates instead of ice-in and ice-out, so where the current rule specified ice-in, the proposed rule specifies January 1, and instead of ice-out the proposed rule specifies April 1.**

**Fis 403.04, relative to walleye, to update the scientific name for walleye;**

**Fis 406.01 relative to lakes and ponds to amend Table 400.1 Lakes and Ponds Table to clarify that the portion of Front Bay in Winnepesaukee Lake 500 feet in front of the Smith River, and including the area 500 feet on either side of the Main Street Bridge in Wolfeboro, is subject to the rules in Fis 406.04(f). (See below);**

**Fis 406.04 relative to lake trout and salmon waters to amend paragraph (f) to close the area in Winnepesaukee Lake 500 feet on either side of the Main Street Bridge in Wolfeboro;**

**Fis 406.05 relative to fishing rules for other waterbodies to:**

**Amend paragraph (b), specific to Spofford Lake in Chesterfield, to open the lake to fishing all year and to allow icefishing but with no more than 2 ice fishing devices and up to 6 cusk fishing devices;**

**Amend paragraph (h), specific to Clement Pond/Joe Sylvia Lake, Gregg Lake, Warren Land and Grassy Pond, to refer to calendar dates for taking black bass instead of ice-in and ice-out;**

**Fis 407.01, relative to rivers and streams, to amend Table 400.2 Rivers and Streams Table to:**

**Amend the boundary descriptions on s of the Androscoggin River in Dummer, Milan and Berlin to use a latitude/longitude point to better describe the beginning of Wheeler Bay and to change the rule reference from Fis 407.03 (f) to (g) for the from Sawmill Dam in Berlin to the ME/NH boundary to specify that all fish must be immediately released, not just brook trout;**

**Amend the sections of the Exeter River to allow fishing from October 16 through the 4<sup>th</sup> Saturday in April but that all fish shall be immediately released, be taken only with single hook artificial lures and flies that are barbless or on which all barbs have been pinched; and**

**Amend the area description of the Piscataquog River, South Branch, in New Boston to use a latitude/longitude point in regards to a bridge on Lyndeboro Road.**

NN 2013-68 Continued

(Item 6.(a) continued)

**Fis 407.03** by adding a new paragraph (g), specific to the Androscoggin River at Sawmill Dam in Berlin to the ME/NH border, to specify that all fish must be immediately released, not just brook trout;

**Fis 408.09**, relative to ice fishing on the Connecticut River, to simplify the rules by only specifying that no more than 6 ice fishing devices shall be used;

**Fis 409.03**, relative to taking bass in the MA/NH interstate waters to amend the season dates to use calendar dates instead of ice-in and ice-out; eliminate paragraph (c) that states there are no limits on length or weights for bass as there is actually a 15 inch limit in (a); and to refer to bass as black bass.

**Fis 503.04**, relative to fishing tournament reports, to specify all the information required on reports for fishing tournaments and to specify specific information on bass tournament and lake trout and salmon tournament reports.

6. (b) Brief description of the groups affected: These rules will affect anglers fishing in freshwater lakes and ponds and rivers and streams, as well as MA, ME and VT interstate waters. These rules also will affect baitdealers and persons participating in fishing tournaments.

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

Rule	Specific State or Federal Statutes or Regulations which the Rule Implements
Fis 401.01 – 401.19	RSA 206:10
Fis 402.01 - 402.05, 402.09 - 402.11	RSA 206:10
Fis 403.01 - 403.06, 403.08 – 403.12	RSA 206:10
Fis 405.01 - 405.03, 405.05, 405.06	RSA 206:10
Fis 406.01, 406.04 - 406.07	RSA 206:10
Fis 407.01, 407.03	RSA 206:10
Fis 408.01 - 408.03, 408.05 -408.11, 408.13 – 408.16	RSA 206:10; 211:5
Fis 409.01 - 409.05	RSA 206:10; 211:4
Fis 410.01 – 410.07	RSa 206:10; 207:14
Fis 411.02	RSA 206:10, 214:9-e
Fis 502.01	RSA 206:10; 214:35
Fis 502.02	RSA 206:10; 214:35
Fis 502.03	RSA 206:10; 214:35
Fis 502.05	RSA 206:10; 214:34-a; 214:35
Fis 502.06	RSA 206:10; 214:35
Fis 502.08	RSA 206:10; 214:35
Fis 502.081	RSA 206:10; 214:35
Fis 503.04	RSA 206:10; 211:16-b

NN 2013-68 Continued

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** Phone #: **603-271-3511**  
**11 Hazen Drive** Fax#: **603-271-1438**  
**Concord, NH 03301** E-mail: **comments@wildlife.nh.gov**  
**Subject line: 2014 Fish 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: **July 8, 2013**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **July 1, 2013 6:30 pm**  
 Place: **NH Fish and Game Department**  
**11 Hazen Drive**  
**Concord, NH 03301**

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

FIS # 13:171 , dated 5/23/13

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):
  - 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 Fis 401(various), Fis 402(various), Fis 403(various), 405 – Fis 410 (various), Fis 411.02, Fis 502 (various); the proposed adoption of Fis 401.022 and the readoption with amendment of Fis 401.06, Fis 403.03, Fis 403.04, Fis 406.01, Fis 406.04, Fis 406.05, Fis 407.01, Fis 407.03, Fis 408.09, Fis 409.03 and Fis 503.04 relating to the various fishing rules do 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.



Notice Number	2013-69	Rule Number	Env-Or 300 (nka Env-Wm 1402)
1. Agency Name & Address:		2. RSA Authority:	RSA 146-A:11-c
NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		3. Federal Authority:	
		4. Type of Action:	
		Adoption	<input checked="" type="checkbox"/>
		Amendment	<input type="checkbox"/>
		Repeal	<input type="checkbox"/>
		Readoption	<input type="checkbox"/>
		Readoption w/amendment	<input checked="" type="checkbox"/>

5. Short Title: Aboveground Petroleum Storage Facilities

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

The existing rules, Env-Wm 1402, implement portions of RSA 146-A "Oil Discharge or Spillage in Surface Water or Groundwater" by establishing requirements for the registration, design, installation, operation, maintenance, and monitoring of aboveground petroleum storage facilities. The existing rules are scheduled to expire on May 28, 2013, and are proposed to be readopted so as to continue the program. **Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.** Amendments are being proposed that are intended to (1) substantially reorganize the rules to increase clarity and reduce redundancy, (2) redesignate the rules into the Env-Or (Oil and Remediation Programs) subtitle, and (3) make the following additional changes:

1. Exempt any small ( $\leq 330$  gallons) aboveground storage tank (AST) system used only for on-premise heating located at an AST facility that is otherwise regulated from all requirements except those applicable to on-premise-use heating oil tanks specified in NFPA 31. (Currently, all AST systems at an AST facility that is regulated under Env-Wm 1402 must comply with all requirements.)
2. Delete the definitions for "new AST system" and "existing AST system". The distinguishing date in the definitions is April 25, 1997, and calling a system that has been in place for 16 years "new" is confusing to the public and the regulated community. (For example, someone who buys an active AST facility that was installed in 2001 would not intuitively know that requirements for "new AST systems" apply to the systems at the recently-purchased facility.) Further, the modifier "new" is not used consistently in the rules, since sometimes it applies to facilities that are being proposed (and so are "new" in the commonly-understood sense). To the extent a date-based distinction is still significant, it is now being made in the specific rules where it applies.
3. Revise the requirements regarding Spill Prevention Control, and Countermeasure (SPCC) Plans to conform with the statute that exempts "qualified facilities" (as defined in RSA 146-A) from having to have the SPCC Plan prepared or approved by a professional engineer.
4. Replace the exemption for oil transfer areas that were used prior to the 2005 rules to not have an impermeable surface with positive limiting barriers with a two-year compliance deadline. An exemption is proposed for political subdivisions that do not vote to fund compliance if the State does not provide funding.
5. Specify the information required to be recorded to document exterior and interior inspections and annual testing in greater detail.
6. Specify the information required to be submitted in an application for approval to construct or substantially modify an AST system in greater detail.
7. Expressly state the requirement for the Department to review an Application for Approval to Construct or Substantially Modify an AST system for completeness.

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

The rules affect owners and operators of existing AST facilities and persons wishing to construct or otherwise obtain an AST facility.

NN 2013-69 Continued

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

Rule Section(s)	State Statute(s) Implemented	Federal Regulations Implemented
Env-Or 300 (also see specific sections listed below)	RSA 146-A:1-3, 4, & 5; RSA 541-A:16, I(b)	40 CFR Part 112
Env-Or 306.04		US DOT HM 181, part HM-126F
Env-Or 306.11	RSA 485-C:4, VIII	40 CFR Part 112
Env-Or 308.01, Env-Or 308.02	RSA 485-C:4, VIII	40 CFR Part 112

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

Name: Michael W. Juranty, P.E. Title: Supervisor, Oil Compliance Section  
 Address: NH Dept. of Environmental Services Phone #: (603) 271-6058  
 29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-2182  
 Concord, NH 03302-0095 E-mail: [Michael.Juranty@des.nh.gov](mailto:Michael.Juranty@des.nh.gov)

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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: **4:00 p.m. on Friday, July 26, 2013**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, July 17, 2013 at 9:00 AM**

Place: **Rooms 110-113, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:080, dated 05/23/13 :

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules will have an indeterminable impact on costs to state citizens and independently owned businesses.

**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):**

The proposed rules will have an indeterminable fiscal impact on costs to certain state citizens and independently owned businesses. To the extent a state citizen or independently owned business has a small heating-use-only above ground storage tank (AST) system, they will be subject to fewer rules resulting in a decrease in costs. To the extent a state citizen or independently owned business owned a nonpublic AST facility having oil transfer areas that were in use prior to May 28, 2005 there will be an increase in costs. Those facilities will have two (2) years to install an impermeable surface with positive limiting barriers, costing on average \$6,785 per facility. The Department of Environmental Services estimates there are 29 such facilities in the State. There will be no costs or benefits to political subdivisions as they are exempt from complying with these rules.

**A. To State general or State special funds:**

When compared to the existing rules, the proposed rules will not increase or decrease costs or benefits to the state general fund. The State's petroleum remediation funds (oil discharge and disposal cleanup fund (RSA 146-D:3,I), fuel oil discharge cleanup fund (RSA 146-E:3,I), motor oil discharge cleanup fund (RSA 146-F:3,I), and gasoline remediation and elimination of ethers fund (RSA 146-G:4,I)) may experience an indeterminable reduction in expenditures related to having less payments for cleanup of oil contaminated sites due to the proposed elimination of the exemption from having a pad/barrier system for oil transfer/dispensing sites.

**B. To State citizens and political subdivisions:**

See 3 above.

**C. To independently owned businesses:**

See 3 above.

NN 2013-69 Continued

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

Political subdivisions are specifically exempt from the only proposed modification to the rules that increases costs. The rules thus do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate additional local expenditures, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.

Proposed Interim Rule Number 2013-8 Rule Number Rab 304.01

<p>1. Agency Name &amp; Address:                   Real Estate Appraiser Board                  NH Joint Board                  57 Regional Drive                  Concord NH 03301</p> <p>5. Filing Date: <u>5/22/13</u></p>	<p>2. RSA Authority: <u>RSA 310-B:24, I</u></p> <p>3. Federal Authority: <u>12 U.S.C. 3351</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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6. Short Title: Real Estate Appraiser Board Rules Regarding Reciprocity

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

Name: <u>Louise Lavertu</u> Address: <u>NH Joint Board</u> <u>57 Regional Drive</u> <u>Concord NH 03301</u>	Title: <u>Executive Director</u> Phone #: <u>603-271-2219</u> Fax#: <u>603-271-6990</u> E-mail: <u>Louise.lavertu@nh.gov</u>
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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Summary explaining the effect of the rule:  
 Pursuant to RSA 541-A:19, I (c), the purpose of the interim rule is to conform with a federal requirement which must be met sooner than allowed under RSA 541-A:3 for regular rulemaking. The modifications to Rab 304.01 remove requirements for reciprocal candidates for Real Estate Appraiser certification or licensure in excess of the provisions required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act.) The Dodd-Frank Act requires States to have in place a policy for issuing reciprocal certifications or licenses from another state without limitations by July 1, 2013. In addition, Senate Bill 42 which has passed the House and the Senate, and is intended to be effective upon passage, will remove provisions in RSA 310-B:12 that allow the Board to add additional requirements for reciprocity candidates pursuant to 12 U.S.C. 3351. If this is enacted, then the interim rule would also implement an amended state statute pursuant to RSA 541-A:19, I (a).

9. Listing of people, enterprises, and government agencies affected by the rule:  
 Candidates for licensure or certification as a Real Estate Appraiser.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rab 304.01	RSA 309-B:12, RSA 309-B:24, I, 12 U.S.C. 3351
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11. Summary of the effect upon the state if the rule were not adopted: Without the interim rules the Board will not be in compliance with 12 U.S.C. 3351 required by July 1, 2013. State compliance with the Dodd-Frank Act is required and enforced by the Federal Appraisal Subcommittee (ASC.) The ASC monitors each State's appraiser licensing and certification regulatory program by conducting federal compliance audits. Non-compliance with 12 U.S.C. 3351 can result in the Federal Appraisal Subcommittee decertification of the State of New Hampshire's Real Estate Appraiser Program which would result in the citizens of the State's inability to conduct federally related transaction.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: 6/21/13

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 13:067, dated 5/17/13

**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.