



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXV, Number 33, August 20, 2015

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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)

REGULAR MEETING: **Thursday, August 20, 2015** 9:00 a.m.
Rooms 305/307, Legislative Office Building

CONTINUED MEETING: **Thursday, September 3, 2015** 9:00 a.m.
Rooms 305/307, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES AUGUST-DECEMBER, 2015

The JLCAR has voted to hold its regularly scheduled monthly meetings for August through December, 2015 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.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
August 6	August 20	September 3
September 3	September 17	October 1
October 1	October 15	November 5
November 5	November 19	December 3
December 3	December 17	None

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2015-138	Fis 1101.03(f)	Fish and Game Department Newborn Lifetime License.	1
2015-139	Mhp 302.01(a), (b), (k), & (q)	Board of Mental Health Practice Pre-licensure Supervised Practice.	3
2015-140	Mhp 402.01(d)	Board of Mental Health Practice Continuing Education Requirements.	5
2015-141	Env-A 3200	Department of Environmental Services Air Related Programs NOx Budget Trading Program.	7

Notice Number 2015-138

Rule Number Fis 1101.03(f)

<p>1. Agency Name & Address: NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 214:9-c, VIII</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption _____</p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption <u>X</u></p> <p style="padding-left: 20px;">Readoption w/amendment _____</p>
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5. Short Title: **Newborn Lifetime License**

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

The Fish and Game Department is proposing to readopt 1101.03(f) relative to the requirements to apply for a newborn lifetime hunting and fishing combination license. Fis 1101.03(f) is currently an interim rule which is scheduled to expire on 1-18-16. The rule requires that, to purchase this type of license, an individual must provide, among other information: a copy of the child's birth certificate, and a copy of one parent's (or legal guardian's) valid N.H. Driver's License or Non-driver Picture Identification. The application must be accompanied by a payment of \$304.50 (which includes the agent fee, fisheries habitat fee and the wildlife habitat fee).

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

The rule affects those seeking to purchase a newborn lifetime hunting and fishing combination license.

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

RULE NUMBER	STATUTE IMPLEMENTED
Fis 1101.03(f)	RSA 214:9-c

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

Name: **Evan J. Mulholland**

Title: **Legal Coordinator**

Address: **NH Fish and Game Department**
11 Hazen Drive
Concord, NH 03221

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

Fax#: **603-271- 5829**

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

Subject line: Newborn

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

NN 2015-138 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **September 22, 2015**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, September 14, 2015 12:00 p.m.**

Place: **N.H. Fish and Game Headquarters, 11 Hazen Dr., Concord, N.H. 03301**

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

FIS # 15:145, dated 8/5/15

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 interim 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):

Any cost or benefits associated with the proposed rules are attributable to RSA 214 and 214-A.

A. To State general or State special funds:

See 3 above.

B. To State citizens and political subdivisions:

See 3 above.

C. To independently owned businesses:

See 3 above.

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

The proposed re-adoption of Fis 1101.03(f) does not violate the New Hampshire Constitution, Part 1, Article 28-a. The proposal does 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 2015-139

Rule Number Mhp 302.01 (a), (b), (k) & (q)

<p>1. Agency Name & Address:</p> <p>NH Board of Mental Health Practice 121 South Fruit Street Concord NH 03301</p>	<p>2. RSA Authority: <u>RSA 330-A:10, XII</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: Pre-licensure Supervised Practice

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

Mhp 302.01 specifies the requirements for pre-licensure supervised practiced. The proposed amendments revise the date of the "Candidate for Licensure: Supervision Agreement" due to changes made on the agreement and add criteria for denial of a "Candidate for Licensure: Supervision Agreement."

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

Licensed pastoral psychotherapists, independent clinical social workers, clinical mental health counselors and marriage and family therapists.

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

RULE NUMBER	STATUTE IMPLEMENTED
Mhp 302.01 (a), (b), (k), & (q)	RSA 330-A:22

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

Name: Peggy Lynch	Title: Administrator
Address: 121 South Fruit Street	Phone #: 271-6762
Concord, NH 03301	Fax#: 271-3950
	E-mail: margaret.lynch@nh.gov
	TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2015-139 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: October 22, 2015

X Fax

X E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: October 16, 2015 9 a.m.

Place: 121 South Fruit Street, Concord NH 03301

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

FIS # 15:140 revised , dated 8/5/2015

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:

The proposed rules do not mandate or assign any new, modified, or expanded programs or responsibilities to any political subdivisions. Therefore, the rules do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2015-140

Rule Number Mhp 402.01(d)

<p>1. Agency Name & Address: Board of Mental Health Practice 121 South Fruit Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 330-A:10, XIV</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: Continuing Education Requirements

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

Mhp 402.01 specifies continuing education requirements for license renewals. The amendment requires all licensees to obtain 3 continuing education units for biennial renewal in the area of suicide prevention, intervention, or postvention and how mental illness, substance use disorders, trauma or interpersonal violence directly impacts risk for suicide.

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

Licensed pastoral psychotherapists, independent clinical social workers, clinical mental health counselors and marriage and family therapists.

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

RULE NUMBER	STATUTE IMPLEMENTED
Mhp 402.01 (d)	RSA 330-A:31

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

Name: Peggy Lynch
Address: 121 South Fruit Street
Concord, NH 03301

Title: Administrator
Phone #: 271-6762
Fax#: 2713950
E-mail: margaret.lynch@nh.gov
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

NN 2015-140 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: October 22, 2015

X Fax

X E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: October 16, 2015 9 a.m.

Place: 121 South Fruit Street, Concord, NH 03301

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

FIS # 15:141 revised, dated 8/5/2015

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:

The proposed rule does not mandate or assign any new, modified, or expanded programs or responsibilities to any political subdivisions. Therefore, the rule does not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number	2015-141	Rule Number	Env-A 3200
1. Agency Name & Address:	NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 125-J:12, I
		3. Federal Authority:	N/A
		4. Type of Action:	
		Adoption	
		Amendment	
		Repeal	
		Readoption	
		Readoption w/amendment	X
5. Short Title:	NOx Budget Trading Program		

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

The existing rules, Env-A 3200, *NOx Budget Trading Program*, implement provisions of RSA 125-J by establishing the NOx Budget Program (Program), which requires reductions in ozone-season emissions of oxides of nitrogen (NOx), an ozone precursor, from NOx budget sources. NOx budget sources are defined in RSA 125-J:1, XIX-b as fuel fired boilers or indirect heat exchangers with a maximum rated heat input capacity of 250 MMBtu/Hour or more, and all electric generating facilities with a rated output of 15 MW or more. The Program is intended to facilitate compliance with the federal Clean Air Act; specifically, to further the effort to achieve the national ambient air quality standards (NAAQS) for ozone. The existing rules are scheduled to expire in November 2015, so the Department is proposing to readopt them. If this rulemaking proceeding extends beyond the expiration date, the rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions stated therein. As part of the readoption, amendments are proposed as follows:

- Allow new budget sources to convert allowances to discrete emissions reductions (DERs) at a one-to-one ratio and to use the DERs as offsets against ozone-season NOx emissions (Env-A 3206.02(b));
- Allow new budget sources to convert allowances to DERs and to sell the DERs to smaller industrial sources for RACT compliance in accordance with Env-A 3100 (Env-3206.02(d));
- Delete Env-A 3207.11, which requires Phase III and Phase IV (smaller) budget sources to transfer unused allowances, which can be traded in accordance with Env-A 3200, to Phase II (large) budget sources in exchange for DERs, which smaller sources can trade in accordance with Env-A 3100. This "swap" provision applies only to Eversource (formerly PSNH), the only Phase II budget source in New Hampshire. The rule is no longer necessary because Eversource has exhausted its supply of DERs and is no longer eligible to receive new DERs, and thus can no longer effectuate a swap;
- Delete the definitions for Phase II, Phase III, and Phase IV budget sources, as they are not needed once Env-A 3207.11 is deleted;
- Simplify the process for submitting a request for set-aside allowances by allowing fax and email requests, and requiring submission of raw power generation data instead of generation-to-allowance conversion calculations (Env-3207.12(b));
- Streamline the permitting process by revising Env-A 3208.02(a) to remove the requirement for the permit to reference the NOx allowance tracking system (NATS) compliance account and identify the authorized account representative;
- Change the frequency of program audits to match the schedule for rule re-adoption of the rules (Env-A 3218.02); and
- Generally clarify existing language, particularly in Env-A 3207.08, Env-A 3209.02, Env-A 3209.03, and Env-A 3209.07.

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

The rules affect electrical generation facilities with fuel fired boilers or indirect heat exchangers with a maximum rated heat input capacity of 250 MMBtu/Hour or more, and all electric generating facilities with a rated output of 15 MW or more.

NN 2015-141 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 Statutes Implemented
Env-A 3201 through Env-A 3205	RSA 125-J:2-a
Env-A 3206	RSA 125-J:2-a & 4-a
Env-A 3207	RSA 125-J:2-a & 4-b
Env-A 3208 & Env-A 3209	RSA 125-J:2-a & 4-a
Env-A 3210	RSA 125-J:2-a
Env-A 3211	RSA 125-J:2-a & 4-a
Env-A 3212	RSA 125-J:2-a, 4-a, & 7
Env-A 3213 through Env-A 3216	RSA 125-J:2-a & 4-a
Env-A 3217	RSA 125-J:2-a, 4-a, & 8, I
Env-A 3218	RSA 125-J:2-a

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

Name: Karla McManus Title: Planning and Rules Manager
 Address: NH Dept. of Environmental Services Phone #: (603) 271-6854
 29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-0656
 Concord, NH 03302-0095 E-mail: Karla.McManus@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 September 18, 2015**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **September 11, 2015 at 9:30 AM**

Place: **Rooms 110-111, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 15:146, dated 08/06/15:

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

When comparing the proposed rules to the existing rules, independently owned businesses may have an indeterminable decrease in costs.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds. When Env-A 3200 was initially adopted in 1999, the Environmental Protection Agency approved incorporating this rule into the New Hampshire's state implementation plan in order to facilitate compliance with the Clean Air Act by implementing a trading program within the budget established in a memorandum of understanding between the State and the Environmental Protection Agency. As a result, the program is currently federally enforceable.

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:

To the extent an independently owned business participates in the NOx Budget Trading Program, they may have an indeterminable reduction in costs associated with the changes to the permitting process of allowing the submission of raw power generation data instead of generation-to-allowance conversion calculations.

NN 2015-141 Continued

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

The rules apply to fuel fired boilers or indirect heat exchangers with a maximum rated heat input capacity of 250 MMBtu/Hour or more and all electric generating facilities with a rated output of 15 MW or more, and there currently are no such devices owned by political subdivisions. (While some political subdivisions may have small generation capacity, even large diesel backup generators typically produce no more than 2 MW of output, or approximately 7 MMBtu/Hour.) In any event, the proposed changes reduce costs for those who are subject to the rules. Thus, the rules do not mandate or assign 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 subdivision, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.