



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

APRIL 1, 2016

Members Present: Representatives McGuire, Schmidt, Kidder, Ladd, Sad, Gottling*, and Hatch*, and Senators Reagan, Cataldo, Avard, Feltes, Watters, and Daniels*. (*) Indicates alternate member.

(**) Part 1, Article 28-a of the N.H. Constitution was not an issue in the Committee's discussions or decisions in this meeting.

1. The meeting was convened at 9:03 a.m. by Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Ladd, Kidder, Sad, Gottling, and Hatch, and Sens. Reagan, Cataldo, Avard, Feltes, and Daniels.

As alternates, Rep. Gottling, Rep. Hatch, and Sen. Daniels were not voting members at this time.

2. The Committee discussed Final Proposal 2015-206 from the Fish and Game Department (Limited Bobcat Season). Executive Director Glenn Normandeau and Ted Tichy, Chairman of the Fish and Game Commission, testified for the Department.

Sen. Watters arrived as the public testimony began.

The following persons testified:

Rich Van de Pell.
Rep. Dennis Abbot.
Lindsay Hamrick, representing the Humane Society of the United States.
John Harrigan.
Chris Schadler.
Cathie Gregg.
Phil Auger.
Laure Scott, representing the Animal Welfare Institute.
Dr. Rex Gallagher.
Aaron T. Brown.
Ted Leach.
Dan Garrity.
Helen Tam-Semmens, representing the Stoddard Conservation Commission.
Margo Santoro, representing the Town of Stoddard as Selectman and animal control officer.
Jax Marden.
Frank Hammond.
Antonet C. Piper.
Kristina Snyder.
Paul DeBow
Suzanne Fournier.
Dan Teague.

Action Minutes

April 1, 2016

Page 2

Sister Lucille Thibodeau.

Tone Marie Grochala submitted written testimony in opposition to the rules but did not speak.

The following persons were registered to testify in opposition to the rules but did not speak:

Denise Hood.

Weldon Boworth.

Jackie Teague.

Jean Blodgett.

Dr. Michelle Goldsmith.

Rep. Carol Roberts.

Danielle Eriksen.

Geoffrey Jones, representing the Stoddard Conservation Commission.

Jan A. Griska.

Rep. Lee Oxenham.

Mike Morrisen.

Joseph Rogers.

Daniel Dockham.

Douglas Galenski, representing the Androscoggin Valley Fish and Game Association.

Philip Gile.

Elizabeth Meads.

Evelyn Nathan, representing the Kingston Conservation Commission.

Andy Blais.

Heather Hughes.

Mary Lee Gorham, representing the N.H. Federation of Humane Organizations.

Julia Sinclair.

Judy Doughty.

Cassandra Gatsas.

Beverly Sylvia.

Nancy Conkling.

John Van Uder.

Bruce Beaurivage.

Francisca King.

Karl Bergeron.

The following persons were registered to testify in support of the rules but did not speak:

Dan Kokas.

Robin Deed.

Dwight Pennell.

Dale Carroll, representing the N.H. Wildlife Federation.

Bob Dufresne, representing the N.H. Wildlife Federation.

Jamie Corriveau, representing the N.H. Trappers Association.

The following persons indicated their opposition to the rules but did not register to testify:

Action Minutes

April 1, 2016

Page 3

NAME	CON
Susan Lovering	X
Mary Paveglio	X
Janet R. Kidder	X
William Humm	X
Jonathan Olson	X
Sue Johnson	X
Liz Sargent	X
Dave Fritts	X
Karen Caza	X
Sharon Bennett	X
Eve Scarcello	X
Azanna Wishart	X
Pamela Cote	X
Sue Jonas	X
Pam Michael	X
Lynn Trudor (spelling unclear)	X
Kat Strange (spelling unclear)	X
Mary Aranosion	X
Larry Levinson	X
Cynthia Merchant	X
Andria Elliot	X
James Lovering	X
Sandra Gilbert	X
John Schaudel	X
Bruce H. Luttes	X
Lin L'Heureux	X
Tim Rose (spelling unclear)	X
Jean Blais	X
Elinor Yeaton	X
Laura Saint Cyr	X
Deborah Corr	X
Michelle Schlickman	X
Lucinda Reid	X
Hils Family	X
Gell Hollen (spelling unclear)	X
Paul Blackford	X
Sandra Griffon	X
Michelle Demoz (spelling unclear)	X
Fran Thomas	X
Linda K. Schon	X
Michael Schou	X
Maralyn Doyle	X
Linda Rauter	X
Carolyn Hartleff	X

Action Minutes
April 1, 2016
Page 4

Brenda Olson	X
Francisca St. Onge	X
Deborah O. Hinman	X
Julie Wiles-Felch	X
Linda Lambert	X
Frank Mitchell	X
Ana K. Ford	X
Clares Hulse	X
Nancy Norwesh	X
Leslie Duplessis	X
Inez Knanewa	X
Susan Smith	X
Hannah Lejter	X
Susan Blanchard	X
Dale Blanchard	X
James Newsom	X
Candace Wyman	X
Savannah Cavanaugh	X
Nancy Susan Fosburgh	X
Adi Rule	X
John W. McGonagle	X
Denise Donovan	X
Jack Gagnon	X
First name/last name (illegible)	X
Donna Tucker	X
Glenn Horner	X
Evelyn Nathan	X
Steve Kaufman	X
Robin M. Haubrich	X
Gina Scrofano	X
Susan Lichty	X
Terry Dyke	X
Jan Pendlebury	X
Ruth Tanner Isaks	X
David Withcom	X
Rebecca Rule	X
James Glover	X
Elaine Faletra (spelling unclear)	X
Grace Schust	X
Lindsey Schust	X
Karen Wayment	X
Barbara Dunkin (spelling unclear)	X
John Snyder	X
Tom Gardner	X
James Taft Stever	X

Action Minutes

April 1, 2016

Page 5

Ben Haubrich	X
Marilyn Griska	X
Nina R. Rose	X
Doug Kirsn (spelling unclear)	X
Pat Cote	X
Diane Brennan Hulse	X
Cindy Stave	X
Ann Rehlander	X
Ellen Miller-Grant	X
Dennis Card	X
Michelle (last name illegible)	X
Anne Greer	X
Jen Aeberuo (spelling unclear)	X
John P. Ford	X
Debora Budd	X
Karen Kenney	X
Elisabeth Shuter	X
Art LeBlanc	X
Gail Cromwell	X
Emy Conway	X
Kathleen Ullrich	X
Geoffrey Smith	X
Bruce C. Fosburgh	X
Gail Cousins	X
Angela Warner	X
Karen Ellis	X
Naomi Avard	X
Irene Kaye	X
Patricia Snyder	X
Cynthia Glenn	X
Maria Colby	X
Mike Biundo, Jr.	X
William J. King	X
Lorna Ross	X
Philip Paveglio	X
Debra Marston	X
Mike Donohue	X
Udo Rauter	X
Ericka Shimkonis	X
Patti Finos	X
Christine Kuhlman	X
Susan H. Scarcello	X
Alex Zerba	X
Kimberly DeMartin	X
Jillian Randel	X

David A. Jonas	X
Joyce Donohue	X
Donna Duff	X
Kathy Peirce	X
Beth Marino	X
Lisa A. Fortier	X
Nancy Walhos (spelling unclear)	X
Shanon Nolin	X
Rick Budd	X
Lydia Hawkes	X
Carolyn Sheehan	X
Paul Snow	X
Marueen McCanty	X
John Van Uder	X
Jiffi Rainie	X
Gail Page	X

The following persons indicated their support of the rules but did not register to testify:

NAME	PRO
Kristal Corriveau	X
Noel C. Everts	X
Bonnie Pennell	X
Dale Carruth	X
Donald Clarke	X
James Dearborn	X
Mary Tichy	X
Roger Burnham	X
Jeff Traynor	X
Jeffrey Gray	X
Jane Greer	X
Richard A. Lafleur	X
Fred Shepard	X
Dwight Pennell	X
Brian JeNutt (spelling unclear)	X
Richard Corriveau	X
Martin Garabedian	X
Allison Keating	X

The following persons indicated their presence at the meeting but did not indicate either opposition or support of the rules:

- Lynn McEwan.
- Rosemary Ridge.

Sen. Feltes moved that the Committee made a preliminary objection to Final Proposal 2015-206 on the grounds that the Final Proposal was contrary to legislative intent due to a conflict with Federal law, and not

within the Department's authority due to a conflict with the Supremacy Clause of the United States' Constitution, as follows:

The Final Proposal violated 16 U.S.C. §1538 of the Federal Endangered Species Act. Bobcats share part of their territory in this state with the Canada Lynx, a threatened species. In other states with bobcat hunting seasons shared lynx and bobcat territory, Canada Lynx were caught. These takings resulted in a number of successful lawsuits, and, without an incidental take permit, the State would be opening itself to liability under Federal law. By violating the Endangered Species Act, the Final Proposal also violates the Supremacy Clause of Article VI, Paragraph 2 of the United States Constitution. Therefore, pursuant to Committee rule 401.04, the rule is beyond the agency's authority by violating the Constitution, and, pursuant to Committee rule 402.02(a), the rule is contrary to legislative intent by violating Federal law.

Sen. Avard seconded.

Rep. Kidder amended the motion to object on the ground that the fiscal aspects of the rule are against the public interest as follows:

The Department has the authority to set fees for permits pursuant to RSA 214:9-e, III. Those fees are, pursuant to RSA 214:9-e, IV, used to promote management and conservation that the Fish and Game Department's decision to run the program at a loss ran contrary to the public interest.

Rep. McGuire further amended the motion to have a copy sent of the preliminary objection to the policy committees of the House and Senate for their recommendations and comments pursuant to RSA 541-A:13, V(b).

The motion as amended was adopted. It was noted that the vote was 9 "yes" and 1 "no", with Sen. Reagan voting "no".

3. After a break, with Reps. McGuire, Schmidt, Ladd, and Sad, and Sens. Reagan, Feltes, and Watters present, the Committee discussed proposed amendments to the Drafting and Procedure Manual for Administrative Rules based on the revised version prepared by Committee staff dated March 30, 2016.

Michael Holt testified for the Department of Health and Human Services.

Sen. Reagan moved that the Committee approve the Manual as amended, to be effective May 1, 2016, but with the following amendments: (1) Insert "and view minutes" on p. 5 after "JLCAR meetings", (2) Change "from those made" to "than those made" on p. 72, and (3) Delete the proposed text on p. 37 relative to fiscal impact of expired rules and agency policies and also delete a related cross reference on p. 36 to that text.

Sen. Feltes seconded.

Adopted.

4. The Committee adjourned by consensus at 11:45 a.m.