

RULEMAKING NOTICE FORM

Rule Number **Fis 301.06(h), Fis 307.01(h), Fis 307.02 and Fis 1102.06**

Notice Number _____

1. Agency Name & Address:

**NH Fish and Game Department
11 Hazen Drive
Concord, NH 03301**

2. RSA Authority: **207:3-d, I.; 208:1-a, II;
208:22, I. & III.; 208:24
III.**

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment **XX**

Repeal _____

Readoption _____

Readoption w/amendment **XX**

5. Short Title: **Fish and Game – Baiting wildlife and bear guide permit allocation process**

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:

Amend Fis 301.06 to change the allocation process for persons licensed for guiding to take bear from a first-come-first-served basis to a computer selection of random numbers;

Amend Fis 307.01 relative to baiting for wildlife by reducing the maximum number of bait sites that can be used by guides who are guiding other persons to take wildlife, including deer and coyotes, from 6 sites to 2 sites;

Readopt with amendment Fis 307.02 relative to the seasons for bear by the aid and use of bait to eliminate the provision that allowed licensed hunting guides authorized to guide for bear to use 6 bait sites;

Readopt with amendment Fis 1102.06 relative to the bear guide permit to specify the application process and issuance of bear guide permits by a process of using a computer selection of random numbers.

The Department is interested in developing an allocation system for the bear permits for guides that will maintain the current, historical level of bear harvest by guided hunters while providing for a fair and equitable process for all guides interested in guiding for bear (Fis 301.06). The Departments is also looking to create equity between hunters who are not guides and guides, by adopting a consistent standard for the number of bait sites that can be used.

6. (b) Brief description of the groups affected: These proposed rules would affect hunting guides, hunters being guide to take bear and moose hunters.

These rules will affect taking wildlife or applying for bear guide permits.

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

| Rule(s) | State Statute (RSA) | Federal Statute | Federal Regulation |
|-----------------------|--|-----------------|--------------------|
| Fis 301.06 (h) | 207:3-d, 208:22, 208:24 | | |
| Fis 307.01 (h) | 207:3-d; 208:1-e, 208:2; 208:22 | | |
| Fis 307.02 | 207:3-d, 208:22 | | |
| Fis 1102.06 | 208:22; 215:2 | | |

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: Moose/bear permit allocations

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: **October 17, 2011**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **October 6, 2011 6:30pm**
 Place: **NH Fish and Game Department**
11 Hazen Drive
Concord, NH 03301

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

FIS # 11:125, dated 08/26/11

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):
 When comparing the proposed rules to the existing rules, there may be a decrease in revenue of indeterminable amounts for certain 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 rules(s):

A. To State general or State special funds:
None.

B. To State citizens and political subdivisions:
The proposed rules reduce the number of bait sites licensed hunting guides may use from 6 to 2, so to the extent state citizens are guides, who under the proposed rules may only use 2 bait sites, they may experience a decrease in revenue of an indeterminable amount.

C. To independently owned businesses:
The proposed rules reduce the number of bait sites licensed hunting guides may use from 6 to 2, so to the extent independently owned businesses employ guides, who under the proposed rules may only use 2 bait sites, they may experience a decrease in revenue of an indeterminable amount.

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

The proposed amendment of of Fis 301.06 and Fis 307.01 and the readoption with amendment of Fis 307.02 and Fis 1102.06 relating to baiting wildlife and bear permit rules does 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.

[blank]

Amend Fis 301.06 (h), effective 6-24-11 (Doc #9948-A), to read as follows:

Fis 301.06 Bear Season.

(h) Licensed guides may guide for taking bear during the open season as specified in Fis 301.06(b), Fis 301.06(c), and Fis 301.06(d). The person licensed for guiding shall prior to guiding obtain from the department a permit to guide bear hunters. There shall be a limit of 35 permits per season to guide for taking bear **by computer selection of random numbers** as specified in Fis 1102.06. ~~Bear guide permits shall be issued on a first come first served basis.~~

Amend Fis 307.01, effective 7-6-07 (Doc #8931), as amended effective 6-5-10 (Doc #9720-A), by amending (h) to read as follows:

Fis 307.01 Baiting for Wildlife.

(h) A person with a current hunting license **and licensed N.H. hunting guides** shall be allowed a maximum of 2 active bait sites ~~and a licensed N.H. hunting guide shall be allowed a maximum of 6 active bait sites.~~ A bait site shall be considered active if the baiting season for the species allowed on the permit to bait wildlife is open or if no specific expiration date is noted on the permit form.

Readopt with amendment Fis 307.02, effective 6-5-10 (Doc #9720-A), to read as follows:

Fis 307.02 Baiting for Black Bear.

(a) In addition to the requirements of RSA 207:3-d and Fis 307.01 relative to the use of bait, black bear may be taken by the aid and use of bait subject to the following:

- (1) WMUs G, H1, H2, I1, I2, J1, J2, K, L, and M shall open September 1 and close September 21;
- (2) WMUs A, B, C1, C2, D1, D2, E, and F, shall open on September 1 and close September 28; **and**
- (3) No person shall place bait for the purpose of attracting and taking bear at more than 2 bait sites, but no more than one bait site in WMUs A, B, D1, H1, H2, I2, K, L, and M. ~~and~~
- ~~(4) A licensed N.H. hunting guide authorized to guide bear hunters under the provisions of Fis 301.06(i) shall be allowed a maximum of 6 bait sites.~~

Readopt with amendment Fis 1102.06, effective 6-24-11 (Doc #9948-A & B), to read as follows:

Fis 1102.06 Bear Guide Permit.

(a) A New Hampshire licensed guide shall make application to the New Hampshire fish and game department on Form F&G 401A by providing the following:

- (1) Name, address, telephone number of applicant;
- (2) New Hampshire hunting license number for the year in which the permit is sought;

- (3) New Hampshire hunting guide license number for the year in which the permit is sought;
- (4) Type of guiding whether with dogs, over bait, stalking or still hunting; and
- (5) Signature of applicant, signed subject to the penalties for making unsworn false statements under RSA 641:3.

(b) ~~Requests for bear guide permits shall only be accepted after April 15 of any year.~~ **Only one application per applicant shall be accepted.**

(c) **Illegible or incomplete applications shall be returned and not considered. Corrected applications may be resubmitted prior to the deadline specified in 1102.06(d)(3).**

(d) **Bear guide permits shall be issued by computer selection of random numbers and issued as follows:**

- (1) **Based upon the order of selection, the first 35 applicants drawn shall be awarded a permit to guide bear hunters;**
- (2) **The remaining applicants shall be considered as alternates based upon the order in which they were drawn in the lottery;**
- (3) **Applications shall be received at department headquarters on or before 4:00 p.m. the second Friday in January;**
- (4) **Permits shall be awarded on the fourth Monday in January by computer selection of random numbers. Successful applicants shall be notified by mail;**
- (5) **If a successful applicant returns their permit and 6 guided bear transportation tags prior to August 1, annually; the next available alternate will be awarded the permit;**
- (6) **Permits shall not be reissued after August 31.**

(ee) Permits shall be non-transferable.

APPENDIX

| Rule(s) | State Statute (RSA) | Federal Statute | Federal Regulation |
|-----------------------|--|------------------------|---------------------------|
| Fis 301.06 (h) | 207:3-d, 208:22, 208:24 | | |
| Fis 307.01 (h) | 207:3-d; 208:1-e, 208:2; 208:22 | | |
| Fis 307.02 | 207:3-d, 208:22 | | |
| Fis 1102.06 | 208:22; 215:2 | | |