

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number **Fis 802.01(a)(7); 804.05(b);
805.04(b); 805.011; 814.01-.02; and
814.03 (currently 1106.06)**

<p>1. Agency Name & Address:</p> <p>NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</p>	<p>2. RSA Authority: <u>206:10; 207:13 I.; 207:14 II</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>XX</u></p> <p>Amendment <u>XX</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>XX</u></p>
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5. Short Title: **Fish & Game – Field trial rules**

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

The Department is proposing changes to rules relative to field trials by adopting Fis 814.01 and 814.02 relative to definitions for field trial rules and requirements for the conduct of a field trial; readopt with amendment Fis 1106.06 relative to the information required on the field trial application form (and subsequently renumber as Fis 814.03); amending Fis 802.01 to add field trial permittee as a permit category for Fis 800; to amend Fis 804.05(b) and 805.04(b) to add the field trial permittee as a permissive category for certain species in the non-controlled list for importation and possession; and adopt Fis 805.011 to create a list of species as non-controlled for release.

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

The rules would affect persons wishing to conduct or participate in field trial events.

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 802.01(a)(7)	206:10; 207:14		
Fis 804.05(b)	206:10; 207:14		
Fis 805.04(b)	206:10; 207:14		
Fis 805.011	206:10; 207:14		
Fis 814.01-.02	207:13; 207:14		
Fis 814.03 (currently 1106.06)	207:13		

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: Field trial 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: **June 14, 2010**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 2, 2010 6:30pm**

Place:
NH Fish and Game Department
11 Hazen Drive
Concord, NH 03301

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

FIS # **10:050** , dated **4/29/2010**

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):
There is no difference in cost between the proposed rules and the existing rules.
Any costs associated to these rules are attributable to RSA 207:13,I.
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 adoption of Fis 814.01, 814.02 and 805.11; the readoption with amendment of Fis 1106.06; and the amendment of Fis 802.01, 804.05(b) and 805.04(b) relative to field trial 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.

Amend Fis 802.01(a) effective 6/5/07 (Doc #8893) by adding subparagraph (a)(7) to read as follows:

Fis 802.01 Permittee Categories.

(a) For purposes of this chapter the permittee categories shall be as follows:

(7) A field trial permittee shall be permittee category 7.

Amend Fis 804.05 (b), Table 800.2 Controlled Species Table – Possession, effective 6-5-07 (Doc #8893), by amending the permittee category of “Birds” in Table 800.2 as follows:

Fis 804.05 Controlled Species - Possession.

(b) A permit shall be issued only to a person in the permittee category(ies), as defined in Fis 802.01, and cited Table 800.2:

Table 800.2 Controlled Species Table - Possession

	PERMITTEE CATEGORY	SPECIES	SCIENTIFIC NAME
Birds			
	5	All native species	
	1,2, 5	All waterfowl, indigenous and naturalized, except:	
	2, 3, 4, 5, <u>7</u>	Mallard	<i>Anas platyrhynchos</i>
	1, 5	Mute Swans	<i>Cygnus olor</i>
	5	Crow, Pied	
	5	Buzzard, European	
		Gallinaceous Birds:	
	1, 2, 3, 4, 5, <u>7</u>	Bobwhite Quail, Northern	<i>Colinus virginianus</i>
	5	Grouse, Ruffed	<i>Bonasa umbellus</i>
	5	Grouse, Spruce	<i>Dendragapus canadensis</i>
	1, 2, 3, 4, 5, <u>7</u>	Pheasant, Ring-necked	<i>Phasianus colchicus</i>
	1, 2, 3, 4, 5, <u>7</u>	Partridge, Chukar /Redleg	<i>Alectoris chuka</i>
	1, 2, 3, 4, 5, <u>7</u>	Partridge, Grey/Hungarian	<i>Perdix perdix</i>

Amend Fis 805.04 (b), Table 800.3 Controlled Species Table – Release, effective 6-5-07 (Doc #8893), by amending the permittee category of “Bird” in Table 800.3 as follows:

Fis 805.04 Controlled Species- Release.

(b) A permit shall be issued only to a person in the permittee category(ies), as defined in Fis 802.01, and cited in Table 800.3 as follows:

Table 800.3 Controlled Species Table – Release

	PERMITTEE CATEGORY	SPECIES	SCIENTIFIC NAME
Birds			
	1, 2, 3, 4, 5, 7	Bobwhite, Northern	<i>Colinus virginianus</i>
	3, 4, 7	Mallard	<i>Anas platyrhynchos</i>
	1, 2, 3, 4, 5, 7	Pheasant, Ring-necked	<i>Phasianus colchicus</i>
	1, 2, 3, 4, 5, 7	Partridge, Chukar/Redleg	<i>Alectoris chuka</i>
	1, 2, 3, 4, 5, 7	Partridge, Grey/Hungarian	<i>Perdix perdix</i>

Adopt Fis 805.011 to read as follows:

Fis 805.011 Non-Controlled Species – Release.

(a) A permit to release wildlife shall not be required for any person to release wildlife designated as non-controlled as specified in Fis 805.011(b).

(b) For purposes of this part, the following species or groups of wildlife shall be designated as non-controlled:

- (1) Pigeons and doves (Columbiformes), exotic; and
- (2) Feral pigeons (*Columba domestica* and *C. livia*).

Adopt Fis 814.01 and Fis 814.02, cited and to read as follows:

PART Fis 814 FIELD TRIALS

Fis 814.01 Definitions.

(a) “Field trial” means a competition and or examination event sanctioned by an organized club to determine the ability of dogs to point or flush and retrieve ruffed grouse, ring-necked

pheasant, northern bobwhite quail, Hungarian partridge, chukar partridge, American woodcock, mallard ducks, pigeons or to track and trail Eastern cottontail rabbit, snowshoe hare, red and gray fox and raccoon.

(b) "Gunner" means an individual person designated by an organized hunting dog club to shoot pigeons or pen propagated mallard ducks, northern bobwhite quail, ring-necked pheasant, chukar and Hungarian partridge during a permitted shoot to retrieve field trial.

(c) "Shoot to retrieve field trial" means a field trial that examines the ability of dogs to point or flush and retrieve pen propagated northern bobwhite quail, ring-necked pheasant, chukar and Hungarian partridge or pigeons which are shot by a gunner.

Fis 814.02 Field Trial Requirements.

(a) Organized bird dog clubs, rabbit dog clubs, retriever dog clubs, fox hound clubs or other organized hunting dog clubs wishing to conduct a field trial shall first obtain a field trial permit from the department which includes authorization for the possession and release of pigeons or pen propagated ring-necked pheasant, northern bobwhite quail, Hungarian partridge, chukar partridge or mallard ducks.

(b) All field trials shall be sanctioned or recognized by the American Kennel Club, United Kennel Club, North American Versatile Hunting Dog Association, American Field or other nationally recognized dog registry or association.

(c) Applications for field trials are to be submitted to the department either in person or through the mail at least 30 days prior to the anticipated date of the field trial.

(d) Only pigeons or pen propagated mallard ducks, northern bobwhite quail, ring-necked pheasant, chukar and Hungarian partridge may be possessed and released for field trials.

(e) During a permitted shoot to retrieve field trial only liberated pigeons, pen propagated mallard ducks, northern bobwhite quail, ring-necked pheasant, and chukar and Hungarian partridge, may be shot.

(f) Permittees shall be in compliance with Agr 2114.01 relative to the permit and certificate of veterinary inspection required for poultry before importing any birds into the state.

(g) Pigeons, ~~and~~ pen propagated game birds and mallard ducks used for a field trial may be released and taken only on the property defined in the permit where the field trial is to be conducted.

(h) The permittee shall comply with the requirements for possession as specified in Fis 804.09, 804.10, 804.15 and 804.16, except that separate permits to possess or release shall not be required.

(i) After release, pigeons, pen propagated game birds and mallard ducks may only be pursued by a properly registered participant and their dogs during the field trial event and on said property as specified on the permit.

(j) Daily bag or possession limits shall not apply to the pen propagated birds liberated and taken during a permitted shoot to retrieve field trial.

(k) All gunners under a shoot to retrieve field trial permit shall have a valid license under RSA 214: 9 unless the person is a resident landowner engaged in the regulated activity on their own property pursuant to RSA 214:2 or if the field trial is being held on a regulated shooting area.

(l) Applicants shall obtain written landowner permission on the application form.

(m) A field trial shall be held only during the dates and within the area identified in the permit application.

(n) No field trials shall be held on department pheasant release sites during the last weekend in September through the end of the pheasant season.

(o) The department shall deny a permit application for a field trial or revoke a field trial permit when such field trial poses an inherent danger to public safety or is deemed to be detrimental to the native wildlife in the area.

(p) The permittee shall be responsible for ensuring the safety of all persons when gunners are utilized at a shoot to retrieve event.

(q) Each permittee shall keep a register of the names and addresses of all participants of each field trial event for a period of 30 days after the close of the field trial and upon demand shall make this register available to any member of the department.

Readopt with amendment Fis 1106.06, effective 9-28-04 (Doc #8183), and renumber as Fis 804.03 to read as follows:

Fis ~~1106.06~~**814.03** Field Trials [Application Form](#).

(a) Applicants for a field trial permit under RSA 207:13 shall make application **on a form provided by the Department** which shall include:

- (1) The name, **telephone number, physical address and mailing** ~~and~~ address of the applicant;
- (2) The name and address of the club or association the applicant represents;
- (3) An indication as to whether or not the proposed field trial is sanctioned by a qualifying, nationally recognized dog registry or association;**
- (4) The name of the nationally recognized dog registry or association;**
- ~~(35)~~ (5) The type of dogs, **such as flushing and retrieving, pointing or trailing dogs**, which will be used in the trial;
- ~~(46)~~ (6) The date or dates the trial will be held;
- (7) An indication if this is a shoot to retrieve field trial;**

(8) An indication if the property where the field trial is to be held is state managed lands;

~~(59)~~ The name and town of residence of the landowner or landowners whose land will be used for the trial;

(9) The acreage and street address of the location of the proposed field trial;

(10) Signed written permission, on the application form, by the landowner or landowners to use the property described and on the dates specified on the application form;

~~(6)~~**(11)** The species of game or game birds which will be used in the trial, and whether such wildlife will be wild or liberated by the applicant; and

~~(7)~~**(12)** The signature of the applicant, **signed and dated subject to penalties for making unsworn false statements under RSA 641:3.**

~~——(b) Written permission from the landowner or landowners whose property will be used in the trial shall accompany the application.~~

(b) The permit fee of \$9.50, as specified in RSA 207:13 I. shall be included with the application form.

APPENDIX

Rule(s)	State Statute (RSA)	Federal Statute	Federal Regulation
Fis 802.01(a)(7)	206:10; 207:14		
Fis 804.05(b)	206:10; 207:14		
Fis805.04(b)	206:10; 207:14		
Fis 805.011	206:10; 207:14		
Fis 814.01-.02	207:13; 207:14		
Fis 814.03 (currently Fis 1106.06)	207:13		