RULEMAKING NOTICE FORM

Notice Number _____

Rule Number **Fis 301.01 and Fis 301.03**

1. Agency Name & Address:

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

2. RSA Authority: **208:2; 207:3-d**
3. Federal Authority: _____
4. Type of Action:
   - Adoption _____
   - Amendment **X**
   - Repeal _____
   - Readoption **X**
   - Readoption w/amendment **XX**

5. Short Title: **Fish and Game - – Deer Season rules: antler point restrictions**

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

The Department is proposing to:

- readopt with amendment Fis 301.01 to define "Three point minimum antlered deer" as a deer which has at least one antler 3 inches long measured from the tip of the main beam along the distal edge of the antler to the base of the antler burr at the skull plus at least two antler points that branch from the main beam that are at least 1 inch from the tip to the confluence with the closest edge of the main beam.

- readopt or amend paragraphs in Fis 301.03 to restrict the taking of deer in wildlife management unit A (WMU A) during the bow and arrow season, the muzzleloader and the regular firearm seasons to a 3 point minimum antlered deer or antlerless deer.

6. (b) Brief description of the groups affected: **Deer hunters taking deer in WMU A.**

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 301.01	RSA 208:1-a, 208:2, 208:22, 208:22-a, 209:12-a		
Fis 301.03	RSA 208:2, I, 208:5, 208:5-a		

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** **11 Hazen Drive** **Concord, NH 03301**	Phone #:	**603-271-3511**
		Fax#:	**603-271-1438**
		E-mail:	**comments@wildlife.nh.gov**
			Subject line: Antler point restriction
		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: **April 18, 2011**

☒Fax ☒E-mail ☐Other format (specify):

9. Public hearing scheduled for:

Date and Time:	**April 7, 2011 @ 6:30pm**	**April 8, 2011 @ 6:30pm**
Place:	**NH Fish and Game** **11 Hazen Drive** **Concord, NH 03301**	**Pittsburg School** **12 School Street** **Pittsburg, NH 03592**

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

FIS # **11:026** , dated **03/04/11**

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 rule to the existing interim rule.

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 with amendment of Fis 301.01 and 301.03 relating to antler point restrictions for deer 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]

Readopt with amendment Fis 301.01, effective 6-5-10 (Doc #9720-A), to read as follows:

Fis 301.01 Definitions.

(a) "Antlered deer" means a deer which has at least one antler 3 inches long measured from the tip of the main beam along the distal edge of the antler to the base of the antler burr at the skull.

(b) "Three point minimum antlered deer" means a deer which has at least one antler 3 inches long measured from the tip of the main beam along the distal edge of the antler to the base of the antler burr at the skull plus at least two antler points that branch from the main beam that are at least 1 inch from the tip to the confluence with the closest edge of the main beam.

(~~b~~**c**) "Antlerless deer" means any deer which does not have at least one antler 3 inches long measured from the tip of the main beam along the distal edge of the antler to the base of the antler burr at the skull.

(~~c~~**d**) "Baiting" means "baiting" as defined in RSA 207:1, II-a.

(~~d~~**e**) "Baited area" means "baited area" as defined in RSA 207:1, II-b.

Readopt Fis 301.03(a) – (c), effective 6-5-10 (Doc#9720-A), as cited and to read as follows:

Fis 301.03 Deer Season.

(a) For purposes of this section the state shall be divided into wildlife management units as described in Fis 301.02.

(b) Wild deer shall be taken only from 1/2 hour before sunrise to 1/2 hour after sunset during the open seasons for taking deer.

(c) No deer shall be taken at any time on any island or in any waters in lakes or ponds, except as specified in Fis 301.031(c) or Fis 301.032.

Amend Fis 301.03 (d) and (e), effective 6-5-10 (Doc # 9720-A), to read as follows:

(d) A person holding a license as described in RSA 208:5, may take deer with bow and arrow in all of the wildlife management units and Bear Brook Refuge, subject to the following:

(1) The open season for taking of deer with bow and arrow in wildlife management units B through M shall be from September 15 to December 15 subject to the following:

a. Antlered deer only shall be taken from September 15 through September 30; and

b. Any deer shall be taken from October 1 through December 15~~.~~**;**

(2) The open season for taking of 3 point minimum antlered deer and antlerless deer with bow and arrow in wildlife management unit A shall be September 15 to December 8;

~~(2) The open season for taking deer with bow and arrow in wildlife management unit A shall be September 15 to December 8 subject to the following:~~

~~a. Antlered deer only shall be taken from September 15 through September 30; and~~

~~b. Any deer shall be taken from October 1 through December 8.~~

(e) A person holding a muzzleloader license pursuant to the provisions of RSA 214 and RSA 208:5-a may take deer with a muzzleloading firearm, during the 11 days immediately prior to the regular firearms season specified in (f) as follows:

(1) No other firearm shall be used for the taking of deer during the period specified in (e);

(2) Muzzleloading firearms shall be a single barrel, single shot firearm of no less than .40 caliber;

(3) No person shall have in possession while taking deer more than one muzzleloading rifle and one muzzleloading handgun;

(4) The wildlife management units ~~A,~~ B, C1, C2, D1, E, F, G, I1, I2 and J1 shall be open only to the taking of antlered deer;

(5) The wildlife management units D2 and J2 shall be open to the taking of any deer during the first day of the season and to the taking of antlered deer only during the remaining 10 days of the season;

(6) The wildlife management unit K shall be open to the taking of any deer during the first 2 days of the season and to the taking of antlered deer only during the remaining 9 days;

(7) The wildlife management units H1 and H2 shall be open to the taking of any deer during the first 3 days of the season and to the taking of antlered deer only during the remaining 8 days;

(8) The wildlife management unit L shall be open to the taking of any deer during the first 7 days of the season and to the taking of antlered deer only during the remaining 4 days of the season; and

(~~8~~**9**) The wildlife management unit M shall be open to the taking of any deer during all 11 days of the season~~.~~**; and**

(10) The wildlife management unit A shall be open to the taking of 3 point minimum antlered deer.

Readopt Fis 301.03 (f), effective 6-5-10 (Doc #9720-A), to read as follows:

(f) The season for taking deer by all legal methods shall be open for a period of 26 consecutive days beginning on the second Wednesday in November in wildlife management units B through M and 19 consecutive days in wildlife management unit A.

Amend Fis 301.03 (g), effective 6-5-10 (Doc #9720-A), to read as follows:

(g) Deer shall only be taken during the regular deer season as specified in (f) as follows:

(1) The wildlife management units ~~A,~~ B, C1, C2, D1, E, F, G, I1, I2 and J1 shall be open only to the taking of antlered deer;

(2) The wildlife management units D2 and J2 shall be open to the taking of any deer during the first day of the season and to the taking of antlered deer only during the remaining 25 days of the season;

(3) The wildlife management unit K shall be open to the taking of any deer during the first 2 days of the season and to the taking of antlered deer only during the remaining 24 days of the season;

(4) The wildlife management units H1 and H2 shall be open to the taking of any deer during the first 3 days of the season and to the taking of antlered deer only during the remaining 23 days of the season;

(5) The wildlife management unit L shall be open to the taking of any deer during the first 7 days of the season and to the taking of antlered deer only during the remaining 19 days of the season; ~~and~~

(6) The wildlife management unit M shall be open to the taking of any deer during the first 10 days of the season and to the taking of antlered deer only during the remaining 16 days of the season**; and**~~.~~

(7) The wildlife management unit A shall be open to the taking of 3 point minimum antlered deer.

Readopt Fis 301.03 (h) – (j), effective 6-5-10 (Doc #9720-A), to read as follows:

(h) No person shall take more than one deer in a calendar year, except as provided in RSA 208:5, RSA 208:5-b, Fis 301.03(d), Fis 301.031, and Fis 301.032.

(i) No shell shot, other than those using shot sizes of 00 buckshot or larger, shall be used for the taking of deer.

(j) Immediately upon killing a deer, the licensee shall fill in and sign the appropriate deer tag and attach the tag to the deer.

Readopt Fis 301.03 (k) , effective 6-5-10 (Doc #9720-B), to read as follows:

(k) The deer tag shall contain the following:

(1) The licensee's name and street address;

(2) The date and time of kill;

(3) The wildlife management unit in which the kill occurred; and

(4) Signature.

Readopt Fis 301.03 (l) and (m), effective 6-5-10 (Doc #9720-A), to read as follows:

(l) If requested, any person taking a deer shall take fish and game personnel back to the kill site and/or the site of carcass evisceration for purposes such as, but not limited to, verification of kill site or to obtain ovaries or other biological samples left behind.

(m) Any person found guilty of violating this section shall be subject to the penalties of RSA 208:21, V.

APPENDIX

Rule(s)	State Statute (RSA)	Federal Statute	Federal Regulation
Fis 301.01	RSA 208:1-a, 208:2, 208:22, 208:22-a, 209:12-a		
Fis 301.03	RSA 208:2, I, 208:5, 208:5-a		