

**RULEMAKING NOTICE FORM**

Notice Number _____  1. Agency Name & Address:  <p style="margin-left: 40px;"><b>NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</b></p>	Rule Number <b>Fis 1001.01 – 1001.04</b> _____ 2. RSA Authority: <u>  212-A:4  </u> 3. Federal Authority: _____ 4. Type of Action: Adoption _____  Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment <u>  XX  </u>
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5. Short Title:     **Threatened and endangered wildlife rules**

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

**The Department is proposing to readopt with amendments the endangered species list (Fis 1001.01) and the threatened species list (Fis 1001.02) and to readopt Fis 1001.03 relative to permit to take endangered or threatened species for scientific purposes and Fis 1001.04 relative to the requirement to notify the department whenever field research is being done.**

**The amendments to the endangered and threatened species lists add or delete species from one list or the other. Some minor changes are proposed to change the order in which they are listed and to correct common or scientific names of some species.**

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

These rules affect persons who which to take endangered or threatened species for scientific purposes or research. Persons may also be affected, due to the presence of threatened or endangered wildlife when an activity would require a permit (such as wetland permit) or receives state funding.

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
<b>Fis 1001.01- 1001.02</b>	<b>RSA 212-A:6</b>		
<b>Fis 1001.04 – 1001.05</b>	<b>RSA 212-A:7, III</b>		

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

Name: **Sandra Falicon**  
Address: **NH Fish and Game Department**  
**11 Hazen Drive**  
**Concord, NH 03301**

Title: **Legislative/Rules Coordinator**  
Phone #: **603-271-3511**  
Fax#: **603-271-1438**  
E-mail: [comments@wildlife.state.nh.us](mailto:comments@wildlife.state.nh.us)

**Ref: 2008/09 Wildlife 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: July 21, 2008

Fax

E-mail **Ref: T&E rules**

Other format  
(specify):

9. Public hearing scheduled for:

Date/Time &  
Place:

**July 9, 2008 6:30 p.m.**  
N.H. Fish and Game Department Headquarters  
11 Hazen Drive  
Concord, NH 03301

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

FIS # **08:104**, dated **06/05/08**

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):**

There are no costs or benefits attributable to the proposed rules.

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 1001.01 and 1001.02 and the readoption of Fis 1001.03 and 1001.04 relating to threatened or endangered species 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.



Readopt with amendment the chapter title, Fis 1001.01 and Fis 1001.02 effective 10-21-00 (Doc #7379) as cited to read as follows:

CHAPTER Fis 1000 CONSERVATION OF ENDANGERED AND THREATENED SPECIES

Fis 1001.01 Endangered.

(a) Under the authority of RSA 212-A:6, IV(a), the following species, listed by common and scientific names, shall be considered endangered throughout their entire range within the state:

Table 1000.1 Endangered Species

<u>Common Name</u>	<u>Scientific Name</u>
Dwarf wedge mussel	<i>Alasmidonta heterodon</i>
<del>Swollen wedge</del> Brook floater mussel	<i>Alasmidonta varicosa</i>
<u>Ringed boghaunter</u>	<i>Williamsonia lintneri</i>
<u>Cobblestone tiger beetle</u>	<i>Cicindela marginipennis</i>
<u>Puritan tiger beetle</u>	<i>Cicindela puritana</i>
Frosted elfin butterfly	<i>Callophrys irus</i>
Karner blue butterfly	<i>Lycaeides melissa samuelis</i>
<u>White Mountain fritillary</u>	<i>Boloria titania montinus</i>
Persius duskywing skipper	<i>Erynnis persius</i>
<del>Banded bog skimmer</del>	<i>Williamsonia lintneri</i>
<u>Sunapee trout</u>	<i>Salvelinus aureolus</i>
<u>American brook lamprey</u>	<i>Lampetra bifrenatus</i>
Shortnose sturgeon	<i>Acipenser brevirostrum</i>
<u>Atlantic salmon, adult sea-run</u>	<i>Salmo salar, adult sea-run</i>
Marbled salamander	<i>Ambystoma opacum</i>
<u>Blanding's turtle</u>	<i>Emydoidea blandingii</i>
<u>Eastern hognose snake</u>	<i>Heterodon platirhinos</i>
Timber rattlesnake	<i>Crotalus horridus</i>
<del>Pied-billed grebe</del>	<i>Podilymbus podiceps</i>
<del>Bald eagle</del>	<i>Haliaeetus leucocephalus</i>
Northern Harrier	<i>Circus cyaneus</i>
Golden eagle	<i>Aquila chrysaetos</i>
<del>Peregrine Falcon</del>	<i>Falco peregrinus</i>
<u>Common nighthawk</u>	<i>Chordeiles minor</i>
Piping plover	<i>Charadrius melodus</i>
Upland sandpiper	<i>Bartramia longicauda</i>
Roseate T <sub>e</sub> rn	<i>Sterna dougallii</i>
<del>Common tern</del>	<i>Sterna hirundo</i>
Least T <sub>e</sub> rn	<i>Sterna antillarum</i>
<del>Purple martin</del>	<i>Progne subis</i>
Sedge wren	<i>Cistothorus platensis</i>
<u>Small footed bat</u>	<i>Myotis leibii</i>
<u>New England cottontail</u>	<i>Sylvilagus transitionalis</i>
Canada lynx	<i>Lynx canadensis</i>
<u>Gray wolf</u>	<i>Canis lupus</i>
<del>Small footed bat</del>	<i>Myotis leibii</i>

Fis 1001.02 Threatened.

(a) Under the authority of RSA 212-A:6, IV(a), the following species, listed by common and scientific names in Table 1000.2 shall be considered threatened throughout their entire range within the state:

Table 1000.2 Threatened Species

<u>Common Name</u>	<u>Scientific Name</u>
Pine pinion moth	<i>Lithophane lepida lepida</i>
<del>Pine barrens zanelognatha moth</del>	<del><i>Zanelognatha martha</i></del>
<del>Cobblestone tiger beetle</del>	<del><i>Cicindela marginipennis</i></del>
<del>White Mountain arctic</del>	<del><i>Oeneis melissa semidea</i></del>
<del>Bridle shiner</del>	<del><i>Notropis bifrenatus</i></del>
<del>Round whitefish</del>	<del><i>Prosopium cylindraceum</i></del>
<del>Hognose snake</del>	<del><i>Heterodon platirhinos</i></del>
<del>Spotted turtle</del>	<del><i>Clemmys guttata</i></del>
<del>Black racer</del>	<del><i>Coluber constrictor</i></del>
<del>Pied-billed grebe</del>	<del><i>Podilymbus podiceps</i></del>
Common loon	<i>Gavia immer</i>
<del>Bald eagle</del>	<del><i>Haliaeetus leucocephalus</i></del>
<del>Osprey</del>	<del><i>Pandion haliaetus</i></del>
<del>Cooper's hawk</del>	<del><i>Accipiter cooperii</i></del>
<del>Peregrine falcon</del>	<del><i>Falco peregrinus</i></del>
<del>Common tern</del>	<del><i>Sterna hirundo</i></del>
<del>Arctic tern</del>	<del><i>Sterna paradisaea</i></del>
<del>Common nighthawk</del>	<del><i>Chordeiles minor</i></del>
<del>American Three-toed woodpecker</del>	<del><i>Picoides tridaetylus dorsalis</i></del>
Grasshopper Sparrow	<i>Ammodramus savannarum</i>
<del>Pine American marten</del>	<del><i>Martes Americana</i></del>

Readopt Fis 1001.03 and 1001.04, effective 10-21-00 (Doc #7379), as cited to read as follows:

Fis 1001.03 Permit to Take Endangered or Threatened Wildlife.

(a) For the purpose of this section, "scientific purposes" means the identification, study, inventory, distribution, classification, restoration, and/or management of endangered or threatened species.

(b) In accordance with RSA 212-A:7, II the executive director shall issue a valid permit to take endangered wildlife species as specified in Fis 1001.01 or threatened wildlife species as specified in Fis 1001.02 for scientific purposes which cause no significant impact to the species and provides the department with information or data for the management of the species.

(c) Applicants for a permit to take for scientific purposes endangered wildlife and/or threatened wildlife shall make a written request to the executive director that includes the following information:

- (1) Scope and reason for proposed scientific study;
- (2) The species to be taken;
- (3) The maximum number of individuals of each species to be taken;
- (4) The location(s) from which the taking shall occur; and
- (5) The intended disposition of all specimens taken.

(d) A permit to take endangered and/or threatened wildlife shall be a letter of authorization from the executive director that includes the following:

- (1) The name of the permittee;
- (2) The species;
- (3) The number of individuals of each species authorized;
- (4) The disposition of the specimens;
- (5) The calendar year during which the permit shall be valid; and
- (6) The signature of the executive director.

(e) By December 31 of each calendar year for which they hold a valid permit, permittees shall file a written progress report of the study with the executive director which includes:

- (1) The species;
- (2) The number of individuals taken;
- (3) The date and location where species were taken;
- (4) The disposition of the individuals; and
- (5) Other results of the study.

Fis 1001.04 Research Notification.

(a) Any individual, agency, organization, or institution intending to undertake field research on any wildlife listed as endangered as specified in Fis 1001.01 or threatened as specified in Fis 1001.02 which does not involve capture or taking of specimens shall specify in writing to the executive director the species, nature, location, and time period of such research, and the names of the principal investigator(s).

(b) The principal investigator(s) shall file with the executive director an annual summary of progress by December 31 and a final report of findings upon completion of the research.

**APPENDIX**

<b>Rule(s)</b>	<b>State Statute (RSA)</b>	<b>Federal Statute</b>	<b>Federal Regulation</b>
<b>Fis 1001.01- 1001.02</b>	<b>RSA 212-A:6</b>		
<b>Fis 1001.04 – 1001.05</b>	<b>RSA 212-A:7, III</b>		