



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

NOVEMBER 22, 2013

Members Present: Senators Reagan, and Cataldo and Representatives Schmidt, McGuire, MacKay, Sad, Gottling*, and Hatch*. (*) Indicates alternate member.

(**) Indicates where Part 1, Article 28-a of the N.H. Constitution was an issue in the Committee's discussions or decisions in this meeting. (See Item #11. However, that item was conditionally approved.)

1. The meeting was convened at 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. Cataldo and Reps. Schmidt, McGuire, MacKay, Sad, and Gottling.

2. The Committee discussed the minutes of the Committee meeting on October 17, 2013.

Rep. Schmidt moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

Rep. Hatch arrived at this time.

Sen. Reagan designated Rep. Gottling and Rep. Hatch as alternates, respectively, for Rep. Ladd and Sen. Lasky, who were absent.

3. The Committee discussed the following Final Proposals and Proposed Expedited Revisions to Agency Forms (Consent Agenda – Final Proposals and Proposed Expedited Revisions to Agency Forms):

FP 2013-81	OIL FUND DISBURSEMENT BOARD Non-Adjudicatory Public Hearings; Requests for Rule Explanation
FP 2013-101	POLICE STANDARDS AND TRAINING COUNCIL Hiring Authority to Notify Council
FP 2013-116	DEPARTMENT OF ENVIRONMENTAL SERVICES Drinking Water Programs Public Water System General Operation and Maintenance Requirements
FP 2013-117	DEPARTMENT OF ENVIRONMENTAL SERVICES Water Quality and Quantity Programs Septage Management

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- FP 2013-118 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Recoupment of Child Support Overpayments
- FP 2013-125 DEPARTMENT OF REVENUE ADMINISTRATION
Electronic Funds Transfer
- FP 2013-126 FISH AND GAME DEPARTMENT
Marine Rules
- FP 2013-127 FISH AND GAME DEPARTMENT
Hunter and Bowhunter Education
- FP 2013-128 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Division of Elderly and Adult Services
Nursing Facility Reimbursement
- FP 2013-134* DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD
Equine Infectious Anemia
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-135* DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD
Identification of Cats
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-152 FISH AND GAME DEPARTMENT
2014 Snowmobile Reciprocity Weekend
- FP 2013-154 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring He-W 600 Rules Impacting All Categories of Financial and Medical Assistance
- EXRF 2013-2 DEPARTMENT OF JUSTICE
Comprehensive Application for Registration of Subdivided Land;
Abbreviated Application for Registration of Subdivided Land
- EXRF 2013-3 DEPARTMENT OF JUSTICE
Comprehensive Application for Registration of Condominium Units;
Abbreviated Application for Registration of Condominium Units

Rep. Schmidt moved that the Final Proposals and Proposed Expedited Revisions to Agency Forms be approved.

Rep. MacKay seconded.

Adopted.

4. The Committee discussed whether to postpone action on certain items to another Committee meeting.

Rep. Sad moved that the following items be postponed to the continued Committee meeting on December 5, 2013:

9. DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD

- (c) FP 2013-133 Rabies Control
(JLCAR Deadline December 23, 2013. Former rules expired April 23, 2013.)

10. DEPARTMENT OF ENVIRONMENTAL SERVICES

- (e) FP 2013-69 Oil and Remediation Programs
Aboveground Petroleum Storage Facilities
(JLCAR Deadline December 9, 2013.)

Rep. Hatch seconded.

Adopted.

5. The Committee discussed Final Proposal 2013-109 from the Governing Board of Athletic Trainers (Initial Application Form, Required Documents, and Initial Eligibility Requirements). Tina Kelley testified for the Board.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-109 with the understanding that the Board would update the initial application form as discussed in Tina Kelley's testimony and also correct the form for typographical errors.

Rep. Hatch seconded.

Adopted.

6. The Committee discussed Final Proposal 2013-110 from the Governing Board of Athletic Trainers (Renewal Procedures, Renewal Application Form, Required Documents, Continuing Competency Audit Procedures, Lapsed Licenses, Reinstatement, Supervision, and Obligation to Report). Tina Kelley testified for the Board.

Rep. McGuire moved that the Committee approve Final Proposal 2013-110.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2013-103 from the Fish and Game Department (Ground Fish Rules). Sandra Falicon testified for the Department.

Rep. Schmidt moved that the Committee approve Final proposal 2013-103.

Rep. Hatch seconded.

Adopted.

Rep. McGuire left the meeting at this time.

8. The Committee discussed Final Proposal 2013-145 from the Fish and Game Department (Falconry Rules). Sandra Falicon testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated November 21, 2013.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-145 based on the request.

Rep. MacKay seconded.

Adopted.

Rep. McGuire returned to the meeting at this time.

9. The Committee discussed Final Proposal 2013-70 from the Department of Agriculture, Markets, and Food (Beekeeping). Piera Siegert and Christopher Rallis testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated November 19, 2013.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-70 based on the request, with the recommendation that the Department seek a legislative amendment to RSA 429 to address authority relative to agency penalties for violation of rules in the subdivision on beekeeping, as discussed in the Committee staff's annotation on page 6 of the Final Proposal.

Rep. Hatch seconded.

Adopted.

10. The Committee discussed Final Proposal 2013-80 from the Department of Agriculture, Markets, and Food (Fertilizers). Jennifer Gornert and Thomas Sloan testified for the Department.

Rep. Sad moved that the Committee approve Final Proposal 2013-80.

Rep. Gottling seconded.

Adopted.

- **11. The Committee discussed Final Proposal 2013-62 from the Department of Environmental Services (Water Quality and Quantity Programs, Water Conservation). Gretchen Hamel and Derek Bennett testified for the Department.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2013-62 on the condition that Env-Wq 2101.02 (c)(4) and Env-Wq 2101.03(n) be amended by replacing the words "after May 15, 2013" with the words "after the 2013 effective date of these rules."

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Final Proposal 2013-147 from the Department of Environmental Services (Air Related Programs, Carbon Dioxide (CO₂) Budget Trading Program). Peter Demas and Joseph Fontaine testified for the Department.

Rep. Hatch moved that the Committee approve Final Proposal 2013-147.

Rep. Schmidt seconded.

Adopted.

Sen. Reagan noted for the record that Sen. Cataldo voted "no".

13. The Committee discussed Final Proposal 2013-148 from the Department of Environmental Services (Air Related Programs, Carbon Dioxide (CO₂) Offset Projects). Peter Demas and Joseph Fontaine testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-148.

Rep. McGuire seconded.

Adopted.

14. The Committee discussed Final Proposal 2013-149 from the Department of Environmental Services (Air Related Programs, Carbon Dioxide (CO₂) Allowance Auction Program). Peter Demas and Joseph Fontaine testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2013-149.

Rep. McGuire seconded.

Adopted.

15. The Committee discussed again Final Proposal 2013-62 from the Department of Environmental Services (Water Quality and Quantity Programs, Water Conservation). Peter Demas testified for the Department.

It was the consensus of the Committee that its conditional approval included the condition that Env-Wq 2101.14(a)(1) also be amended by replacing the words "prior to May 13, 2013" with the words "prior to the 2013 effective date of this part", and that the words "after the 2013 effective date of these rules" in the amendment to Env-Wq 2101.02(c)(1)-(4) and Env-Wq 2101.03(n) in the original conditional approval could be changed editorially to "after the 2013 effective date of this part."

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16. The Committee discussed Proposed Interim Rule INT 2013-15 from the Pesticide Control Board (Pesticide Sale, Management, and Reporting). David Rousseau of the Department of Agriculture, Markets, and Food testified for the Board.

Sen. Cataldo moved that the Committee approve Proposed Interim Rule INT 2013-15.

Rep. Sad seconded.

Adopted.

17. The Committee discussed setting a schedule of Committee meetings for 2014 based on a schedule prepared by Committee staff.

It was the consensus of the Committee to approve the 2014 schedule as presented, but selecting June 6, June 27, and August 7 as continued meeting dates, instead of May 30, July 3, and July 31, respectively.

18. The Committee recessed by consensus at 10:40 a.m.