

STATE OF NEW HAMPSHIRE
REGULATORY REFORM STEERING COMMITTEE

REPORT TO THE GOVERNOR

January 18, 2018

The Regulatory Reform Steering Committee respectfully submits the following report summarizing its activities to date and its recommendations.

A. Background

On January 5, 2017, Governor Sununu sent a letter to all agency heads asking each agency to prepare a report which (i) outlined each existing and proposed regulation under the agency's jurisdiction and (ii) provided an evaluation as to whether the existing or proposed regulation is mandated by law or is essential to the public health, safety or welfare. Each agency was asked to take immediate steps to repeal any rules which were neither mandated by law nor essential to the public health, safety or welfare. The deadline for these reports was March 31, 2017. A copy of the January 5, 2017 letter is attached to this report as Exhibit A.

Based on the collective recommendations of the agencies' reports, on July 20, 2017 Governor Sununu issued an executive order (the "Executive Order") which directed agencies to repeal or sunset over 1,600 obsolete rules. Through the Executive Order, Governor Sununu also established the Regulatory Reform Steering Committee (the "Committee"), which was charged with undertaking a more in depth review of the State's regulatory regime and recommending changes to streamline State Government. As part of this work, the Committee was directed to establish task forces to review select sets of statutes and regulations. A copy of the Executive Order is attached to this report as Exhibit B.

The original deadline for a Committee report and task force reports as specified in the Executive Order was November 1, 2017, but the Governor and the Committee have since mutually agreed that this deadline should be extended to the end of January.

B. Summary of Committee's Activities to Date

The Committee consists of seven members: Commissioner of Business and Economic Affairs Taylor Caswell (who serves as chair), Commissioner of Administrative Services Charlie Arlinghaus, House Majority Leader Dick Hinch, State Senator Gary Daniels, State Representative Peter Leishman, former Senate President Tom Eaton, and Salem businessman Ed Huminick.

The Committee decided that its first public meeting should be a comprehensive public hearing to gather as much input as possible from the business community and the general public. This public hearing took place on October 12, 2017 after extensive outreach to promote and publicize the hearing. The Committee heard from numerous stakeholders at the public hearing,

and complete minutes of the public hearing are attached to this report as Exhibit C. The Committee also received written testimony from a number of stakeholders. That written testimony is attached to this report as Exhibit D.

The Committee held a follow up public meeting on November 8, 2017. Based on the testimony from the public hearing and further Committee discussion, the Committee decided that its primary focus through the end of 2017 and into early 2018 should be to (1) develop proposed 2018 legislation to address the issues of development permitting, professional licensure, and business formation and startups; (2) identify additional potential reforms to be accomplished through future legislation, rule revision, or executive action; and (3) identify additional areas that the Committee feels should be reviewed and propose a timeline for such further review for approval by the Governor.

C. Recommendations for 2018 Legislative Session

The Committee makes the following recommendations for the 2018 legislative session. The omission of any bill or LSR from these recommendations does not reflect opposition to such bill or LSR. The Committee has only endeavored to propose or address legislation which deals with the most pressing issues identified by the Committee: development permitting, professional licensure, business formation and startups, inconsistencies between the state and local building and fire codes, and compliance reviews for foster homes.

1. HB 1104

After reviewing all testimony and input received, the Committee has determined that three areas in need of immediate reform are development permitting, professional licensure, business formation and startups, inconsistencies between state and local building and fire codes, and compliance reviews for foster homes. The Committee has therefore developed a proposed omnibus bill, HB 1104, to accomplish the following outlined reforms. The current draft of this legislation is attached to this report as Exhibit E. Further changes are expected as the legislation is finalized, and different provisions of this bill may ultimately be inserted into other legislative vehicles.

i. Reciprocity for Occupational and Professional Licensing

The Committee recommends amending RSA 332-G to provide that for all licensed professions or occupations in this state, if a person holds a valid and substantially equivalent license or certification from another state, a person shall automatically be licensed to practice such occupation or profession within New Hampshire. A board or commission should be given the ability to disallow reciprocal licensure in cases where the board or commission determines that there is a significant difference between licensure requirements in New Hampshire and other state and that such difference would very likely result in a significant impairment of the public health in New Hampshire.

Allowing reciprocity for licensed occupations and professions will help address New Hampshire's workforce problem by making it easier for workers to relocate to the State.

Reciprocity will also make it easier for businesses to integrate new employees, and will alleviate much of the administrative burden and cost associated with hiring new employees.

ii. Online filing of corporate documents

The Committee recommends amending relevant statutes to require the Secretary of State to provide for and allow the online filing of all forms, certificates, and other documents required for business corporations, voluntary corporations, limited liability companies, and partnerships. Because the Secretary of State will need time to develop updates to its website to carry out this directive, the Committee recommends giving the Secretary of State until January 1, 2020 to make online filing available for all forms, certificates and other required documents.

The ability to make required filings online will reduce the administrative burden on for profit and non-profit businesses.

iii. Reduction in processing timelines for certain development permits.

The Committee recommends reducing the processing timelines for the following development permits:

1. Grants of Right for excavation and dredging in public waters – RSA 482-A:22
2. Alteration of Terrain Permits – RSA 485-A:17

The above permits are commonly obtained permits for major developments. Reducing the processing timelines for these permits will help streamline the development process for major projects, and will thus spur economic investment and development within the State.

iv. Reduction of retroactive enforcement period for dredge and fill (wetlands) violations

State law currently provides for a five year retroactive enforcement period against new property owners for dredge and Fill (wetlands) violations. This means that a person who acquires a property where a dredge and fill violation has been committed may be subject to an enforcement action for that violation as long as they violation occurred no more than five years prior to the date of the enforcement action.

The Committee recommends that the retroactive enforcement period described above be reduced to two years. This will provide greater protections for new property owners, while still preventing bad faith transfers after violations are discovered.

v. Creation of Certified Application Preparer (CAP) Program for certain Dredge and Fill (Wetlands) Permits

As recommended by the NH Association of General Contractors and endorsed by the

New Hampshire Department of Environmental Services (DES), the Committee is proposing the creation of a voluntary certified application preparer (CAP) program for wetlands permit applications. The program would be for individuals who are Certified Wetland Scientists, as defined by the New Hampshire Office of Professional Licensure and Certification, and who meet minimum qualifications as established by DES.

Applications prepared by individuals who have obtained CAP certification, if they are for projects determined to have a minimal impact under DES jurisdiction, would be allowed to forgo a DES technical review and would be expedited, with DES issuing a permit within 10 days of receipt of such applications.

Establishing the CAP program would allow for a streamlined process for most wetlands permit applications. Businesses or individuals who are undertaking development projects would have the option of hiring a CAP certified professional to prepare their applications and thus take advantage of the expedited permitting process. It is expected that many firms typically hired for such projects would have a CAP certified professional on staff. Therefore, it is expected that most applicants would not need to hire more professionals or spend more on the permitting process than they did before.

vi. Reduction of default processing timeline for agency action on applications, petitions and requests

The Committee recommends reducing the default processing timeline for agency action on applications, petitions and requests. The Administrative Procedure Act (RSA 541-A:29) currently provides a default processing deadline that applies when a specific statute fails to specify a timeline for agency action. Reducing the default timeline for requesting additional information from 60 days to 30 days and the time for rendering decisions from 120 days to 60 days will streamline the approval process across a wide variety of agency actions. This will save time and costs for businesses and individuals in many different contexts.

vii. Provision for default grants of permits, petitions and requests where agency fails to act within proscribed statutory deadlines

The Committee recommends amending the Administrative Procedure Act to provide that, unless otherwise provided by statute, in cases where an agency fails to take any required action on an application, petition or request within the time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition or request shall be deemed approved and any permit, approval or other item requested shall be deemed granted to or received by the applicant, petitioner or requestor.

Certain statutes have a default grant provision that applies in situations where an agency fails to act on an application, petition or request. The Committee believes that this rule should be the default rule across State Government. This would ensure that agencies are incentivized to meet their statutory obligations and that regulators are held to the same standard as those that they regulate. This would also make the permitting process more predictable, enabling applicants

to develop business and project plans with greater certainty and to avoid the costs associated shifting deadlines.

viii. Prohibiting inconsistencies between the state and local building codes and fire codes

Inconsistencies between the state building and fire codes, and local building and fire codes, often result in confusion for property owners who are either undertaking new construction of making improvements to their properties. The Committee recommends amending RSA 155-A:2 to prohibit inconsistencies between the state building and fire code and to prohibit municipalities from adopting regulations that result in inconsistencies between local building and fire codes.

ix. Standardizing compliance reviews for foster homes

Current law provides that either the State Fire Marshal or local department shall review a foster home's compliance with state fire safety laws and local ordinances. Giving local departments the authority to conduct these reviews can sometimes result in inconsistent application of state fire safety laws or similar local ordinances. In order to standardize these reviews, the Committee recommends amending RSA 170-E:28 to provide to give the State Fire Marshal authority to make final determination regarding foster homes' compliance with state fire safety laws and local ordinances.

2. HB 1685

The Committee supports the passage of HB 1685 – An Act Establishing a Statutory Commission for Oversight of Occupational Regulation. This bill would provide for a five year review of all licensed occupations and professions. Twenty percent of occupations and professions would be reviewed each year, with the Commission making recommendations on whether such occupations or professions should continue to be licensed by the State.

While the Committee believes this bill is an important step in licensure reform, the Committee recommends adding a provision to the bill that would provide for the sunseting of licensing regulations for an occupation or professions after five years unless the Commission recommends in writing that such profession and occupation should continue to be licensed by the State.

3. SB 464

The Committee supports the passage of SB 464 – An Act Relative to the Procedure for Driveway Permits. This bill would establish a set procedure for processing and approving applications for driveway permits, including establishing timelines by which the Department of Transportation must act on permit applications. Current law does not provide for such a process, which leaves developers without predictability in the permitting process.

4. SB 557

The Committee supports the passage of SB 557 – An Act Establishing a Board of Housing Development Appeals. One of the greatest impediments to expanding the State’s affordable housing stock is local restrictions on housing developments. This bill would make it easier for developers to challenge decisions of local boards and to provide a less costly avenue for asserting their legal rights. If this bill passes, developers will have the option of appealing to a statewide Housing Appeals Board rather than taking the more costly route of appealing to Superior Court.

D. Additional Recommendations

In addition to recommendations for the 2018 Legislative Session, the Committee has identified three additional actions that the Governor should consider. They are outlined below.

1. Rulemaking notifications for Executive Branch elected officials

The rulemaking process currently provides for little systematic oversight by the Executive Branch’s elected officials. Because of this, the Governor’s office often may only hear of problems with or opposition to proposed rulemakings after initial rulemaking notices have been submitted to the Joint Legislative Committee on Administrative Rules. In order to facilitate better rulemaking coordination between the Governor and the Executive Branch Agencies that report to him or her, the Committee recommends that the Governor establish a requirement that all initial rulemaking notices be submitted to the Governor’s Office for review prior to being submitted to JLCAR. This will ensure that the Governor’s Office has an opportunity to weigh in on rulemakings, if necessary, before they are submitted to JLCAR.

To prevent undue delays in the rulemaking process, the Committee recommends that the submissions to the Governor’s office be primarily for notification purposes, with the general rule being that an agency can proceed with submission to JLCAR a certain time after submission to the Governor’s office unless the agency hears otherwise from the Governor’s office.

2. Development of a Statewide E-Permitting System

For several years, various State officials have been discussing modernizing permitting processes across State Government by developing a statewide e-permitting system. The Committee recommends that the Governor establish a working group or commission to examine the feasibility of such a system and develop a firm plan to turn this vision into a reality. Part of the working group or commission’s charge should be to conduct a cost/benefit analysis. We believe that while the development of such a system may require a significant up front financial investment, the long run savings and increases in efficiency would likely be worth the cost.

3. Changes to Definitions of “Employee” and “Independent Contractor”

During the October 12, 2017 public hearing and throughout its work, one of the issues the

Committee has consistently been presented with is the impact of the statutory definitions of “employee” and “independent contractor”. The Committee strongly recommends the crafting of legislation to align the definitions of terms “employee” and “independent contractor” across RSAs and to expand the definition of the term “independent contractor” in order to give businesses more flexibility. While certain tweaks could be made, the Committee recommends legislation that is substantially in the form of 2015 HB 450. Much more feedback and information on this issue can be found in Exhibits C and D to this report.

E. Conclusion and Looking Ahead

During the calendar year 2018, the Committee stands ready to engage in further work related to the recommendations contained in Section D of this report. In addition, the Committee believes that there are multiple other regulatory areas that are potentially worth exploring. These include, but are not necessarily limited to, the craft brewing industry, securities regulation, affordable housing, solid and hazardous waste regulations, and labor and employment.

The Committee proposes to establish task forces to further examine some of the regulatory areas listed above and others during the year 2018. In order to carry out this work, the Committee respectfully requests a formal extension of its taskforce deadline to November 1, 2018.

Commissioner Taylor Caswell, Chair
Commissioner Charles Arlinghaus
House Majority Leader Dick Hinch
Senator Gary Daniels
Representative Peter Leishman
Tom Eaton
Ed Huminick

LIST OF EXHIBITS

Exhibit A Governor Sununu’s 1/5/17 Letter to Agency and Department Heads
Exhibit B 7/20/17 Executive Order re Executive Branch Regulatory Reform
Exhibit C Minutes from 10/12/17 Regulatory Reform Steering Committee Public Hearing
Exhibit D Aggregate Written Testimony Submitted for 10/12/17 Public Hearing
Exhibit E Current Draft of HB 1104

EXHIBIT A

Governor Sununu's 1/5/17 Letter to Agency and Department Heads



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

January 5, 2017

RE: Executive Branch Regulatory Review

Dear Department Commissioners and Agency Heads:

I am looking forward to working with each of you to maximize the Executive Branch's service to the people of New Hampshire by creating an efficient, coherent and consistent regulatory framework. We all recognize that government regulations are intended to protect and promote the public health, safety, or welfare of our state, but that certain regulations may impose unnecessary burdens and costs on our state's citizens and businesses. It is therefore necessary for the Executive Branch to undertake a comprehensive review of the State's regulations in order to ensure that State Government is operating as efficiently and effectively as possible.

With the above in mind, I hereby request that each agency, department, board, commission, authority, or other body within the Executive Branch authorized by law to make rules (hereafter "Agency") take the following steps:

- 1) Immediately establish a pause on any proposed adoption, amendment, readoption, or readoption with amendment of administrative rules until March 31, 2017. This does not apply to any such proposed rulemaking mandated by law to be adopted before this date or which are immediately essential to the public, health, safety or welfare;
- 2) Promptly undertake a review of each and every regulation under the Agency's jurisdiction that is currently being proposed or that is published in the New Hampshire Code of Administrative Rules; and
- 3) Prepare a report, to be submitted to Governor and Council by March 31, 2017, with copies to the Senate President, Speaker of the House and Chair and Vice-Chair of the Joint Legislative Committee on Administrative Rules. The report should both (i) outline each existing and proposed regulation under the Agency's jurisdiction and (ii) provide an evaluation as to whether the existing or proposed regulation is mandated by law or is essential to the public health, safety, or welfare. In order to find that a regulation is essential to the health, safety or welfare, an Agency should be able to demonstrate, after considering its own review and input from the public, that:
 - a) there is a clear need for the regulation that is best addressed by the Agency and not another Agency or governmental body;
 - b) the costs of the regulation do not exceed the regulation's benefits;

- c) the regulation is the least restrictive or intrusive alternative that will fulfill the need which the regulation addresses;
- d) the regulation does not unduly burden the State's citizens or businesses, and does not have an unreasonably adverse effect on the State's competitive business environment; and
- e) the effectiveness of the regulation can be reasonably and periodically measured, and that there is a process in place to accomplish the same.

Upon the completion of the above three steps, I further ask that each Agency act immediately to repeal or suspend the adoption of all existing or proposed regulations that the Agency finds are neither mandated by law nor essential to the public health, safety or welfare under the criteria set forth above.

Both I and my staff look forward to working with each of you and the public over the next 90 days to undertake this regulatory review, the outcome of which will determine the need for further executive or legislative action. Please direct any questions concerning the requests and processes outlined in this letter to my legal counsel, John Formella, at 603-271-2121 or john.formella@nh.gov.

Yours sincerely,



Christopher T. Sununu
Governor

Cc: Executive Council
Hon. Chuck Morse
Hon. Shawn Jasper
Hon. John Reagan
Hon. Carole McGuire

EXHIBIT B

7/20/17 Executive Order re Executive Branch Regulatory Reform



CHRISTOPHER T. SUNUNU
Governor

**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

**STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR**

Executive Order 2017-02

an order regarding Executive Branch regulatory reform

WHEREAS, government regulations are intended to protect and promote the public health, safety, or welfare of the citizens of New Hampshire; and

WHEREAS, certain regulations are duplicative or obsolete, or may impose unnecessary burdens and costs on New Hampshire's citizens and businesses; and

WHEREAS, while regulations are reviewed periodically as part of the re-adoption process overseen by the Joint Legislative Committee on Administrative Rules and provided for in the New Hampshire Administrative Procedure Act, NH RSA 541-A, an Executive Branch wide review provides opportunities for coordination across agencies and the solicitation of input from public stakeholders in regulated communities; and

WHEREAS, in a letter dated January 5, 2017, I requested each agency, department, board, commission, authority, or other body within the Executive Branch authorized by law to make rules (hereafter "Agency") to submit a report (hereafter "Report") which (i) outlined each existing and proposed regulation under the Agency's jurisdiction and (ii) provided an evaluation as to whether the existing and proposed regulation was mandated by law or essential to the public health, safety or welfare; and

WHEREAS, in my January 5, 2017 letter, I requested that each Agency act immediately to repeal or suspend the adoption of all existing or proposed regulations that the Agency found were neither mandated by law nor essential to the public health, safety, or welfare; and

WHEREAS, in their Reports submitted pursuant to my January 5, 2017 letter, many Agencies both (i) identified certain existing or proposed regulations within their jurisdictions that were neither mandated by law nor essential to the public health safety or welfare and (ii) committed to repealing such regulations through the process laid out in the Administrative Procedure Act, NH RSA 541-A (all such rules identified for repeal hereafter referred to as "Obsolete Regulations"); and

WHEREAS, Executive Branch Agencies have so far identified over 1600 Obsolete Regulations for elimination; and

WHEREAS, a significant number of regulations, while mandated by law, could be amended to be made more efficient and streamlined, and therefore less burdensome; and

WHEREAS, members of the public who are affected by regulations should have the opportunity to offer input on potential changes to those regulations.

NOW, THEREFORE, I, CHRISTOPHER T. SUNUNU, GOVERNOR of the State of New Hampshire, by the authority vested in me pursuant to Part II, Article 41 of the New Hampshire Constitution, do hereby order, effective immediately, that:

1. Each Agency shall, by working with the Joint Legislative Committee on Administrative Rules in accordance with the provisions of New Hampshire's Administrative Procedure Act, NH RSA 541-A, promptly initiate and complete the process for repealing all Obsolete Regulations or shall allow such rules to expire without re-adoption.
2. A Steering Committee, referred to as the Regulatory Reform Steering Committee (hereafter the "Steering Committee"), is hereby established to facilitate further regulatory reform efforts.
3. The Steering Committee shall be comprised of the following members:
 - a. Two state representatives, appointed by the Speaker of the House;
 - b. One state senator, appointed by the President of the Senate;
 - c. The Commissioner of the Department of Administrative Services, or designee; and
 - d. Three additional members, appointed by the Governor.
4. The Governor shall designate the chair of the Steering Committee from among the Steering Committee membership.
5. The Steering Committee shall meet at least once per month and make regular progress reports to the Governor.
6. The Steering Committee shall appoint task forces to review select sets of regulations and recommend any changes that the task force feels are necessary in order to reduce the regulatory burden imposed on citizens and businesses and to maintain or enhance the public health, safety or welfare. The task forces may select regulations for review on an agency by agency basis, or on any other basis that the Steering Committee may deem appropriate. In determining the regulations to be reviewed and the task forces to be established, the Steering Committee shall consider the following factors:
 - a. whether the regulations have an immediate and apparent impact on the citizens and businesses of New Hampshire;

- b. whether the regulations serve the best interests of the citizens and business of New Hampshire;
 - c. whether the agency responsible for the regulations is currently undertaking or has recently undertaken any efforts to re-write or otherwise amend the regulations;
 - d. whether the regulations relate to a policy area of immediate and significant importance to the State, such that action on the regulations is necessary within the next two years;
 - e. whether changes to the regulations may be accomplished through amendment to the regulations or through legislative action; and
 - f. whether the regulations and their specific provisions are required by Federal law.
7. Each task force shall have no more than five members, including at least one representative from the relevant governing agency or agencies and at least two members of the public with experience within the relevant regulated community. The task forces shall meet at least monthly, report regularly to the Steering Committee and Governor on its progress, and submit a report containing its recommendations, including recommended regulatory or legislative changes, to the Governor, the Steering Committee, and the Joint Legislative Committee on Administrative Rules by November 1, 2017. Extensions to this deadline may be granted by the Steering Committee with the approval of the Governor.
8. Each Agency shall cooperate with the Steering Committee and appointed task forces and shall, as necessary, assist the Steering Committee and appointed task forces in carrying out the directives contained in this Order.

Given at the Executive Chambers in Concord, this
20th day of July, in the year of Our Lord, two
thousand and seventeen and of the
independence of the United States of America, two
hundred and forty-one.



GOVERNOR OF NEW HAMPSHIRE

EXHIBIT C

Minutes from 10/12/17 Regulatory Reform Steering Committee Public Hearing

Regulatory Reform Steering Committee – October 12, 2017

Committee called to order at 10:05 a.m.

Committee Chairman Taylor Caswell – Commissioner of the New Hampshire Department of Business and Economic Affairs (speaking on behalf of the committee)

- The purpose of this steering committee is part of Governor Sununu's ongoing efforts to significantly reduce the regulatory burden on businesses and individuals in NH
- Without question, this is a worthwhile exercise. This gives us an opportunity to provide fresh look at individual regulations and regulatory systems that could benefit from updates, elimination, or redesign.
- The Steering Committee wishes to use this hearing to guide its internal prioritization of regulatory reform efforts that it will pursue and will recommend to Governor Sununu.
- Afterward, we will have the opportunity to address this prioritized list through formation of individual issue-specific task forces.
- That's the purpose for this hearing, the committee is most interested in systemic burdens that impact the economy in a general way.

Testimony – Jim Roche on behalf of the Business and Industry Association of New Hampshire

NH regulatory climate is not as business-friendly as my members desire it to be. This is borne out from surveys done in 2016 (Small Business and Entrepreneurship Council – SBEC) and 2017 (*Forbes*). Overall, and in most categories, we are ranked lower than other states. In *Forbes*, we are 33rd out of 50 states, behind many states NH is competing with, such as Virginia (3rd), North and South Carolina (7th and 10th) and Texas (25th).

This is why the BIA organized and hosted a roundtable discussion in September with commissioners from state agencies, including Commissioner Caswell. The discussion was robust, but just a first step.

Much of the discussion focused on labor/employment as well as environmental regulations and statutes; we have created a document that addresses specific issues. (*Attached as Appendix A*)

Commissioner Caswell asked about the *Forbes* study, wanting to know what the specific issue the survey addressed. **Mr. Roche** said he was unable to see details for the *Forbes* survey. However, the other study (SBEC) goes into detail. One area specifies energy regulatory index. This goes beyond obvious concerns of cost. When it comes to the state's renewable portfolio, NH is 36th. That's why the BIANH supports an "all of the above" strategy. Now the cost of generating energy is more expensive because of the passing of House Bill 129; like many regulations, it's well-intended, but adds to cost burden. We are 50-60 percent higher than other regions, which is certainly not the good for any company, regardless of size.

you are look at develop a property. What we urge is that DES trust the engineers and create a consistent system. Those that invest in these projects have to have to know things work in a predictable way. Inconsistent standards can lead to lost time and money.

An area DES has been strong lately is in reviewing and lowering turnaround time, which may be a function of fewer applications. In the past, it was difficult to have a discussion with DES. Now, they are more open, and we want to be a part of the conversation when it comes to new rules and regulations.

When it comes to International Building Codes, there is a new book every three years. The state works from the 2009 standards and is in the process of adopting the 2015 standards. However, we have a 17-member state building code review board with only one homebuilder. We have important issues that are coming up during the 2018 session. We hope we can find a middle ground – support life safety without dramatic impact to cost factors. For example, sprinkler systems add from \$5,000 to \$15,000 per home. They affect life safety, but affect a part of the market, especially the lower-end buyer. We had this discussion with legislators and they were able to overcome two past gubernatorial vetoes. There is a certain type of finished-basement construction that addresses fires below the floor. This could add about \$2,000 to the cost, so our board is discussing this issue.

We seek the important balance between employing people and building safe homes. Another concern is that local municipalities tend to have an ability to be stricter with regulations. In many cases, their actions are not based on hard data and makes building more difficult. For example, in the early-2000s, municipalities started enacting growth management ordinances, limiting number of building conditions. We proposed a bill that asked towns to justify this. This has become very successful.

Another issue involves the inconsistent definition of the term “employee.” It causes major confusions. Many of the subcontractors are overinsured on workers compensation. Small businesses that work for multiple general contractors know they are subcontractors, but regulation has enough ambiguity that makes them responsible and liable to chargebacks.

Finally, the AGs office must approve for you to be a sub-divider. There was backlash on how long this took in the past. However, the time frame and dialogue has improved. We want to make sure we keep it going in that direction.

Mr. Pollock also mentioned building codes. Regulatory reform needs to look at the code adoption process. The three-year changes are delegated by the building code and fire control boards and are weighted heavily to life safety. The members seem frustrated that a proper balance is not found. The system is not functioning as it should, there are biases and the process is inefficient. Every three years, the ICC comes forward with code additions each three year, which goes to the building code and fire control boards. They come forward with amendments that may address specific issues (such as climate specific ones). However, the result has always been error on the side of safety.

Commissioner Caswell asked about the balance between state and local components. **Commissioner Arlinghaus** said locals rely on the state process.

New Hampshire Gov. Chris Sununu

I wanted to state a couple of things. First, reiterate that this is really happening. This is great, but we haven't done something like this in decades. There is a lot on your shoulders; you're really transforming a state that is over-regulated to truly a "Live Free or Die" mentality of clearing out the gunk. At one point, all rules could be justified, but now we can take a step back and revisit these rules.

There is no rule too small. I heard from a florist about a rule affecting them. All the little anecdotes, but to them, the issue isn't too small; issues like health care and education. Our state is driven by small business and we need to help those that have to deal with obscure rules. Our plan is to drive forward with different areas of highest need. This is the second phase. We grabbed the low-hanging fruit, eliminating 1,600 rules. However, committing to the hard part is what leads to a pattern. JLCAR has its process, but this can be a check-and-balance. I think it's an awesome opportunity.

Commissioner Caswell stated that workers compensation, building codes, and wage and law issues are just some of the issues that have been addressed. **Gov. Sununu** followed up by saying the list is finite but we could be here forever. Part of this is figuring out the structure.

Richard Spalding and Robert Clegg on behalf of Gibson's Bagpipes (Nashua business)

Mr. Spalding started by saying his company is a bagpipe manufacturer in Nashua and moved here from Ohio. We are the largest bagpipes manufacturer in North America and the fourth-largest in the world. That said, we are still one of the little guys. We employ four full-time and three part-time employees.

Woods used for bagpipes have become more regulated and we don't input the wood directly. There are numerous federal permits we need. It's been exceedingly difficult to get a permit from the U.S. Dept. of the Interior's Fish and Wildlife Service. It's a 38-page application, and the first application and check we sent was never received, so we had to stop shipping outside of the United State. I followed up and now the application is sitting on a biologist desk. They are in receipt of our application, but say there is no way to expedite it. Ultimately, we are still waiting on that permit. We cannot ship internationally, but our foreign competition can import to U.S. with no problem. As a result, we have lost 25 percent of our business.

Mr. Clegg said right now, each bagpipe to be shipped overseas involves drive down to JFK Airport in New York, which is a 10-hour roundtrip. His foreign competitors have made it work. Since this is a U.S. Wildlife issue, we should be able to do a partnership with NH Fish and Game to solve the issue. We have customs in Manchester and have Fish and Game go there to address issue. These are hand-made bagpipes, people are making a living from this work.

Rep. Hinch invited **Mr. Spalding** to speak. Even though this is a federal issue, but to have 25 percent of his company's revenue impacted has a huge effect on our state. This shows how

and Certification (OPLC). Right now, there are about 28 health profession boards and 22 technical profession boards. The state should take the time to look at boards that belong under OPLC. Often, as opposed to being within a specific agency, the OLPC is more efficient and more consumer friendly. The committee should take a look at this more closely

Commissioner Arlinghaus reiterated that his industry is at OPLC. **Mr. Rancourt** responded they are extremely more user-friendly. I would note this is something I have heard a great deal from people and that OPLCs expertise is licensure and certification. **Commissioner Arlinghaus** then asked if he has to interact with local level. **Mr. Rancourt** said their regulations may be more stringent at the local level, and we would love to have statewide online permitting. I can go online in Massachusetts and get a permit. He said that state is far ahead of us. Overall, I do business in NJ and I prefer to do business there than in NH.

George Reagan on behalf of New Hampshire Housing and Finance Authority

Most of what I will say has already be discussed by other speakers regarding regulatory barriers

The state has looked at workforce housing in the past – SB 21 in 2002 and SB 185 in 2014). Lot of things have already been said. We need to find a thoughtful balance; economics vs. safety. I work at the local level looking at their housing issues. I think if you employ that thoughtful inquiry, it works for everybody. Development is happening, but everyone is looking at the economics of development. Looking at workforce housing – predictability is key, such as the time frame. We encourage communities to allow building by right vs. by regulation. How much can be built by right?

The big issue is the unemployment rate 2.7 percent and housing costs has surpassed pre-recession era. Rents increasing; the average rent for two-bedroom unit is \$1,259. Add to it that there is less than 2 percent vacancy and rents are getting expensive. Housing prices continue to go up as well. How do we build something that hits the market at \$250,000?

Where the state can help is to provide direct technical assistance grants and assistance. In general, towns are being more conservative in their efforts. We support local land use but want the state to help them. We are trying to import a workforce, which mean incentivize housing, a lot of that goes to the top of the market.

Commissioner Caswell said the state is trying to recruit a workforce that is younger to fill economic development goals). We also have an aging population to address that as well. He asked if these demographics have any distinguishing features. **Mr. Reagan** said as people move forward. Older folks and younger folks are looking for same thing. Looking to downsize or convert to multi-family. AARP did a study and more seniors want to “age in place,” which means continue to live in the area where they are. Transient folks, such as young families who don’t want to root down yet, want more rental options such as multifamily rentals. They may also want or small homes or condos to purchase. **Sen. Daniels:** asked if any state statues that are the cause of unpredictability, in which **Mr. Reagan** said **Mr. Moran** spoke to that. The civil engineers can speak to that issue as well.

Another concern is where the Liquor Commission is placing stores. They are losing money; the state is losing money on case sales in Hooksett, so they are building liquor stores in rural areas, and they tend to be right off the highway. That adversely affects traffic in the community, as they get on and off the highway, and don't venture further to go shopping. It is also hard to get information from liquor stores as a whole, which say its proprietary information.

Finally, a change we would like to see involves WIC and SNAP (DHHS). We are working to see WIC go from paper to EBT-style card. We feel they are getting close to that. There's a lot of human error with vouchers. This will save the industry a lot of money. As for the SNAP program, we would like to see the date of distribution of funds staggered. Right now, all benefits are distributed on the fifth day of the month. That leads to excess inventory, which is very expensive and leads to higher theft rates. We are pushing for split distribution, and have distributed to you additional study showing the benefits of this (*Attached as Appendix c*)

Commissioner Arlinghaus stated he's seen the study and supports rolling distribution of SNAP benefits. He also encouraged agencies to utilize industries on advisory boards. Regulating agency would be advised by the regulated. It strikes me that this input could be remarkably helpful to check impulses. **Mr. Dumais** agreed. We support this and like when we've been able to work with agencies to address specific rules and regulations. As for SNAP, we've been told the state computer system cannot handle this process, but I know there are some upgrades happening, so hopefully this can address this.

Commissioner Caswell adjourned the committee at 12:25 p.m.

EXHIBIT D

Aggregate Written Testimony Submitted for 10/12/17 Public Hearing

Regulatory Reform Steering Committee
Testimony Provided by NH Small Business Development Center
Submitted October 13, 2017

The NH SBDC provides confidential, one-on-one business advising to start-up and existing businesses (35% and 65% respectively) at no cost to the business owner. Our organization is supported by the U.S. SBA, the State of New Hampshire (through the Department of Business & Economic Affairs), the University of New Hampshire, and the private sector. The NH SBDC has operated in the State of New Hampshire since 1984, and during that time we have worked with over 25,000 small business clients, and another 60,000 through trainings and workshops.

As a matter of course, the NH SBDC does not solicit information from clients on regulatory challenges, but we did recently collect data on this topic, in response to the Governor's priority. Below, please find specific anecdotes, some of which overlap federal and local jurisdictions. However, as was stated by the Commission at the initial hearing on October 12, business owners tend to see regulation as being imposed by a "government," regardless of the nuance and distinction.

With a broad brush, we often find that small business' concerns over "regulations," or complaints therein, are often a proxy for frustrations with the tax code. Tax code concerns are primarily directed at the Federal tax system, not the State of New Hampshire (though taxes of any sort will always be a concern of small business owners).

Additionally, all small business owners want certainty, and predictability, both key issues that were raised in the hearing on October 12. Small businesses, particularly those in the early stages of growth, are relatively fragile. Much of our work at the SBDC is to help them form a sustainable foundation upon which they can continue to grow, and eventually hire additional workers, pay taxes, contribute to their communities, etc. Anything we can do to make their day-to-day operations easier and simpler would be a welcome change.

Anecdotes*:

Prompt: Are there specific regulations that commonly trip up business owners?

Responses (in client and business advisors' words):

- Lack of common definition of "independent contractor". There are 3 (& maybe more) definitions by labor-related agencies in NH. These departments worked together to present a "common language" proposal to legislators and it has been rejected. It is hard enough for employers to understand the federal government's definition. Suggest that the "common language" proposal be accepted as law.
- Towns continue to be confused and frustrated by the new State law concerning Agritourism: it appears to offer little direction on resolving what is allowed and what is not allowed for farm-to-table events. Currently, a farm client is being refused permission to hold wedding & other events on their farm /conservation land.
- CPAs regularly recommend no single member LLCs. NH tax law is not specific as to how the proceeds of selling a business will be treated, should there be profit beyond net



Business and Industry Association
New Hampshire's Statewide Chamber of Commerce

122 North Main Street, Concord, NH 03301
Tel: 603.224.8388 • Fax: 603.224.2872 • Web: www.BIAofNH.com

**Testimony of Jim Roche
President, Business & Industry Association
NH Regulatory Reform Steering Committee
October 12, 2017**

Mr. Chairman and members of the New Hampshire Regulatory Reform Steering Committee, my name is Jim Roche. I am President of the Business & Industry Association, New Hampshire's statewide chamber of commerce and leading business advocate. I am here this morning to outline the perspective of our members and New Hampshire's business community on the impact that overly burdensome and/or overly prescriptive regulations can have on employers, job creators and the New Hampshire economy in general.

New Hampshire's regulatory climate is often cited by many BIA members as not as "business friendly" as desired. National studies conducted by organizations like Forbes and the Small Business and Entrepreneurship Council rank New Hampshire lower than many other states when measuring our regulatory climate. To cite one annual study conducted by Forbes, Inc. from earlier this year, New Hampshire was ranked 33rd out of 50 states in terms of its regulatory environment, ahead of other New England states, but well behind many other states across the country, including states that New Hampshire competes with for high paying manufacturing and technology jobs like Virginia (ranked 3rd), North and South Carolina (ranked 7th and 10th best respectively), and Texas (ranked 25th best).

That's in part why BIA organized and hosted a roundtable discussion last month with commissioners from state agencies that most often interact with the business community (NH Dept. of Environmental Services, NH Dept. of Employment Security, NH Dept. of Labor, NH Dept. of Business and Economic Affairs). The discussion was robust and productive, but really just one step toward improving the regulatory climate in our state.

Much of the discussion at that roundtable focused on labor/employment and environmental regulations and statutes. I have attached to my written testimony a document we sent to Commissioner Caswell following that discussion outlining some of the problematic regulations and statutes frequently mentioned by our members as affecting their operations. In some cases the regulation may be vague or confusing, in other cases the regulation may conflict or

(over)

EXAMPLES OF BURDENSOME REGULATIONS

Environmental Regulations:

- Currently, NH has the following rules (http://gencourt.state.nh.us/rules/state_agencies/he-p4040-4061.html) on the books regarding the registration of "machines which produce ionizing radiation":

He-P 4040.06 Exemptions.

- (a) Any electronic equipment that produces ionizing radiation incidental to its operation shall be exempt from the requirements of this part provided that the dose equivalent rate averaged over an area of 10 square centimeters does not exceed 5 μ Sv (0.5 millirem) per hour at 5 centimeters from any accessible surface of such equipment.

There are other states (e.g. TX and NY) that consider devices like SEMs to be "low threat" and hence not required for registration, to the extent they are shown not to "leak" as in He-P 4040.06 (a).

Nonetheless, the state of NH recently added this specific exemption to the exemption:

- (h) The following shall not be exempt:

- (2) Electron microscopes;

- **Reconcile the Federal and State Hazardous Waste Generator Status levels. Revise Rules to align with Federal CFR.**
 - PART Env-Hw 503 (GENERATOR CLASSIFICATIONS) defines two classification of HW generator, Small Quantity generators (SQG) and Full Quantity generators (FQG).
 - 40 CFR 262.34 (Accumulation Time), Subparts (b) through (h) define HW generator classifications of conditionally exempt small quantity generator (CESQG, equivalent to a NH SQG), small quantity generator (equivalent to a NH FQG) and large quantity generator (equivalent to a NH FQG)
- **Eliminate NH HW Limited HW treatment permit Rules Federal regulations exempt these activities from regulation.**
 - Env Hw 304.04 (Limited Permits) defines need for permit and defines specific requirements.

Labor & Employment Regulations:

- **Employers Guide to Workers Compensation**

(<https://www.nh.gov/labor/documents/employers-guide.pdf>)

First Aid Log – states that First Aid is defined as any one time treatment that generated a bill less than \$2000 and resulted in no lost time. These first aid only injuries must be reported to the Labor Department on the employer's first report of occupational injury or disease form.

Employer's first report of injury or occupational disease form - in the second paragraph it states, occasionally an injury that requires only common first aid treatment at the time of injury will later require more extensive medical attention. In these cases, the injury becomes recordable at the time that the employer learns of the additional medical treatment.

This is very confusing to employers as it is not clear if the first report is required for first aid type injuries. I believe the original intent was to allow an employer to take care of the injured worker on their own either by paying for the treatment to a third-party or by providing an occupational health nurse and not having to fill out any additional forms and send them up to the Department of Labor. But when you read this documentation from the Department of Labor it very can using as to whether or not we must fill out the form at the time of injury.

- Record-Keeping

More and more employers are turning towards electronic time-keeping systems, and yet the law still remains grounded in paper records. For example, there is the requirement that an employee must initial any changes made to the record; which requires someone to print out a hard copy of the record. At the very least, there needs to be better guidance on what the Department considers an appropriate electronic signature by employees on time records and notices of pay rates and fringe benefits.

- Salaried Employees

New Hampshire has one of the most restrictive laws in the country on allowable deductions from salary and goes beyond the Federal law in many respects. In fact, based on the Department's regulations, salaried employees have unlimited sick time in New Hampshire, which makes it difficult to manage excessive absenteeism by salaried employees.

(3) The language of the exemption in 803.03(l) only applies at time of hire. What if the employee is hired to work longer shifts, and then the job is changed or the employee requests to work shorter shifts sometime after initial hire? Again, this makes it difficult for elder and disabled home care situations, when the needs of the elderly/disabled person change, requiring changes in the amount of home care services needed. LAB 803.03(j) provides an exemption specifically for health care employees who service physically or mentally infirmed clients, but only if it is part of a community based outreach program, the employee initiates the change (not the employer), and the employee is informed in writing of this job requirement at the time of hire. This very narrow exception would not include the large number of privately owned and franchised home health care organizations in the state, nor does it allow for changed circumstances after hire.

We understand the importance of maintaining the protections under RSA 275:43-a, but there should be a balance with the nature of certain jobs. As long as an employee understands that the position may have a consistent amount of shifts of less than 2 hours, and the employee agrees to that, there should be some leeway for employers who are trying to meet the varied needs of their clients (usually elderly or disabled) and create consistent schedules for employees.

- Definition of Employee

There should be one consistent definition of independent contractor under NH law. From the employer's perspective, it is highly confusing, overly restrictive and illogical that there are different standards. It also results in uncertainty because, even if a business meets the definition under RSA 275, it is still possible that Employment Security could find that the relationship is misclassified.



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October 20, 2017

Honorable Governor Chris Sununu
State House
107 North Main Street
Concord, NH 03301

Re: Regulatory Reform Steering Committee

Dear Governor Sununu:

Thank you for your initiative to establish the Regulatory Reform Steering Committee. It is a major step towards making the State's business environment one in which all businesses and industries can thrive and grow.

During your visit to New England Dragway as our Executive Councilor to discuss bringing the National Hot Rod Association (NHRA) Mello Yello tour to New Hampshire we briefly touched upon current state statutes regarding motorsports facilities. New Hampshire's motorsports industry is a major economic engine accounting for several hundred thousand visitors to our state annually. In our case the NHRA tour alone will bring in more than 40,000 spectators as well as dozens of professional race teams, hundreds of sportsman competitors and the NHRA support staff over a single week each summer. Since most of these patrons are not from New Hampshire they utilize all facets of the hospitality industry as well as our local supermarkets, fuel stations, and other businesses in the region. Furthermore, a large contingent of our regular racers, spectators, and enthusiasts travel to our facility on a regular basis from other states. That represents millions of dollars flowing into the state's economy annually. Yet ours is an industry subject to significant oversight and regulations.

Under N.H. RSA 31:41-a & 31:42 towns are empowered to establish bylaws for motorsports facilities operating within their boundaries. These bylaws, when implemented, typically vary with no consistency and with few avenues for review or dispute. Some will establish specific hours of operation. Prior to announcing our annual schedule we must have it approved by the selectmen and must obtain special permission to operate at any time outside this schedule. In our case we are restricted to four days a week with limited hours of operation from April through October. This results in an ability to actually operate this business for 38 hours per week during this seven month window. While a restriction related to late evening hours is certainly reasonable, the limitation of operation during business hours on any given weekday or during winter months is without any valid justification. While the nature of our business prevents regular race operation during the winter months, fall and winter events would provide



October 11, 2017

BEA Commissioner Taylor Caswell
Chair, Regulatory Reform Steering Committee
172 Pembroke Road
Concord, NH 03301

To Whom It May Concern:

In April of this year, Systems Engineering headquartered in Portland, Maine, opened an additional office in Manchester, New Hampshire. In the process of opening the new office location, we went through the formal procedure of registering the company name with the State of New Hampshire. Unfortunately, because the company name includes the word "engineering," we were denied the right to register our business in New Hampshire. This was, unexpected, frustrating, and put a significant delay into our plans.

We turned this issue over to our attorney, retained a New Hampshire attorney, consulted with our Marketing firm to understand the cost and impact of rebranding to comply with New Hampshire registration requirements, and considered surrendering our leased space.

Several months into this process, we were fortunate enough to be introduced to Michael Bergeron, the Business Development Manager of the New Hampshire Division of Economic Development. Michael stepped in and assisted us. He worked diligently to understand the issue and find a path forward which included a waiver from the Secretary of State.

Without Michael's persistence in expediting the process, we would not have been able to open our doors in the New Hampshire office where we now employ seven individuals who live in the State.

It is my intent to make you aware of the challenge we faced as; without Michael's help and persistence, we might not have been able to open our office in New Hampshire.

Please feel free to reach out to me with any questions whatsoever.

Regards,

Craig Tribuno
Systems Engineering | President
(207) 553-1564
ctribuno@syseng.com

Laliberte, Mark

From: Scott Schaier <scott.schaier@beerbiznh.com>
Sent: Monday, October 23, 2017 12:42 PM
To: Laliberte, Mark
Subject: Governor's Regulatory Reform Committee- NH beer industry input
Attachments: NH_Beer_Distribution_EconomicReport:2015_12.2.16.pdf; BCG_3tier_study.pdf; Final Report HB 197.pdf; 2017-National-Survey-Results.pdf

Good afternoon Mark. Per your request, I want to submit some comments to the committee and add some context on behalf of the Beer Distributors of NH member companies and in consideration of our brewers, suppliers, retailers, regulators and entrepreneurs here in New Hampshire.

We commend the work of the Governor's Regulatory Reform Committee and look forward to overall improved efficiency for all market participants within the beverage alcohol industry here in NH. We've all been through a lot of study on alcohol policy recently, including an all-industry summit at Bretton Woods, a 3-tier study commission, industry and regulator cooperation and the recently wrapped up RSA review process at the Liquor Commission. We have good dialogue and tend to agree on improvements that would benefit all beverage alcohol businesses and consumers here in the Granite State.

Since alcohol is regulated differently from other consumer products, we need to maintain the strong framework of laws for consumer protection and public safety. We continue hear that consumers and businesses are happy with the system as a whole, but there are areas that could be updated or clarified within the 3-tier system, and processes can be improved to create value.

New Hampshire law provides protections for each tier – retailers, distributors and manufacturers – from undue influence by any other tier. Distributors buy only what can be reasonably sold and have market-based incentives to merchandise what's popular. Bars and restaurants that sell only one manufacturer's soft drinks can offer hundreds of beers, wines and spirits without fear of targeted price hikes or lackluster service.

Tied-house protections also contain exceptions for manufacturers (brewpubs, wineries, etc.) to establish brands with taprooms or tasting rooms at the manufacturing site to promote their products and provide a consumer experience and drive tourism. The net result is that NH residents and visitors alike are hard-pressed to find a deficiency in choice and availability.

Rather than advocating seismic shifts in an orderly marketplace that is working for our NH beverage alcohol industry, consumers and the public interest, we need to focus on enforcing laws the right laws that will ensure a level playing field and industry-wide compliance with regard to excise taxes, fair trade practices and safe, responsible and legal sales. We should also make improvements that streamline processes for licensees and consumers and help drive commerce for all participants. For example, we believe that IT/software (for Licensing and Enforcement) is one big opportunity to that would benefit the entire industry, the State and consumers.

I have included some relevant docs for your review. I look forward to chatting in more detail as the committee moves forward.

Cheers,

Scott Schaier
Executive Director
Beer Distributors of NH, Assoc.
[603-502-6650](tel:603-502-6650)

Please visit www.nhbeer.org Celebrating New Hampshire's beer industry @brewnh

New Hampshire

Based on 10 Beer Distributor Establishments in New Hampshire

IMPACT MEASURES	JOBS	WAGES & SALARIES	TOTAL VALUE OF PRODUCTION	TOTAL STATE, LOCAL & FEDERAL TAXES PAID*
Beer Distributors Are Significant Businesses in Their Communities: The Economic Impact of Beer Distributor Business Operations				
New Hampshire's Beer Distributor Operations	1,059	\$98,177,718	\$239,721,257	
Operations of All Indirect Input Producers	489	\$30,073,251	\$82,712,432	
Stimulus Induced by Spending of All Employees	1,171	\$61,508,280	\$181,540,326	
Total Impacts on New Hampshire from Beer Distributor Operations	2,719	\$189,759,249	\$503,974,015	\$88,084,994

+

Beer Distributors Make Substantial Capital Investments in Their Communities: The Economic Impact of Beer Distributor Investment in Structures, Vehicles, Software, Energy Saving Technology and Other Equipment

Total Impacts on New Hampshire from Beer Distributor Investment	131	\$7,623,444	\$20,400,077	\$2,252,169
-----------------------------------------------------------------	-----	-------------	--------------	-------------

+

Beer Distributors Are Good Citizens of Their Communities: The Economic Impact of Beer Distributor Support of Community Events, Charitable Activities and Local Economic Development

Total Impacts on New Hampshire from Beer Distributor Community Involvement	10	\$449,210	\$1,171,113	\$156,887
----------------------------------------------------------------------------	----	-----------	-------------	-----------

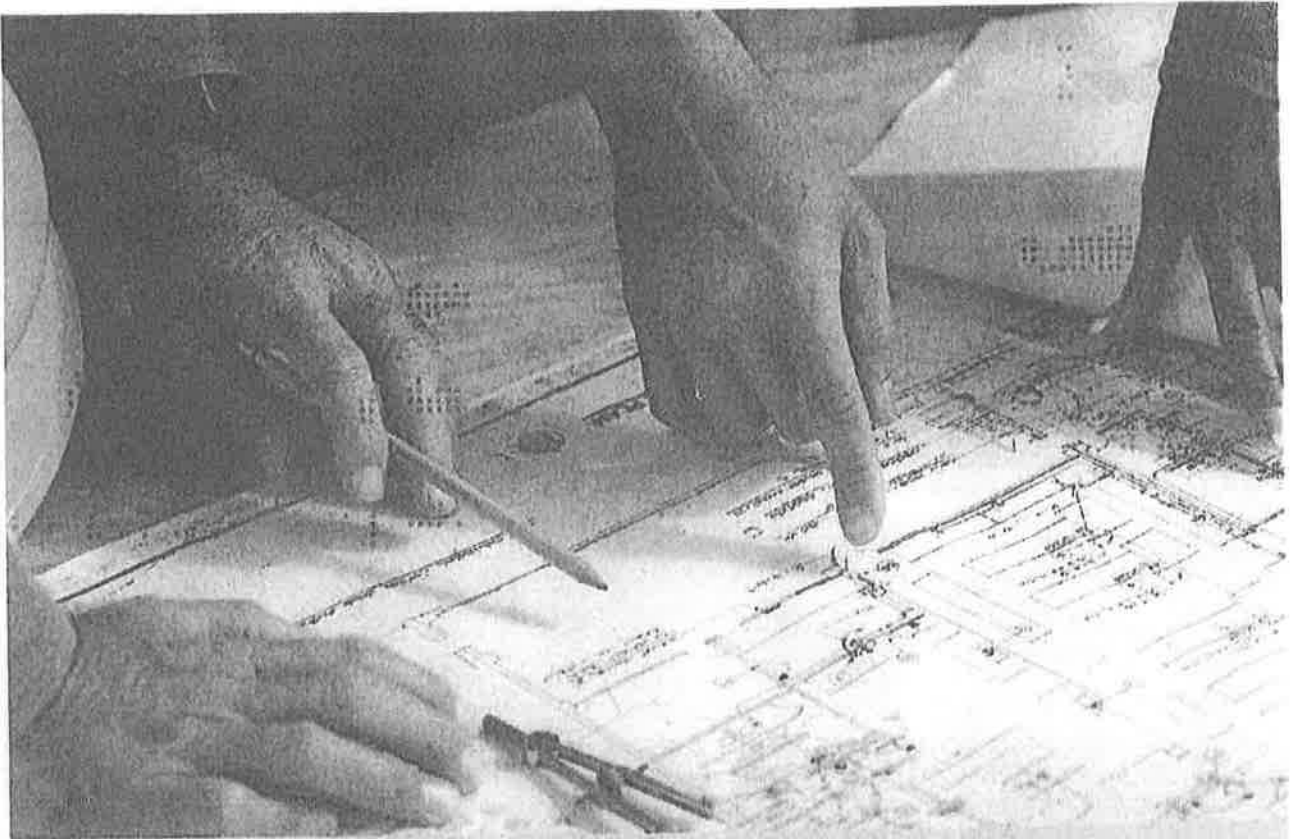
+

Total Economic Impact of Beer Distributor Operations, Investment and Community Involvement

Sum of Beer Distributor Impacts on New Hampshire from Operations, Investment and Citizenship	2,861	\$197,831,903	\$525,545,205	\$90,494,050
Multipliers	2.70	2.02	2.19	

*Economic impact taxes only; does not include an added \$37 million in federal, state and local excise and consumption taxes on beer sold in New Hampshire.





Wetland Recommendations for DES August 2017

The Associated General Contractors of New Hampshire (AGC of NH), after review by our 2017 Board of Directors and Environmental Committee, is pleased to submit the enclosed packet of recommendations and suggestions to help improve the State of New Hampshire Wetland Process and Alteration of Terrain rules. The AGC of NH has prepared these recommendations and suggestions for ways to improve the permit processes. Our recommendations include a new "Permit by Professionals" and a five-tiered system for categorizing wetlands. The AGC of NH believes these recommendations and suggestions provide a framework for promoting the State of New Hampshire's goal of improving the balance between the State's environment and its economy. We look forward to working with the Department further on this issue to improve both the state's Wetlands process and Alteration of Terrain program.

For questions, contact:
Associated General Contractors of New Hampshire
48 Grandview Road
Bow, NH 03304
Phone: 603-225-2701

"Permits by Professionals"

Making Use of Certified/Licensed Professionals

Recommendation: Utilize professionals to permit minimis areas of wetland impact.

Benefits: Expedites process for applicant and reduces DES staff time & effort.

While all wetland delineations have to be performed by a Certified Wetland Scientist, permit applications can be prepared by others. The State has Certified Soil Scientists, Certified Wetland Scientists, Licensed Septic Designers, Licensed Surveyors, and Licensed Professional Civil Engineers. All have codes of ethics, continuing education requirements, and boards that oversee their work. There is a presumption of competence in the certified/licensed professional that extends throughout the professions. If a certified/licensed professional prepares the Professionally Prepared PBN and signs the application (along with the landowner), confirming that the project has met all the conditions of the notification, including review of the impacts to insure avoidance and minimization, then the Wetlands Bureau should accept their findings.

Here are some of the current issues with Permit by Notification:

- Small wetland impacts take too long in the permitting process.
- Staff time of inspectors is primarily consumed with small wetland impacts that have negligible effects on the overall wetland resources.
- Applications on small wetland impacts often lack plans or clear descriptions. (Professional submissions would correct this.)
- Applications on small wetland impacts clog the permitting system and take time away from the review of larger and more complicated projects.

Make All Minimum Impact Permits Prepared by a Professional

Wetland impacts of less than 3,000 square feet are very de minimis areas of wetland impact. Conditions can be applied to avoid areas of endangered or threatened species and other sensitive areas. Conditions can also be applied to basically cover needed impacts, like crossings of wetlands to buildable uplands, and avoid unnecessary impacts, like building tennis courts or swimming pools in the wetlands. This would include expedited permits, agricultural permits, and other notification projects.

Segregate the Minimum Impact Projects

Permits that are prepared by professionals should be segregated from the current list of Permits by Notification (PBN). Those permits prepared by non-professionals would go through a standard process, with a standard review by a wetlands inspector. The Professionally Prepared PBN would have a quick turnaround (see below) that would be automatic and not subject to review by wetland inspectors.

Professionally Prepared PBNs Should be Approved Administratively

Wetland inspectors' time is better spent on significant impact projects rather than minimum impact projects. They should be focused on the minor and major projects. Administrative staff can send out an acceptance of the Professionally Prepared PBN or a hold on the Professionally Prepared PBN. With the exception of compliance checks, the inspectors should be spending their time on the bigger and more complicated projects.

Avoidance and Minimization Workshops

Along with giving responsibility to the professionals, there should be training in what constitutes avoidance and minimization. DES already has a working draft of an avoidance and minimization guidance document. Train the professionals to properly craft an application that meets the requirements of the Department.

Allow Electronic Submissions of Wetland Applications

With the advent of electronic submissions for septic system designs, it only makes sense that wetland applications be saved and processed digitally. All plans, mailing receipts, application forms, DNR and DHR response letters, etc., can be scanned and sent in digitally.

Developing a New Tier Assessment

For larger impact projects and those that require compensatory mitigation

Recommendation: A new tier assessment for permits that would establish the level of importance of any particular wetland impact.

Benefits: DES can develop consistent mitigation alternatives & recommendations to meet the assessment level, thus reducing the time for professionals and the Department.

Simplified Five-Tier Wetland Assessments

There is plenty of information about functions and values of wetlands. There are also numerous complicated wetland assessment methods. What is needed is a simplified assessment method that ranks the wetlands into 5 levels, with Level 1 having the least function and value, and Level 5 having the most functions and values. Impacts to Level 1 and Level 2 wetlands should not require much review. Level 3 wetlands need to be scrutinized in more detail. Level 4 and Level 5 wetlands need a complete alternatives analysis, regardless of the square footage of impact. This simplified assessment will make the system less subjective and more consistent, while also making it easier to understand for both the applicant and the professional.

Wetland Tiers:

Level 1 - Wetlands that were created by man. These would include roadside ditches, railroad ditches, agricultural ditches, stormwater conveyance features, wash ponds, agricultural ponds, recreational ponds, golf course ponds, fire ponds, detention basins, erosional gullies, sluice ways, wetlands that developed in gravel pits, agricultural wet meadows, etc. Would not include open water bodies of greater than 10 acres in size, regardless of the origin.

Level 2 - Natural wetlands that are less than 20,000 SF in total size. These wetlands can be forested, scrub-shrub, or emergent. They can have any water regime from seasonally saturated to permanently flooded.

Level 3 - Forested wetlands, scrub-shrub wetlands or wet meadow wetlands of greater than 20,000 SF in total size. Would not include emergent wetlands or scrub-shrub wetlands that are permanently flooded. Also would not include active forested floodplain wetlands.

Level 4 - Intermittent streams, perennial streams, permanently flooded emergent wetlands or scrub-shrub wetlands, marshes, active floodplain wetlands, tidal wetlands, and open waterbodies greater than 10 acres in size.

Level 5 - Bogs, wetlands with threatened or endangered plants, wetlands that have documented occurrence of threatened or endangered water-dependent wildlife, wetlands with a rare or unique plant community as documented by the Natural Heritage Bureau.

These level descriptions are in no way an attempt to change, expand, or reduce the current statutory requirements, but rather to clarify the environmental importance for each permit submitted to the Department.

Reevaluating Current Processes

Additional recommendations for Wetlands and Alteration of Terrain

Alteration of Terrain Redevelopment Rules

The standards in the Alteration of Terrain permit were predicated on new development. Issues have come up over the years on how to interpret those rules on redevelopment sites. In 2010 and 2011, the Home Builders, the Realtors, Associated General Contractors, and others presented recommendations to standardizing how Alteration of Terrain would be interpreted consistently for all applicants. Every year since then, AGC has asked when these changes would be put into the DES rules. The specific changes to the rules were drafted but never implemented. These changes would have clarified how redevelopment sites would be treated and added consistent interpretations from one project to another. The Department has instituted taking recommendations on a case-by-case basis, but these options are not available to any party who may not be aware of these alternatives when applying for a permit.

In-Lieu Fee or ARM Fund Changes

The participation in the ARM Fund should be voluntary for the applicant. One of the major causes of time delays is the requirement to search for alternative mitigation, since applicants are only allowed to use the ARM Fund after exhausting all alternatives. This change in the law would be beneficial to the state in many ways. First, the length of time a permit is handled by the staff would be greatly reduced. Also, the ARM Fund could develop rules and procedures to work with local communities in a more detailed, comprehensive manner to make sure the funds help the environment in a long-term plan approach as opposed to the current project-by-project patchwork. We believe that the DES should review the ARM Fund calculator and evaluate how the funds are spent. The ARM Fund program could coordinate the local communities and consider ways of reissuing the funds for an overall benefit to the state environment.

Changing the Wetland Appeals Process

The statute requires any applicant who wants to appeal a denial to be reheard by the same individuals who made the denial. This process has long been considered flawed and in need of a more expedited process. If an applicant today appeals a decision, this usually adds months to a year to the process. This has an impact on applicants as well as the overall impact on the division. From the applicant side, we have always envisioned a system similar to a planning or zoning board, which would be more effective and timely. A number of organizations representing applicants would be happy to work with the department on fixing this procedure.

There are many additional topics the association is interested in, including the DES reorganization plan, Instream Flow rule changes, air emission fees, and federal changes to the Waters of the US definitions.

Researchers may have found a simple way to reduce grocery store thefts

Sep. 26, 2017

After Illinois changed its food stamp schedule, grocery store thefts decreased by 32%. Joe Raedle

Before February 2010, Illinois delivered food stamps under the Supplemental Nutrition Assistance Program (SNAP) on the first day of every month.

Then the state decided to spread distribution more evenly throughout the month.

The decision had two main benefits. Stores weren't hit with massive crowds all at once, and SNAP officials weren't burdened with a large workload.

New research suggests that there could be an additional advantage of the change: a reduction in grocery store thefts.

Analisa Packham of Miami University and Jillian Carr of Purdue University analyzed Chicago crime reports before and after the policy changed, from February 2008 to February 2012. They found that spreading out the distribution of food stamp benefits lowered grocery shoplifting rates by 32% immediately after the change.

Before the switch, crimes generally peaked in the last week of the benefit cycle, particularly among older women. The report estimates that because half of all families receiving SNAP exhaust their benefits in two weeks, the distribution timing change likely made them feel less financially desperate by the end of the month. Packham and Carr say that the statewide policy decreased grocery store thefts in Chicago by over 500 cases per year. Currently, seven states — Alaska, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont — have one SNAP distribution date monthly.

In the US, approximately 45.4 million people participate in SNAP. Formerly known as the Food Stamp Program, SNAP gives grocery allowances to Americans who live at or below 130% of the federal poverty line. According to the most recent data available, the average SNAP household receives \$256 monthly, with 76% of benefits going to homes with children. According to demographic data, the largest percentage of SNAP recipients are white (39.8%), followed by African-American (25.5%). The goal of the program is to alleviate food insecurity across the country.

Providing SNAP benefits later in the month could help participants moderate consumption and avoid financial desperation at the end of each month, the researchers write.

EXHIBIT E

Current Draft of HB 1104

DRAFT

HB 1104

1. Reduction of Dredge and Fill Permit Timelines. Amend RSA 482-A:3, XIV to read as follows:

XIV. (a) In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(1) Within [~~14~~] **10** days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, at the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee to whom all correspondence shall be directed by the designated department employee regarding incompleteness of the application. Each receipt of additional information in response to any notice shall re-commence the [~~14-day~~] **10-day** period until the department issues a notice of administrative completeness. Any notice of incompleteness sent under this subparagraph shall specify that the applicant or authorized agent shall submit such information as soon as practicable and shall notify the applicant or authorized agent that if the requested information is not received within 60 days of the notice, the department shall deny the application.

(2) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable. Any request for additional information under this subparagraph shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 60 days of the request, the department shall deny the application. The department [~~may~~] **shall** grant an extension of this 60-day time period upon request of the applicant.

(3) Where the department requests additional information pursuant to subparagraph (a)(2), within 30 days of the department's receipt of a complete response to the department's information request:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial; or

(C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or

(D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant; or

(4) Where no request for additional information is made pursuant to subparagraph (a)(2), within 75 days from the issuance of the notice of administrative completeness for proposed projects under one acre of jurisdictional impact, or 105 days for all others:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial; or

(C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or

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(D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(5) Where the department has held a public hearing on an application filed under this chapter, within 60 days following the closure of the hearing record, approve the application in whole or in part, and issue a permit or deny the application and issue written findings in support of the denial.

(b)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (a)(3), (a)(4), and (a)(5), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter, RSA 485-A relating to water quality, and federal requirements.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (b)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter, and RSA 485-A relating to water quality, and federal requirements.

(c) If extraordinary circumstances prevent the department from conducting its normal function, time frames prescribed by this paragraph shall be suspended until such condition has ended, as determined by the commissioner.

(d) The time limits prescribed by this paragraph shall not apply to an application filed after the applicant has already undertaken some or all of the work covered by the application, or where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.

(e) Any request for a significant amendment to a pending application or an existing permit which changes the footprint of the permitted fill or dredge area shall be deemed a new application subject to the provisions of RSA 482-A:3, I and the time limits prescribed by this paragraph. "Significant amendment" means an amendment which changes the proposed or previously approved acreage of the permitted fill or dredge area by 20 percent or more, relocates the proposed footprint of the permitted fill or dredge area, includes a prime wetland or surface waters of the state, includes a wetland of a different classification as classified by the department, or includes non-wetland areas requiring permits for filling and dredging. This meaning of "significant amendment" shall not apply to an application amendment that is in response to a request from the department.

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(f) The department may extend the time for rendering a decision under subparagraphs (a)(3)(D) and (a)(4)(D), without the applicant's agreement, on an application from an applicant who, ***within the 5 years preceding the application***, [previously] has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 482-A:13, RSA 482-A:14, or RSA 482-A:14-b. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, but shall not exceed [30] **20** days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

2. Reduction of Dredge and Fill Retroactive Enforcement Period. Amend RSA 482-A:14-c to read as follows:

482-A:14-c Limitation on Enforcement Action. No person who acquires property, by any means, more than [5] 2 years after an activity constituting a violation of this chapter has been completed, shall be subject to an enforcement action under this chapter for such violation, provided such person allows restoration of impacted areas, unless the person knew of the existence of the violation at the time that the person acquired the property. Nothing in this section shall limit any enforcement action for violation of this chapter, including injunctive relief requiring restoration of impacted areas, against the person who committed the violation. Nothing in this section shall limit any enforcement action with respect to any violation of this chapter, including injunctive relief requiring restoration of impacted areas, for which written notice of the violation has been provided to the owner by the department prior to January 1, 2013. In addition to any common law remedy, any person who suffers damages as a result of a violation of this chapter committed by another may seek compensation from the person who committed the violation, including diminution in property value and reasonable attorney's fees.

3. Certified Application Preparer Program for Certain Wetlands Applications. Amend RSA 482-A:3 by inserting the following new paragraph:

XX. (a) The department shall develop a voluntary certified application preparer program for submission of applications for qualifying projects having minimal impacts to areas under the

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department's jurisdiction. The commissioner shall adopt rules to establish the qualifications to become a certified application preparer and to identify the projects that qualify for the expedited process established under (b). The qualifications established shall include that the individual is licensed or certified by the New Hampshire Office of Professional Licensure and Certification as a Certified Wetland Scientist, Certified Soil Scientist, Professional Engineer, or Licensed Land Surveyor, and shall include training and continuing education requirements.

(b) Applications for qualifying minimum impact projects submitted by a certified application preparer shall not require technical review by the department and the department shall issue a permit within 10 days of receipt of a complete application.

(c) The department may revoke a certificate for good cause after notification to the certificate holder and opportunity for an adjudicative proceeding under RSA 541-A:31 and rules adopted by the department.

(d) The certification shall be valid for one year from the date of issuance and may be renewed every year. The initial fee for certification shall be \$200 and the fee for renewal shall be \$50. The department shall not issue a certification or a renewal certification if the required fee is not paid. All fees shall be deposited into the wetlands and shoreland review fund established in RSA 482-A:3, III.

4. Time limit for recommendation on grant of right petitions. Amend RSA 482-A:22 to read as follows:

482-A:22 Grant of Right. – The governor and council, upon petition and upon the recommendation of the department, may, for just consideration, grant to an owner of a shoreline on public waters the right to excavate, remove, or dredge any bank, flat, marsh, swamp or lake bed before the owner's shoreline. Every petition to excavate or dredge said areas shall be filed with the department. The department, after 30 days' notice to abutters **and within 60 days of receipt of a petition**, the local governing body of the municipality in which the property is situate, and the department of health and human services shall hold a public hearing. Notice of the hearing shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipality. The notice shall also be posted in 2 public places in the municipality. Upon appropriate investigation **and within 30 days of a public hearing**, the department shall make its recommendations to the governor and council with regard to such petition. If the department recommends that the petition be granted, in whole or in part, such recommendation shall include appropriate specifications and conditions necessary to the protection of public rights and to the protection of the rights and privileges of persons owning land in the vicinity of the area to be excavated or dredged by the petitioner.

5. Reduction of Alteration of Terrain Permit Timelines. Amend RSA 485-A:17 to read as follows:

485-A:17 Terrain Alteration.

I. Any person proposing to dredge, excavate, place fill, mine, transport forest products or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff, shall be directly responsible to submit to the

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department detailed plans concerning such proposal and any additional relevant information requested by the department, at least 30 days prior to undertaking any such activity. The operations shall not be undertaken unless and until the applicant receives a permit from the department. The department shall have full authority to establish the terms and conditions under which any permit issued may be exercised, giving due consideration to the circumstances involved and the purposes of this chapter, and to adopt such rules as are reasonably related to the efficient administration of this section, and the purposes of this chapter. Nothing contained in this paragraph shall be construed to modify or limit the duties and authority conferred upon the department under RSA 482 and RSA 482-A.

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be \$1,250. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be \$1,250. An additional fee of \$500 shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the terrain alteration fund established in paragraph II-a.

II-a. There is hereby established the terrain alteration fund into which the fees collected under paragraph II shall be deposited. The fund shall be a separate, nonlapsing fund, continually appropriated to the department for the purpose of paying all costs and salaries associated with the terrain alteration program.

II-b. In processing an application for permits under RSA 485-A:17:

(a) Within ~~[50]~~ **30** days of receipt of the application, the department shall request any additional information required to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if all of the requested information is not received within 120 days of the request, the department shall deny the application.

(b) If the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

- (1) Approve the application in whole or in part and issue a permit; or
- (2) Deny the application and issue written findings in support of the denial; or
- (3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(c) If no request for additional information is made pursuant to subparagraph (b), the department shall, within ~~[50]~~ **30** days of receipt of the application:

- (1) Approve the application, in whole or in part and issue a permit; or
- (2) Deny the application, and issue written findings in support of the denial; or
- (3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(d)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications

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from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (d)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(e) The time limits under this paragraph shall not apply to an application from an applicant that has [~~previously~~] been found in violation of this chapter pursuant to RSA 485-A:22-a ***within the 5 years preceding the application*** or an application that does not otherwise ***substantially*** comply with the department's rules relative to the permit application process.

(f) The department may extend the time for rendering a decision under subparagraphs (b)(3) and (c)(3), without the applicant's agreement, on an application from an applicant who, ***within the 5 years preceding the application***, [~~previously~~] has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this section or any rule adopted or permit or approval issued under this section, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this section, pursuant to an action initiated under RSA 485-A:22. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

II-c. Beginning October 1, 2007 and each fiscal quarter thereafter, the department shall submit a quarterly report to the house and senate finance committees, the house resources, recreation, and

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economic development committee, and the senate energy, environment, and economic development committee relative to administration of the terrain alteration review program.

II-d. All permits issued, except for projects covered by paragraph II-e, pursuant to this section shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant an extension of up to 5 additional years, provided the applicant demonstrates all of the following:

(a) The permit for which extension is sought has not expired prior to the date on which a written extension request from the permittee is received by the department.

(b) The permit for which extension is sought has not been revoked or suspended without reinstatement.

(c) Extension would not violate a condition of statute or rule.

(d) Surface water quality will continue to be protected as under the original permit.

(e) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.

(f) If applicable, any inspection reports have been completed and submitted as required by the permit.

(g) The permit has not previously been extended, unless the subdivision plat or site plan associated with the permit has been deemed substantially complete by the governing municipal planning board in accordance with RSA 674:39, II, in which case subsequent extensions of the permit are allowed.

II-e. A permit issued under this section that is associated with the ongoing excavation or mining of materials from the earth shall not expire for the life of the project identified in the permit application, provided that the permit holder submits a written update of the project's status every 5 years from the date of the permit issuance using a form obtained from the department as specified in department rules.

III. Normal agricultural operations shall be exempt from the provisions of this section. The department may exempt other state agencies from the permit and fee provisions of this section provided that each such agency has incorporated appropriate protective practices in its projects which are substantially equivalent to the requirements established by the department under this chapter.

IV. Timber harvesting operations shall be exempt from the fee provisions of this section. Timber harvesting operations shall be considered in compliance with this section and shall be issued a permit by rule provided such operations are in accordance with procedures prescribed in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the department of natural and cultural resources, and provided that the department of revenue administration's intent to cut form is signed.

V. Trail construction operations for the purposes of modifying existing biking and walking trails shall be exempt from the provisions of this section. Such operations shall be considered in compliance with this section and shall be issued a general permit by rule provided such operations are implemented by a non-profit organization, municipality, or government entity, are limited to a disturbed area no more than 12 feet in width, and are in accordance with procedures prescribed in the Best Management Practices for Erosion Control During Trail Maintenance and Construction, published by the department of natural and cultural resources, bureau of trails in 2004.

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6. Reduction of time limits for agency action on applications, petitions and requests. Amend RSA 541-A:29 to read as follows:

Agency Action on Applications, Petitions and Requests. – In processing an application, petition or request, in any matter other than rulemaking or a declaratory ruling, in which a response is specifically addressed to the applicant, petitioner or requester, the agency shall:

I. Within ~~[60]~~ 30 days of receipt, examine the application, petition or request, notify the applicant of any apparent errors or omissions, request any additional information that the agency is permitted by law to require, and notify the applicant of the name, official title, address, and telephone number of an agency official or employee who may be contacted regarding the application.

II. Within a reasonable time, not to exceed ~~[120]~~ 60 days, after receipt of the application, petition or request, or of the response to a timely request made by the agency pursuant to paragraph I, the agency shall:

(a) Approve or deny the application, in whole or in part, on the basis of nonadjudicative processes, if disposition of the application by the use of these processes is not precluded by any provision of law; or

(b) Commence an adjudicative proceeding in accordance with this chapter.

III. If the time limits prescribed by this section conflict with specific time limits provided for by other provisions of law, the specific time limits provided for by such other provisions shall control.

IV. An agency may extend the time periods for review provided for in this section or in any other provision of law upon written agreement of the applicant.

7. New Section; Failure of agency to act. Amend RSA 541-A by inserting after Section 541-A:29 the following new section:

541-A:29-a. Failure of agency to act.

I. In cases where an agency fails to take any required action on an application, petition or request within the time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition or request shall be deemed approved and any permit, approval or other item requested shall be deemed granted to or received by the applicant, petitioner or requestor.

II. If a permit, approval, or other item has been granted under Section I, the applicant may request written confirmation of such grant from an agency. An agency shall provide an applicant written confirmation of such an approval within 14 days of the applicant's request.

III. A permit, approval, or other item shall not be granted by default if an applicant has agreed in writing to extend an agency's time for review pursuant to RSA 541-A:29, IV or any other provision of law.

8. New Section; Voluntary Corporations and Associations; Online filing. Amend RSA 292 by inserting after Section 292:5-a the following new section:

292:5-b Online filing. No later than January 1, 2020, the secretary of state shall provide for and allow the online filing of all forms, certificates or other documents required under this chapter.

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9. Online filing of business corporation forms. Amend RSA 293-A by inserting after Section 1.21 the following new section:

293-A:1.21-a Online filing. No later than January 1, 2020, the secretary of state shall provide for and allow the online filing of all forms, certificates or other documents required under this subdivision.

10. New Section; Uniform Partnership Act; Online filing. Amend RSA 304-A by inserting after Section 51 the following new section:

304-A:51-a Online filing. No later than January 1, 2020, the secretary of state shall provide for and allow the online filing of all forms, certificates or other documents required under this chapter.

11. New Section; Uniform Limited Partnership Act; Online filing. Amend RSA 304-B by inserting after Section 8 the following new section:

304-B:8-a Online filing. No later than January 1, 2020, the secretary of state shall provide for and allow the online filing of all forms, certificates or other documents required under this chapter.

12. New Section; Limited Liability Companies; Online filing. Amend RSA 304-C by inserting after Section 28 the following new section:

304-C:28-a Online filing. No later than January 1, 2020, the secretary of state shall provide for and allow the online filing of all forms, certificates or other documents required under this chapter.

13. Applications; Compliance With State and Local Codes Required. Amend RSA 170-E:28, II as follows:

170 –E:28 Applications; Compliance With State and Local Codes Required.

II. ~~Either~~ [t]The state fire marshal ~~[or the local fire department]~~ shall review compliance of the foster family home with applicable state fire safety laws and local ordinances. In conducting the review, the state fire marshal ~~[or local fire department]~~ shall apply the appropriate single family or multi-unit dwelling provisions of the applicable code. ***The local fire department shall assist the state fire marshal with review of applicable state fire safety laws or local ordinances if the state fire marshal so requests.***

14. State Building Code; Conflict with State Fire Code Prohibited. Amend RSA 155-A:2, I and V to read as follows:

155-A:2 State Building Code.

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II. *The state building code shall not conflict with the state fire code.* To the extent that there is any conflict between the state building code and the state fire code, the code creating the greater degree of life safety shall take precedence, subject to the review provisions contained in RSA 155-A:10. If the municipal building and fire code officials cannot agree which code creates the greater degree of life safety, the property owner may notify the 2 officials in writing that if agreement is not reached within 2 business days of delivery of said notification, that the decision shall be made by the property owner to comply with either the applicable building code or fire code. Such decision by the property owner after proper notification shall not be grounds for the denial of a certificate of occupancy.

V. Counties, towns, cities, and village districts may adopt by ordinance pursuant to RSA 674:51 or RSA 47:22 any additional regulations provided that such regulations are not less stringent than the requirements of the state building code and the state fire code. *Counties, towns, cities and village districts may not adopt additional regulations that result in conflicts between their local fire code and local building code.*

15. Licensure Reciprocity; Amend RSA 332-G:12 to read as follows:

332-G:12 Reciprocity [Information].

~~[I. All boards or commissions, including the board of hearing care providers established in RSA 137-F:3, shall post information on their website relative to reciprocal licensure or certification for persons holding a current and valid license or certification for the practice of the regulated profession in another state. Such information shall include a list of the states which the board or commission has determined to have license or certification requirements equal to, or greater than, the requirements of this state. The posting shall also list states with which the board or commission has:~~

- ~~(a) Entered into a reciprocity agreement;~~
- ~~(b) Entered into a multistate compact; or~~
- ~~(c) Established criteria for licensure by endorsement.~~

~~II. In addition, the posted reciprocity information shall clearly identify and describe the terms, conditions, or criteria under which a licensee or certificate holder from a listed state may obtain a license or certification in this state. Such terms, conditions, and criteria, may include, but shall not be limited to, the successful completion of an examination addressing the laws of the state of New Hampshire and the payment of a fee.]~~

I. Notwithstanding any contrary provision of law or board or commission rule, and subject to the provisions of this section, beginning January 1, 2019 a person who is licensed or certified to practice an occupation or profession in another state and who is in good standing without disciplinary action pending, where such occupation or profession is regulated in this state by a board or commission, shall be deemed licensed or certified to practice such occupation or profession in this state. A board or commission may not establish additional or inconsistent conditions or requirements for reciprocal licensure or certification, provided that a board or commission may require submission of an application with such information as the board or commission deems appropriate and the payment of an application fee.

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II. A person licensed or certified to practice an occupation or profession under Paragraph I of this section shall submit any required application and written proof of their licensure or certification in good standing and without disciplinary action pending in another state to the relevant board or commission in this state no later than 30 days after beginning to practice such occupation or profession in this state. Within 30 days of submission of such application and written proof, the board or commission shall issue to the applicant a license or certificate to practice in this state, provided that an applicant need not wait to receive such a license or certificate before beginning to practice the relevant occupation or profession in this state.

III. The provisions of paragraph I and II shall not apply where a board or commission has determined, after a 30-day notice period and a public hearing, that a substantial difference exists in the licensure requirements of the other state of licensure or certification versus this state and that such difference would very likely result in a significant impairment in the public health of this state were the occupational or professional license or certification to be recognized by this state. Such a determination by a board or commission shall not impact reciprocal licensure or certification granted prior to the determination.

IV. A board or commission may, after a 30-day notice period and public hearing, reverse a determination made under paragraph III and reinstate reciprocal licensure or certification for a given state and occupation or profession.

V. Once a person has received an initial licensure or certification pursuant to this section, that person shall comply with all other provisions of law or board or commission rules applicable to the practice of that person's occupation or profession.

VI. To the extent that there are conflicts between the provisions of this section and any other provisions of law or board or commission rules, the provisions of this section shall control.

VII. Each board or commission shall revise its rules as necessary to ensure compliance with the provisions of this section.

16. Licensure Reciprocity Information; Amend RSA 332-G to insert after Section 12 the following new section:

I. All boards or commissions, including the board of hearing care providers established in RSA 137-F:3, shall post information on their website relative to reciprocal licensure or certification for persons holding a current and valid license or certification for the practice of the regulated profession in another state. Such information shall include a list of the states *for* which the board or commission has determined ~~[to have license or certification requirements equal to, or greater than, the requirements of this state]~~ *pursuant to RSA 332-G:12, III that reciprocal licensure will not be granted.* ~~[The posting shall also list states with which the board or commission has:~~

- ~~(a) Entered into a reciprocity agreement;~~
- ~~(b) Entered into a multistate compact; or~~
- ~~(c) Established criteria for licensure by endorsement.~~

~~H. In addition, the posted reciprocity information shall clearly identify and describe the terms, conditions, or criteria under which a licensee or certificate holder from a listed state may obtain a~~

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~~license or certification in this state. Such terms, conditions, and criteria, may include, but shall not be limited to, the successful completion of an examination addressing the laws of the state of New Hampshire and the payment of a fee.]~~