



OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES
STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Rulemaking Notice Form

Notice Number: 2026-173

Rule Number: Agr 3800

1. **Agency:** Department of Agriculture, Markets, and Food

Agency Address: Department of Agriculture, Markets, and Food
Office of the Commissioner
One Granite Place, Ste 211
Concord, NH 03301

2. **RSA Authority:** RSA 430:55
3. **Federal Authority:**
4. **Action(s):** Adoption, Readopt w/Amendment
5. **Short Title:** Invasive Species
6. **(a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:**

The Department of Agriculture, Markets, and Food proposes to readopt with amendments, the Invasive Species Rules which were last adopted on January 9, 2017 and are set to expire January 9, 2027. The rule establishes New Hampshire's framework for defining, identifying, and regulating invasive plant, insect, and fungal species, including prohibitions on collecting, transporting, importing, exporting, moving, buying, selling, distributing, propagating, or transplanting listed invasive species; outlining exemptions and scientific variance procedures; requiring proper disposal and recordkeeping; and enforcing compliance through a structured fine schedule that increases in amount with each subsequent offense. The proposed amendments add a new "NH restricted invasive species" section, not to expand regulatory prohibitions but to ensure that listed restricted species may be treated as invasive for pesticide management purposes; the amendments also increases administrative fines, making the penalty structure more comprehensive and graduated.

Agr 3800 is set to expire 1-9-27 and is subject to extension pursuant to RSA 541-A:14-a through the rulemaking process.

_ Does this rule implement a state statute for the first time? No

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

The groups affected include plant dealers and nurseries engaged in the sale of plants; those involved in movement of earthen fill materials; state, federal, municipal, and non-governmental organizations doing work to manage restricted invasive species; and the general public.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State or Federal Statute or Regulations which the Rule Implements
Agr 3801.01-Agr 3801.02	RSA 430:51; RSA 430:52
Agr 3802.01	RSA 430:53, III
Agr 3802.02	RSA 430:51; RSA 430:55
Agr 3802.03	RSA 430:51; RSA 430:55; RSA 541-A:22, IV
Agr 3802.04	RSA 430:51; RSA 430:55
Agr 3802.05	RSA 430:51
Agr 3802.06	RSA 430:55; RSA 430:57
Agr 3803.01	RSA 430:53, IV

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

Name: Doug Cygan	Title: Upland Invasive Species Coordinator
Address: Department of Agriculture, Markets, and Food Division of Plant Industry 29 Hazen Drive Concord, NH 03301	Phone Number: (603) 271-3488
	FAX Number:
	Email: douglas.w.cygan@agr.nh.gov

8. **Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified:**

Thursday, October 15, 2026

☐ Fax
☒ Email douglas.w.cygan@agr.nh.gov
☐ Other

9. **Public hearing scheduled for:**

Date: Wednesday, October 7, 2026

Time: 10:00 AM

Place: Department of Agriculture, Markets, and Food
One Granite Place, Room 202
Concord, NH 03301

Electronic Access, if applicable: N/A

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

FIS #: 26:160, dated: Wednesday, August 26, 2026

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

The proposed rules may increase State General Fund revenue by approximately \$4,800 to \$7,200 annually, due to increases in administrative fines for violations involving prohibited invasive species. The rules may also increase costs to certain State citizens and independently owned businesses that violate the rules. There is no anticipated fiscal impact on political subdivisions.

2. Cite the Federal mandate. Identify the impact on state funds:

No Federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

When compared to the existing rules, the proposed rules establish a restricted invasive species list, Class A and Class B prohibited invasive plant species and increase the administrative fines for violations. The existing rules provide administrative fines of \$100 for a first violation, \$200 for a second violation, \$300 for a third violation, and \$400 for fourth and subsequent violations. The proposed rules retain these base fine amounts but add an additional fine for each prohibited invasive plant involved in a violation.

For Class A violations, the proposed rules add \$20 to \$50 per prohibited invasive plant, depending on the number of prior violations, with maximum fines of \$2,000 for a first violation, \$4,000 for a second violation, and \$6,000 for a third violation. For Class B violations, the proposed rules add \$10 to \$40 per prohibited invasive plant, with maximum fines of \$200 for a first violation, \$400 for a second violation, and \$600 for a third violation.

Based on past violation history and the increased penalties under the proposed rules, the Department estimates an annual increase in fines of approximately \$4,000 to

\$6,000 for Class A violations and \$800 to \$1,200 for Class B violations, for a total estimated annual increase of \$4,800 to \$7,200.

A. To State general or State special funds:

The increased administrative fines are estimated to increase State General Fund revenue by approximately \$4,800 to \$7,200 annually.

B. To State citizens and political subdivisions:

Certain State citizens who violate the rules may experience increased costs as a result of the revised administrative fines. The Department reports there have been no invasive species rule violations involving political subdivisions and does not anticipate the proposed rules will have a fiscal impact on political subdivisions.

C. To independently owned businesses:

Certain independently owned businesses may experience increased costs as a result of the revised administrative fines. Class B violations generally involve plant dealers and nursery facilities. The fiscal impact on individual businesses will depend on the number and type of violations and is indeterminable.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the NH Constitution. The rules neither mandate nor assign any responsibility or cost to any political subdivision.