



STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA ME 04333-0041

CHANDLER E. WOODCOCK
COMMISSIONER

Memorandum

Date: June 24, 2020

To: Don Wismer, Administrative Rules Coordinator
Department of the Secretary of State – Bureau of Corporations,
Elections and Commissions

From: Becky Orff, Secretary Specialist
Department of Inland Fisheries & Wildlife

Re: Annual Regulatory Agenda

Enclosed please find the Department of Inland Fisheries and Wildlife Annual Regulatory Agenda for the period October 1, 2020 – September 31, 2021.

If you have any questions, please feel free to contact me at 287-5202.

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE (09-137)

AGENDA OF PROPOSED REGULATIONS

OCTOBER 1, 2020 – SEPTEMBER 31, 2021

AGENCY UMBRELLA-UNIT NUMBER: 09-137

AGENCY NAME: DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

AGENCY CONTACT: Becky Orff, Department of Inland Fisheries & Wildlife, Commissioner's Office, #41 State House Station, 284 State Street, Augusta, ME 04333-0041; telephone: 287-5202.

EMERGENCY RULES: As necessary.

INTENT: It is the intent of the Department of Inland Fisheries and Wildlife to adopt and amend reasonable regulations as necessary to ensure that all species of inland fish and wildlife are perpetuated to be used now and for the foreseeable future; and also to repeal regulations that are deemed no longer necessary for the protection, enhancement and continued use of these resources.

STATUTORY AUTHORITY: 12 MRSA, Section 10104, subsection 1 states: "The Commissioner may, with the advice and consent of the Advisory Council and in conformity with the Administrative Procedures Act, Title 5, Part 18, and except as otherwise provided, adopt, amend and repeal reasonable regulations, including emergency regulations, necessary for the proper administration, implementation, enforcement and interpretation of any provision of the law that the commissioner is charged with the duty of administering. These rules duly adopted have the full force and effect of law and are effective upon filing with the Secretary of State, unless a later date is required by statute or specified in the rule." The provisions of the law that the Commissioner is charged with the duty of administering are Part 13 of Title 12 MRSA Chapters 901 to 939.

PURPOSE OF THE REGULATIONS: The purpose of any proposed regulation regarding fish and wildlife is to provide for the fullest level of use of the resource without adversely affecting species distribution and abundance. In order to have an organized and systematic way of accomplishing this goal, Species Management Plans were developed, and updated at five-year intervals, for all major fish and wildlife species or species groups. All proposed regulation changes will be based on the adopted goals and objectives for a particular species or species group. Species management goals and objectives are developed with input from representatives of the public from various geographic areas of the state, biological staff and members of Warden Service, and are presented to the Commissioner and his Advisory Council for adoption. Regulations regarding recreational vehicle use are adopted to provide for the use, to the fullest extent possible, of such vehicles (watercraft, airmobiles, snowmobiles and all-terrain

vehicles), without adversely affecting the resource and the safety and welfare of persons and property; and administrative regulations are promulgated for the purpose of setting forth reasonable criteria for the proper licensing, registering and tagging, and training requirements specified by law for the safety and welfare of the resource and citizens of the State.

POTENTIALLY BENEFITED PARTIES:

- General public - residents and non-residents
- The hunting, fishing, and trapping public
- Sporting camp operators and others offering meals and lodging
- Sportsmen's organizations
- The boating and recreational vehicle owners and dealers
- Private property owners
- Commercial forest landowners

EMERGENCY RULES ADOPTED SINCE LAST AGENDA:

CHAPTER 14 – COMMERCIAL WHITEWATER RAFTING:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12909

PURPOSE: Due to the closure of McKay Station access point, training runs for whitewater guides seeking to obtain a Level One or Level Two license were not able to be completed. The emergency rule temporarily removed language requiring guide training runs from McKay station to a specific section river. New language temporarily allowed runs to start just below the gorge (Little Eddy) on the West Branch of the Penobscot River. EMERGENCY RULE 2020-141, June 18, 2020.

EXPECTED 2020-2021 RULE-MAKING ACTIVITY:

CHAPTER 1 -- OPEN WATER AND ICE FISHING REGULATIONS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12452

PURPOSE: To provide for season dates, daily bag and possession limits, size limits, etc. for open water and ice fishing.

ANTICIPATED SCHEDULE: Fishing regulations are promulgated and published on an annual basis January 1 – Dec. 31: Ice Fishing and Open Water: July (or as necessary).

CHAPTER 1-A – STATE HERITAGE FISH WATERS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12461

PURPOSE: To maintain a list of waters identified as eastern brook trout waters and arctic charr waters that have never been stocked or not stocked for at least 25 years according to any reliable records, and provide special protections to those waters in an effort to preserve those fish species.

ANTICIPATED SCHEDULE: In conjunction with Chapter 1 Ice Fishing and Open Water Regulations: July (or as necessary).

CHAPTER 2 -- RULES PERTAINING TO FISHING DERBIES AND TOURNAMENTS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12504, 12505

PURPOSE: Establish application procedures, restrictions, and requirements for fishing derbies and tournaments.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 2 -- RULES PERTAINING TO FISHERY MANAGEMENT AND FISH CULTURE:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12751, 12754

PURPOSE: Designate waters for use in fish culture and scientific research; establish rules for the taking of alewives, eels, suckers and yellow perch and regulations pertaining to commercially grown or imported fish.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 3 – PUBLIC INTERACTION AND CONFLICTS WITH WILDLIFE (FEEDING OF DEER)

STATUTORY AUTHORITY: 12 MRSA Section 10105, sub-§14

PURPOSE: To regulate the feeding of deer, bear, moose and wild turkey in order to minimize potential public safety hazards or detrimental effects on specific species as well as minimize the risk of chronic wasting disease.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 4 -- FALCONRY:

STATUTORY AUTHORITY: 12 MRS Section 11159.

PURPOSE: General provisions to practice falconry in Maine.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 5 -- REGULATIONS PERTAINING TO THE USE OF STATE OWNED WILDLIFE MANAGEMENT AREAS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12701

PURPOSE: Establish regulations regarding hunting, fishing, trapping or other public uses of any wildlife management area, sanctuary, or department owned or maintained sites provided public access to inland or coastal waters.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 5.03 – SHOOTING RANGES:

STATUTORY AUTHORITY: 12 MRS Section 10104, 12701

PURPOSE: Establishing rules for Department owned shooting ranges to set clear expectation of behavior for the public and provide a mechanism for law enforcement to deal with users that display disrespectful or potentially dangerous behavior at ranges.

ANTICIPATED SCHEDULE: As necessary

CHAPTER 5.04 – STATE-OWNED BOAT LAUNCH FACILITY SITES:

STATUTORY AUTHORITY: 12 MRS Section 10104, 12701

PURPOSE: To provide the Department and public clear guidance on how water access facilities can be utilized.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 6 – EDUCATIONAL AND SCIENTIFIC COLLECTION PERMIT RULES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12704

PURPOSE: To establish an application process for permitting the collection of fish and or wildlife for scientific purposes as well as reporting requirements, restrictions, etc.

ANTICIPATED SCHEDULE: As necessary

CHAPTER 7 -- RULES FOR IMPORTATION, POSSESSION, PROPAGATION, REHABILITATION AND EXHIBITION OF WILDLIFE:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12152.

PURPOSE: To ensure that all wildlife possessed under the following permits receive human treatment and property husbandry and security and to safeguard the interests of the wildlife and citizens of the State.

Wildlife Exhibit Regulations: Food and water requirements; health conditions, safety, comfort, sanitation, etc.

Propagator's permit: Possession, care and use .

Wildlife Rehabilitation: Food and shelter requirements, disposition of rehabilitated animals, inspections, etc.

Wildlife Importation: Permitting standards, criteria, application process.

General Possession: Wolf hybrids in captivity.

ANTICIPATED SCHEDULE: As necessary

CHAPTER 8 -- ENDANGERED SPECIES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12802

PURPOSE: Qualifications for consideration for listing species as endangered or threatened; review of listed species; designation of habitat as essential for those species designation criteria, protection guidelines, etc.

ANTICIPATED SCHEDULE: Every 8 years or as necessary. Last filing was with 127th Legislature (2015).

CHAPTER 9 -- GENERAL SNOWMOBILE AND ATV (ALL-TERRAIN VEHICLES) REGULATIONS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104

PURPOSE: Establish display requirements for registration numbers and stickers, and content of snowmobile registration.

ANTICIPATED SCHEDULE: As necessary

CHAPTER 10 -- SIGNIFICANT WILDLIFE HABITAT:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12804

PURPOSE: Definitions of significant wildlife habitat as described in Title 38

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 12 -- ALL-TERRAIN VEHICLE PLATES AND RENEWAL STICKERS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 13156

PURPOSE: Registration, safety, etc.; registration agents.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 13 -- WATERCRAFT RULES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 13051

PURPOSE: Establish, registration procedures; accident reporting requirements; safety equipment on motorboats and other watercraft; water-skiing restrictions and operation rules between watercraft on internal waters.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 13 -- WATERCRAFT RULES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 13068-A

PURPOSE: In accordance with PL 2020 Ch. 662, this law allows the Commissioner of DIFW to establish noise level limits for airboats by routine technical rules.

The law exempted airboats, which are defined as flat-bottomed watercraft propelled by an aircraft-type propeller and powered by either an aircraft engine or an automotive engine, from the noise level limits imposed on other watercraft.

ANTICIPATED SCHEDULE: Begin rulemaking August, 2020; adopt rules by Dec. 2020.

CHAPTER 13.08 -- WATERCRAFT RULES:

STATUTORY AUTHORITY: Horsepower limitations on various bodies of water are governed by 12 MRSA, Section 13051, subsection 5

PURPOSE: Establish horsepower limitations to insure the safety of persons and property (may be adopted only as a result of a petition from 25 citizens or the municipal officers of the towns/county commissioners of unorganized townships in which the waters are located).

ANTICIPATED SCHEDULE: Considered throughout the year as petitions are received-effective date to coincide with publication of the open water fishing regulations, if possible.

CHAPTER 14 -- COMMERCIAL WHITEWATER RAFTING:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12909, 12910, 12913

PURPOSE: Establish regulations for whitewater personnel requirements; safety equipment requirements; craft specifications; allocations and order of launch.

ANTICIPATED SCHEDULE: May or as necessary.

CHAPTER 15 – INTERSTATE WILDLIFE VIOLATIONS COMPACT:

STATUTORY AUTHORITY: 12 MRSA §10103(2).

PURPOSE: The commissioner is authorized to enter into an interstate wildlife violator compact to promote compliance with the laws, regulations and rules that relate to the management of wildlife resources in the respective member states and may adopt rules necessary to implement certain provisions of the compact. Pursuant to this rule, the commissioner exercises this statutory authority and enters into the Wildlife Violators Compact on behalf of the State of Maine with any and all states legally joining therein in accordance with its terms.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 16 – HUNTING

STATUTORY AUTHORITY: 12 MRSA §10104, VARIOUS.

PURPOSE: To ensure proper management of Maine's wildlife species through set season dates, bag limits and methods of harvest.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 16 – HUNTING

STATUTORY AUTHORITY: 12 MRSA §10104.

PURPOSE: The Department received a valid petition to request a rule change and initiate rulemaking. The petitioner is requesting a new chapter 16.17 – Predator Hunting Contests. The chapter will eliminate any predator hunting contests.

ANTICIPATED SCHEDULE: September 1, 2020.

CHAPTER 16.09 – BEAR HUNTING

STATUTORY AUTHORITY: 12 MRSA §10104.

PURPOSE: The Department received a valid petition requesting a rule change and initiate rulemaking. The petitioner requested rules be modified to eliminate the bear baiting season and establish a bear feeding season. The rule would create a bear feeding permit and set limits on the number of bear feeding permits issued annually.

ANTICIPATED SCHEDULE: The rule was initially advertised May 6, 2020 without a public hearing. A hearing was requested and rule was readvertised on June 17, 2020.

CHAPTER 17 – TRAPPING

STATUTORY AUTHORITY: 12 MRSA §10104,12251.

PURPOSE: To ensure proper management of Maine's wildlife species through set season dates, bag limits and methods of harvest.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 17.05 – STATEWIDE GENREAL TRAPPING SEASON

STATUTORY AUTHORITY: 12 MRSA §10104,12251.

PURPOSE: The Department received a valid petition requesting a rule change to initiate rulemaking. The petitioner is requesting to repeal the open season for coyote trapping.

ANTICIPATED SCHEDULE: September 1, 2020.

CHAPTER 18 -- STATE GAME FARM (MAINE WILDLIFE PARK):

STATUTORY AUTHORITY: 12 MRSA Sections 10104

PURPOSE: Establish restrictions on the use of the area designated as "state game farm", also known as "The Wildlife Park".

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 19 -- OPERATION OF MOTOR VEHICLES ON PUBLIC WATER SUPPLY:

STATUTORY AUTHORITY: 12 MRSA Section 10104 and 22 MRSA Section 2649

PURPOSE: Restrict motor vehicles on the ice on public water supplies.

ANTICIPATED SCHEDULE: As petitioned.

CHAPTER 20 – TAXIDERMY LICENSE:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12952

PURPOSE: Establish license classifications, eligibility, examinations and restrictions.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 21 – LICENSING AND REGISTRATION AGENTS:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 10801

PURPOSE: Appointment of agents, application form and issuance, selection and operation standards, reporting requirements, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 23 – YOUTH CAMP TRIP LEADER PERMITS AND JUNIOR MAINE GUIDE PROGRAM:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12860

PURPOSE: Application procedures, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 24 -- LICENSED GUIDES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104, 12851

PURPOSE: Establish prerequisites for applicants to be examined for guide's licenses; establish classifications; examination process, standards of competency, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 25 -- LEASHED TRACKING DOG PERMIT RULES:

STATUTORY AUTHORITY: 12 MRSA Sections 10104

PURPOSE: Eligibility, testing, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

CHAPTER 26 – COMMERCIAL WILDLIFE PERMIT FOR AMPHIBIANS OR NONMARINE INVERTIBRATES:

STATUTORY AUTHORITY: 12 MRSA Sections 12159 and 12161

PURPOSE: To regulate the commercial harvest of amphibians and nonmarine invertebrates. Persons interested in collecting these species from the wild for the purposes of export, sale or commercial purposes are required to obtain a permit from the Commissioner.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 27 – ANIMAL DAMAGE CONTROL AGENT CERTIFICATE:

STATUTORY AUTHORITY: 12 MRS Sections 10104, 10053

PURPOSE: Rules for certification and standards of operation for individuals that become permitted under the Commissioner to assist the Department for the control of coyotes and other nuisance wildlife that exceeds normal funding and staffing levels within the Department.

ANTICIPATED SCHEDULE: As necessary.

CHAPTER 25 (09-585) -- MAINE OUTDOOR HERITAGE FUND BOARD:

STATUTORY AUTHORITY: 12 MRSA Section 10301

PURPOSE: Schedule for grants; strategic plan, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

MISCELLANEOUS REGULATIONS: Other regulations necessary for the proper administration, implementation, enforcement and interpretation of 12 MRS, Chapters 901 to 939 - Throughout the year as necessary.