**09-137**

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

Agenda of Proposed Regulations

October 1, 2016 – September 31, 2017

August 8, 2016

AGENCY UMBRELLA-UNIT NUMBER: **09-137**

AGENCY NAME: **Department of Inland Fisheries and Wildlife**

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**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 §10104, subsection 1 states: “The Commissioner may, with the advice and consent of the Advisory Council and in conformity with the *Administrative Procedure 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 1**: Open Water and Ice Fishing Regulations (early open water fishing season)

ADOPTED RULE NUMBER: **2016-044** *(Emergency)*

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife, in accordance with Title 12, §12456, Subsection 2(E), has amended the Open Water and Ice Fishing Regulations to allow bodies of water that were closed to open water fishing until April 1, 2016 to become open to open water fishing effective March 17, 2016. The early open water fishing season does not apply to waters with special open water season opening dates starting after April 1, 2016. This rule does not close any body of water currently open to ice fishing or open any water to ice fishing that is currently closed to ice fishing.

All waters with S-10 (Remains open to open water fishing from October 1-November 30: (Closed to open water fishing from December 1-March 31) and “CO” (Closed to open water fishing from October 1-March 31) designations will also be open to fishing. All other S-codes, tackle restrictions, daily bag, possession and length limits still apply as listed. Please check the 2016 Open Water & Ice Fishing Regulations Booklet for individual bodies of water.

Based on earlier-than-normal open water availability the Commissioner has determined that an early opening of the open water fishing season will enhance fishing opportunities for anglers.

EFFECTIVE DATE: March 17, 2016

**EXPECTED 2016-2017 RULE-MAKING ACTIVITY**

**chapter 1**: Open Water and Ice Fishing Regulations

STATUTORY AUTHORITY: 12 MRSA §§ 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 2:** Rules Pertaining to Fishing Derbies and Tournaments

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 12504, 12505

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

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**Chapter 2**: Rules Pertaining to Fishery Management and Fish Culture

STATUTORY AUTHORITY: 12 MRSA §§ 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 §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**: General Hunting/Trapping Regulations: As needed throughout the year.

**chapter 4.01**: Furbearing Animals and Upland Game (Except Beaver)

statutory authority: 12 mrsa §10104

PURPOSE:To establish season dates, limits, methods, etc. - March - July if necessary**.**

**chapter 4.01**: Beaver Trapping

statutory authority: 12 mrsa §10104

PURPOSE: To establish season dates and open and closed areas - July.

**Chapter 4.02**: Migratory Birds

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 11855

PURPOSE: Regulations regarding migratory game birds are governed by the *United States Federal Migratory Bird Treaty Act*, Public Law, July 3, 1918, Chapter 128, as amended or by regulations promulgated by the Commissioner in conformity with the *Maine Administrative Procedure Act*, Title 5, Part 18, except §8052, subsection 3 of that Act (waives the requirement of a 10-day comment period after hearing). The Commissioner may adopt regulations which are more restrictive, but not less restrictive, than those set forth in the Federal Guidelines.

ANTICIPATED SCHEDULE: Season date guidelines from USFWS; rule-making to begin February.

**chapter 4.03**: Deer Hunting

statutory authority: 12 mrsa §§ 10104, 11401, 10105

PURPOSE: To establish season dates and open and closed areasSeason dates; Antlerless deer protection zones, etc.

ANTICIPATED SCHEDULE: May or as necessary.

**chapter 4.04**: Bear Hunting/Trapping Regulations

statutory authority: 12 mrsa §§ 10104, 11251, 12260

PURPOSE: To establish season dates, restrictions

ANTICIPATED SCHEDULE: As necessary

**chapter 4.05**: Moose Hunting

statutory authority: 12 mrsa §§ 10104, 11552

PURPOSE: To establish season dates, areas, restrictions, permit numbers, etc. ANTICIPATED SCHEDULE: March

**chapter 4.06**: Turkey Hunting

statutory authority: 12 mrsa §§ 10104, 11701

PURPOSE: To establish season dates, permit numbers, areas, restrictions, etc.

ANTICIPATED SCHEDULE: SPRING/FALL SEASONS: As necessary

**chapter 4.08**: Falconry Regulations

statutory authority: 12 mrsa §§ 10104, 11159

PURPOSE: To establish license requirements, classifications, facility and equipment standards, taking restrictions, marking restrictions, etc.

ANTICIPATED SCHEDULE: As necessary

**CHAPTER 4.10**: Snapping Turtles

STATUTORY AUTHORITY: 12 MRSA §12159

PURPOSE: Establish fees; season dates and daily/possession/size limits; reporting requirements; harvest methods, confinement and disposal.

ANTICIPATED SCHEDULE: As necessary

**chapter 4.11**: Registration and Tagging of Big Game and Furbearing Animals

statutory authority: 12 mrsa §§ 10104, 12301

PURPOSE: Establishment and operation standards for big game registration agents and fur tagging agents.

ANTICIPATED SCHEDULE: As necessary

**chapter 4.12**: Field Trials

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 12054, 12055

PURPOSE: Establish notification requirements for conducting raccoon dog field trials, restrictions and penalties.

ANTICIPATED SCHEDULE: Throughout the year as necessary

**chapter 5**: Regulations Pertaining to the Use of State Owned Wildlife Management Areas

STATUTORY AUTHORITY: 12 MRSA §§ 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:Throughout the year as necessary.

**CHAPTER 5.03**: Shooting Ranges

STATUTORY AUTHORITY: 12 MRS §§ 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: October

**chapter 6**: Scientific Collection of Fish and/or Wildlife

STATUTORY AUTHORITY: 12 MRSA §§ 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 Pertaining to Wild Animals in Captivity

STATUTORY AUTHORITY: 12 MRSA §§ 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: (Establish Technical Committee January-February).

**chapter 8**: Endangered/Threatened Species Regulations

STATUTORY AUTHORITY: 12 MRSA §§ 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 8**: Endangered/Threatened Species

STATUTORY AUTHORITY: 12 MRS §§ 10104, 12804, 12808-A

PURPOSE: Because of the addition of 3 bat species to the endangered and threatened species list, questions have arisen for ongoing activities that potentially harm bats but the impact was previously determined to be inconsequential. In 2016 the MESA was amended giving the Commissioner authority to conduct rule-making to formally exempt negligible levels of accidental take during common activities (i.e. tree harvesting, homeowner interactions, wind power) through a “Broad Activity Exemption.”

ANTICIPATED SCHEDULE: November-December

**chapter 9**: General Snowmobile Regulations

STATUTORY AUTHORITY: 12 MRSA §10104

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

ANTICIPATED SCHEDULE: As necessary

**chapter 10**: Significant Habitat Designations

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 12804

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

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 12**: All-Terrain Vehicles

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 13156

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

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 13**: Miscellaneous Watercraft Regulations

STATUTORY AUTHORITY: 12 MRSA §§ 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 13.08**: Watercraft Regulations

STATUTORY AUTHORITY: Horsepower limitations on various bodies of water are governed by 12 MRSA, §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 §§ 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 theWildlife Violators Compact on behalf of the State of Maine with any and all states legally joining therein in accordance with its terms.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 18**: State Game Farm (Maine Wildlife Park)

STATUTORY AUTHORITY: 12 MRSA §10104

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

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 19**: Operation of Motor Vehicles on Public Water Supply

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

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

ANTICIPATED SCHEDULE: As petitioned.

**chapter 20**: Taxidermy

STATUTORY AUTHORITY:12 MRSA §§ 10104, 12952

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

ANTICIPATED SCHEDULE: As necessary.

**chapter 21**: Hunting and Fishing License Agents

STATUTORY AUTHORITY: 12 MRSA §§ 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**: Camp Trip Leader Regulations

STATUTORY AUTHORITY: 12 MRSA §§ 10104, 12860

PURPOSE: Application procedures, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 24**: Guide License Regulations

STATUTORY AUTHORITY: 12 MRSA §§ 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 License Rules

STATUTORY AUTHORITY: 12 MRSA §§ 10104

PURPOSE: Eligibility, testing, etc.

ANTICIPATED SCHEDULE: Throughout the year as necessary.

**chapter 25 (09-585**): Maine Outdoor Heritage Fund Board

STATUTORY AUTHORITY: 12 MRSA §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 MRSA, Chapters 901 to 939 - None contemplated at this time - Throughout the year as necessary.