

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2018 to December 31, 2018**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12152  
**Chapter number/title:** Ch. 7, Rules for Importation, Possession, Propagation, Rehabilitation and Exhibition of Wildlife  
**Filing number:** 2018-003  
**Effective date:** 1/8/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule change is required in order to reflect statutory changes that were made to 12 MRS §12152 during the 1<sup>st</sup> session of the 127<sup>th</sup> Legislature (2017). Title 12 was modified to remove references to propagation permits for domesticated fowl and pheasants, so the corresponding sections of Ch. 7 need to be updated.

In addition to changes required by statute, the Department has been working with the captive wildlife technical committee over the past year to conduct a thorough review of various species and classify them as Category 1 Restricted Species (high-risk permitted species), Category 2 Restricted Species (medium-risk permitted species), Prohibited Species (cannot be possessed with minor exceptions for research purposes), or Unrestricted (listed outside of rule, can be bought in a pet store). These new recommendations need to be incorporated into Chapter 7 in order to take effect.

**Basis statement:**

This rule change is required to reflect statutory changes that were made to 12 MRS §12152 during the 1<sup>st</sup> session of the 127<sup>th</sup> Legislature (2017). Title 12 was modified to remove references to propagation permits for domesticated fowl and pheasants, so the corresponding sections of Ch. 7 have been updated. In addition to changes required by statute, the Department has been working with the captive wildlife technical committee over the past year to conduct a thorough review of various species and classify them as Category I Restricted Species (high-risk permitted species), Category 2 Restricted Species (medium-risk permitted species), Prohibited Species (cannot be possessed with minor exceptions for research purposes), or Unrestricted (listed outside of rule, can possess without a permit or purchase in a pet store).

The rule also clearly identifies species which can be possessed by research institutions, wildlife exhibitors, and members of the public that have a background in caring for captive wildlife. The changes also provide clearer direction for staff on the permitting of captive wildlife and allows the public to determine which requirements must be met in order to be eligible to obtain a permit for a particular species.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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*Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 11855  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.02, Migratory Birds  
**Filing number:** 2018-070  
**Effective date:** 5/5/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To implement the *Federal Migratory Bird Treaty Act* which establishes the general guidelines within which the States are permitted to regulate the hunting of migratory game birds. This rule will protect migratory game birds from over-harvest by setting these limitations. Adjustments to the migratory bird hunting seasons are based on a collaborative effort to collect and analyze data by the USFWS and state agencies.

**Basis statement:**

These rules are adopted for the purpose of implementing the *Federal Migratory Bird Treaty Act*, which establishes the general guidelines within which the States are permitted to regulate the hunting of migratory game birds. The policy behind the Federal Act and, therefore, behind these rules, is to protect the migratory game birds from over-harvest by hunters.

After receiving the framework from the United States Fish and Wildlife Service (USFWS), the Department's proposal contained three items of interest that differed from the previous year. The rule makes a change to the regular goose season going from a 70-day season to a 60-day season based on the status of the North American Population (NAP) of Canada geese. The NAP are those that breed north of the 49<sup>th</sup> parallel and not considered part of the resident goose population. Breeding pair counts were below what would be allowed for a 70-day season. The last time we had a 60-day season was 2013. The daily bag limit for the regular goose season was reduced from 3 to 2 and a reduced possession limit from 9 to 6. Also of note, the USFWS service is now allowing states with no hunting on Sundays to be allowed compensatory days for woodcock hunting. This means states do not have to count Sundays as part of the 45 days allowed for the woodcock hunting season. This will extend the end date by a week compared to previous years. Based on woodcock telemetry studies, the majority of woodcock breeding in Maine have migrated by mid-November and the additional week in November is not expected to increase harvest significantly.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 11551, 11552  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.05, Moose Hunting Season  
**Filing number:** 2018-088  
**Effective date:** 5/29/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Moose permit areas are adjusted on an annual basis in response to moose population estimates and population goals in each Wildlife Management District (WMD). Department biologists use moose harvest levels, aerial surveys, and biological data to evaluate the status of moose within each WMD. This information is compared to publicly derived goals outlined in the moose management system to determine whether the population in an individual WMD should be stabilized, increased, or decreased. Moose permit recommendations are based on removal rates of bull and cow moose that will achieve the population goal for a particular WMD, while also maintaining desired numbers of mature bulls for viewing by the general public.

**Basis statement:**

This rule is being adopted to establish the number of moose hunting permits to be issued for each Wildlife Management District (WMD) for the 2018 season. The Department advertised a proposal on March 21, 2018 with a recommended total of 2,500 permits be issued in order to meet moose harvest objectives. This is an increase of 420 permits from 2017. Permits may be valid for either antlered moose, antlerless moose, or a moose of either sex, depending on the WMD and specific season in which the permit authorizes hunting. New for the 2018 moose season the Department will also open WMDs 10, 18, 27 and 28 to the September season. The number of bull only permits will be split evenly between the September and October season in those WMDs. In those districts in particular, there is not as much access for hunting and this was believed to be a good way to accommodate additional hunter satisfaction and ability to access land. The Department will also allow those selected in WMDs 27 or 28 to hunt in either WMD during the designated open season. The increase in permit allocation was largely due to good survivorship from the winter and anticipated good survivorship over the next year. Low tick loads coming into the season on moose both during the October hunting season as well as during the capture crews review had been reported. Staff felt these were appropriate changes.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 11152, 11251, 11401, 11701  
**Chapter number/title:** Ch. 4, Hunting and Trapping;  
4.03, Deer Hunting Seasons;  
4.04, Bear Hunting/Trapping Season;  
4.06, Wild Turkey  
**Filing number:** 2018-178  
**Effective date:** 9/2/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To establish antlerless deer permit allocations for each of the 29 Wildlife Management Districts (WMDs) for the 2018 deer hunting season. Any-deer permits (ADPs) are adjusted by MDIFW on an annual basis in response to deer population estimates and population goals in each WMD. The winter of 2017-18 was mild to moderate in central and southern Maine and severe in northern Maine. This resulted in increased permit numbers in southern WMDs and continued moderate to no permits being issued in northern WMDs. Also, a language clarification for youth hunting days will address adult supervisors carrying handguns while accompanying youth on those days.

**Basis statement:**

The Department allocates any-deer permits by Wildlife Management Districts (WMDs) to limit the number of antlerless deer taken by hunters in each WMD. Allocations vary across the state, reflecting the different quality of deer habitat and potential to support and grow deer populations in each WMD.

Any-deer permits (ADPs) are adjusted by MDIFW on an annual basis in response to deer population estimates and population goals in each WMD. The winter of 2017-18 was mild to moderate in central and southern Maine and severe in northern Maine. This resulted in increased permit numbers in southern WMDs and continued moderate to no permits being issued in northern WMDs. A total of 84,745 permits will be issued to meet our harvest objective of 8,909 does. This is an increase in permits of 28% from 2017 (66,050 permits). The rule also addresses an issue that was discussed during the 1281h Legislative session (Public Law 2018 ch. 357) and the ability for adult supervisors to carry a handgun while accompanying youth hunters on any of the youth hunting days as outlined in 25 MRS §2001-A. Language was modified in the rules for youth hunting days for deer, bear and spring turkey season to clarify that the adult supervisor may carry a handgun, but not for the purpose of hunting while accompanying youth hunters.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12260  
**Chapter number/title:** Ch. 4, Hunting and Trapping;  
4.04, Bear Hunting/Trapping Season;  
(B), Bear Trapping  
**Filing number:** 2018-179 (Emergency)  
**Effective date:** 8/29/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The purpose of this rule is to limit bear traps and bear trapping methods that may accidentally capture the federally threatened Canada Lynx. This rule is being promulgated to comply with Incidental Take Permit Number TE48539B-0 issued by the United States Fish and Wildlife Service on November 4, 2014 with an effective date of November 17, 2014 which requires the Department to take measures to limit the “lethal take” of Canada Lynx as described in the Department’s “2014 Final Incidental Take Plan for Maine’s Trapping Program” when take reaches the levels described in the Changed Circumstances Section of this plan.

**Basis statement:**

This emergency rule is being promulgated in order to implement regulatory measures to prevent further lynx fatalities as outlined in the Changed Circumstances Section of the Department’s “2014 Final Incidental Take Plan for Maine’s Trapping Program”. This plan was accepted by the USFWS and “Native Threatened Species Habitat Conservation Plan – T Wildlife” permit number TE48539B-0, also known as the Incidental Take Permit (ITP) was issued on November 4, 2014, with an effective date of November 17, 2014. In Changed Circumstance #3 Trigger 2 the Department stated it would immediately implement regulatory measures to prevent further lynx fatalities when two lynx are killed in legally set traps or cannot be released after treatment of severe injuries. Because this level has been reached, the Department is obligated to prohibit trapping methods and trap designs that could result in the lethal take of lynx. Department staff recently became aware of a bear trap design that is legal under current rules but poses a risk to lynx. Prohibiting this type of trap is essential to ensure no lynx are lethally taken during the upcoming bear trapping season, which begins on September 1<sup>st</sup>. It is necessary to adopt this rule as an emergency in order to comply with the permit and to reduce the risk of the imminent threat of the take of an endangered species – notification of these changes will be made to licensed trappers upon filing.

The purpose of this rule is to limit bear traps and bear trapping methods that may accidentally capture the federally threatened Canada Lynx. More specifically, the rule prohibits placing bait and/or lure below ground level or within the loop of the snare; and will prohibit cable traps that are designed to capture a bear when it reaches into the device to obtain bait or lure.

Traditional methods of bear trapping that use trail sets, cubby sets, or cage-type traps will continue to be allowed.

**Fiscal impact of rule:**

None anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 11855, 11551  
**Chapter number/title:** Ch. 4, Hunting and Trapping:  
4.02, Migratory Birds: H., Special Falconry Season;  
4.05, Moose Hunting Season: K.. Open and Closed Season  
**Filing number:** 2018-180  
**Effective date:** 9/3/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The rule will remove geese from the species allowed for hunting during the special falconry season and expand hunting opportunity for disabled veterans by increasing the number of permits issued for the special hunt from 25 to 30. The purpose of the controlled moose hunt is to reduce moose numbers in areas where they are causing damage to crops, particularly broccoli fields.

**Basis statement:**

The rule will remove geese from the species allowed for hunting during the special falconry season. To comply with Federal guidelines, geese must be removed from the species of migratory game birds open to hunting during the special falconry season. The number of days allowed by USFWS for hunting geese in 2018-19 is 107 days. Geese are not a species pursued by falconers and was an oversight when added in prior rulemaking.

In response to interest from Governor LePage to expand hunting opportunity for disabled veterans, the number of permits issued for the controlled moose hunt has been increased from 25 to 30. The purpose of the controlled moose hunt is to reduce moose numbers in areas where they are causing damage to crops, particularly broccoli fields. The Bureau of Veterans Services, working with IFW will select 30 disabled veterans to participate in the hunt. The current training program for selected hunters will remain in place. Permit holders will be hunting in specified areas in Aroostook Count to assist landowners with removing moose that are causing damage to crops.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §10104  
**Chapter number/title:** Ch. 1, Open Water and Ice Fishing Regulations (Striped Bass Length and Bag Limits)  
**Filing number:** 2018-200  
**Effective date:** 9/25/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The Commissioner of Inland Fisheries and Wildlife is authorized to set rules for open and closed waters for fishing, and length and bag limits for fish caught in inland waters (above head of tide). It has come to the Department's attention that appropriate rules need to be adopted regarding the striped bass fishery above head of tide. The Department is adopting a rule to mirror that of the Department of Marine Resources (DMR) which manages the striped bass fishery statewide below head of tide and reports to the Atlantic States Marine Fisheries Commission (ASMFC).

The Department will make a notation in the general law listing for striped bass length and bag limits of 1-fish, 28" minimum length.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12452, 12461  
**Chapter number/title:** Ch. 1, Open Water and Ice Fishing Regulations;  
Ch. 1-A, State Heritage Fish Waters  
**Filing number:** 2018-201, 202  
**Effective date:** 1/1/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These adoptions are designed to provide for the effective conservation of game fish throughout the state, and provide for a variety of fishing opportunities. They set specific season dates, bag limits, length limits, taking restrictions and other special regulations designed to accomplish fisheries management objectives.

**Basis statement:**

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2019 ice fishing and open water seasons. The State Heritage Fish Waters list has also been amended with the addition and removal of certain waters. These rules are necessary for the sound management and proper utilization of the State's inland fishery resource; this is, to provide for the fullest level of use of the resource without adversely affecting species distribution and abundance, thus ensuring that all benefits are retained.

Over the last two years the Department has gone through some substantial changes reformatting the lawbook, and also developing electronic tools to help support people in navigating through the lawbook. The goal for this year was to limit the number of proposals while still maintaining our commitments in advancing heritage waters to the heritage fish list. Regional proposals were limited to those that were urgent in nature. There were six (6) waters we proposed to add to the heritage fish waters list, and four (4) waters we were proposing to remove from the heritage waters list. Eleven management initiated proposals were put forth to address needed management changes. The proposed changes were advertised with one public hearing held in Bangor (minutes attached) with 9 citizens in attendance. The Department also received 23 comments in writing both for and against various proposals. Written comments were acknowledged and forwarded to the Commissioner's Advisory Council as well as appropriate staff for consideration.

Of the four (4) waters we were proposing to remove from the State Heritage Fish Waters list, Crescent Pond and Outlet to Mud Pond would become effective October 1, 2018 and the remaining waters in the packet would have an effective date of January 1, 2019. A transfer of lake trout occurred in Crescent Pond in 2000 and therefore it did not meet the criteria of a heritage water and should not have been placed on the Heritage Waters list. With the removal of the water from the list the Department could initiate a stocking proposal for lake trout there to combat an increased smelt population. This was an effort to conserve lake whitefish which are designated as a species of special concern. The Department intended to initiate the stocking proposal in October 2018.

Several bodies of water received written comments. The Commissioner did put forth two (2) amendments to State Heritage Fish Waters proposals based on public comment and review for the following bodies of water: Cold Water Brook Pond and Henderson Pond. Both proposals were removed from the packet he put forward for the Advisory Council's consent. The two waters would remain on the State Heritage Waters list.

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.



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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §10104  
**Chapter number/title:** Ch. 4, Hunting and Trapping;  
4.01, Upland Game and Furbearing Animals;  
G., Open Seasons for the Hunting and Trapping of Furbearing Animals;  
1., Beaver Trapping;  
1.b. Open and Closed Areas for Beaver Trapping;  
3-A. Fisher Limit, Restrictions and Season Exceptions  
**Filing number:** 2018-203  
**Effective date:** 8/25/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To establish fisher trapping season dates and individual township openings and closings for the beaver trapping season. At the request of the town, the closure for trapping of beaver in WMD 25 for Alna has been removed.

**Basis statement:**

The Department regularly adjusts furbearer hunting and trapping regulations in response to emerging scientific information, changes in trapper participation, and biological data collection. In 2015, the trapping regulations for several species were altered to reduce the chance of accidentally capturing lynx, which are listed as a threatened species by the federal government. Unfortunately, these changes resulted in reduced trapper participation, and caused a significant decline in harvest for fisher. Therefore, we proposed to extend the fisher trapper season by 2 weeks in southern and central Maine to allow more opportunity for trappers to sustainably harvest this species. A statewide annual bag limit of 10 fisher per trapper will remain in effect to prevent high harvest levels by individual trappers. Townships or portions thereof are opened and closed on an individual basis to manage local beaver populations within the general season framework in response to the amount of habitat, past harvests, and complaints of beaver damage to public property. At the request of the town, the closure for trapping of beaver in WMD 25 for Alna was removed.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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*Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §11402  
**Chapter number/title:** Ch. 4, Hunting and Trapping:  
4.03, Deer Hunting Seasons (Open and Closed Season – Eastport)  
**Filing number:** 2018-204  
**Effective date:** 8/25/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

The City of Eastport has requested that IFW authorize, for a third and final year, a special hunt to facilitate the removal of antlerless deer. Deer-human conflicts, including residential property damage and vehicle accidents, have been steadily increasing in Eastport for more than a decade. A no-discharge of firearms ordinance within the city, coupled with the limitations of archery hunting, and posted private property have contributed to an increase in deer numbers over time. Eastport has also been subject to bucks-only hunting for 11 of the past 13 years due to Wildlife Management District boundary changes in 2005 when Eastport became part of WMD 27. The third-year plan proposes to build on the successes of the first two years by giving lottery preference to past successful hunters that apply, and allow the use of crossbows for qualified applicants.

WMD 27 was allocated 50 permits as part of the 2018 annual deer permit lottery which will again make Eastport accessible to the taking of does by archery and youth day deer hunters. This, in addition to the continuation of the special hunt will help Eastport achieve desired population goals. Eastport residents will continue to be surveyed by the Department and Eastport Deer Reduction Committee for satisfaction ratings.

**Fiscal impact of rule:**

No fiscal impact anticipated.

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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 10105  
**Chapter number/title:** Ch. 4, Hunting and Trapping:  
4.09, Transportation of Certain Wildlife and Fish into Maine from  
Outside of the State  
**Filing number:** 2018-227 (*Emergency*)  
**Effective date:** 10/11/2018  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The purpose of this rule is to prohibit the importation of cervid carcasses and certain cervid parts from all jurisdictions except New Hampshire to prevent the introduction of Chronic Wasting Disease (CWD) into Maine. CWD is a fatal neurological disease that affects members of the deer family (including white-tailed deer, moose, elk and caribou) and is thought to be spread through the movement of live animals, the transportation of carcasses, and the use of cervid products such as urine. CWD is always fatal, persists in the environment for several years, and is virtually impossible to eradicate once established in the wild. It is widely viewed as one of the most significant challenges in the history of modern wildlife conservation. In September 2018, CWD was detected in a captive red deer in Quebec, which is the first time the disease has been recorded in eastern Canada or in a jurisdiction adjacent to Maine. If established in Maine, CWD may have devastating impacts on the state's deer herd and hunting heritage, including the rural economy.

**Basis statement:**

This emergency rule is being promulgated to implement regulatory measures to prevent the establishment of chronic wasting disease (CWD) in Maine. CWD is a fatal neurological disease that affects members of the deer family (including white-tailed deer, moose, elk and caribou) and is thought to be spread through the movement of live animals, the transportation of infected carcasses, and the use of cervid products such as urine. CWD is always fatal, persists in the environment for several years, and is virtually impossible to eradicate once established in the wild. It is widely viewed as one of the most significant challenges in the history of modern wildlife conservation. In September 2018, CWD was detected in a captive red deer in Quebec, which is the first time the disease has been recorded in eastern Canada or in a jurisdiction adjacent to Maine. If established in Maine, CWD may have devastating impacts on the state's deer herd and hunting heritage, including the rural economy.

The rule will prohibit the importation of cervid carcasses and certain cervid parts from all jurisdictions except New Hampshire. The rule will also remove the exemption that allowed temporary importation of cervid carcasses when in-transit to another jurisdiction. Importation of cervid parts with a low risk of containing CWD material, such as boned-out meat, hardened antlers, and finished taxidermy mounts, will still be allowed.

**Fiscal impact of rule:**

None anticipated.