

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*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 §13051  
**Chapter number/title:** Ch. 13, Watercraft Regulations  
**Filing number:** 2015-028  
**Effective date:** 3/14/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

In accordance with Title 12 MRS §13051 the Department, in conjunction with the Department of Marine Resources, is adopting rules under the *Federal Boating Safety Act*, as administered by the U.S. Coast Guard (USCG). A complete repeal and replace of the boating rules will make them applicable to today's boating standards and include consistent language from the *Code of Federal Regulations* (CFR) regarding the safe operation of boats.

**Basis statement:**

In accordance with Title 12 MRS §13051 the Department, in conjunction with the Department of Marine Resources, has adopted rules under the *Federal Boating Safety Act*, as administered by the U.S.C.G. A complete repeal and replace of the boating rules will make them applicable to today's boating standards and issues and include consistent language from the *Code of Federal Regulations* regarding the safe operation of boats.

This will be the first complete rewrite of Maine's boating rules since the 1980's. The Department is required to be consistent with USCG boating *Code of Federal Regulations* (CFR) as far as practical. Highlights of this rewrite include: update language relating to "class" of watercraft now referred to as lengths; navigational lights and sound making devices; PFD's defined as life jackets according to labels and no longer referenced by type; fire extinguishers, sound producing and other life saving devices; safe operation of a watercraft to include new rules related to stand up paddle boards, surf zones and children wearing life jackets while on board watercraft underway; towed water sports and include updated USCG photos depicting intent of the rule.

The Department received 4 written comments on the proposal (attached). One comment was in support of the proposal. One comment suggested some corrections with formatting and definitions within the proposal. The Assistant to the Commissioner and Lt. Adam Gormely of the Warden Service reviewed the comments that were received in a "track changes" format and incorporated some of the formatting suggestions. None of the changes were substantive in nature. Two of the comments were similar in nature pointing out a PFD requirement that had been in effect in previous law books as they related to guides carrying passengers for hire or utilizing watercraft that was not included in the proposal. These comments brought to our attention that 3 sections of the rule had been inadvertently omitted from the proposal regarding special mandatory PFD wear requirements. The Department amended the rule to address these comments and meet the requirements to be consistent with federal standards, and were inserted under section 13.04 C. 2., 3., and 4.

**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 §12851  
**Chapter number/title:** Ch. 24, Licensed Guides  
**Filing number:** 2015-029  
**Effective date:** 3/14/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department has amended current rules to make allowances for standup paddle sports in guide license requirements. This rule will create consistency when it comes to safety when a paddle boarder hires someone to guide them on the inland waters or on the ocean. Just as other recreational sports require a guide to be licensed when remuneration is received, standup paddle boarding will also have that requirement.

**Basis statement:**

Amendments to this rule were the result of discussions with the sea kayak guide group to address concerns they had with guiding stand-up paddles sports on the ocean. Traditionally, if you were going to guide stand-up paddle sports on the ocean you were required to have a recreational guides license. The sea kayak group felt in terms of safety that did not make sense. Their concerns were brought forward to the Advisory Board for the Licensing of Guides where it was discussed and the Board recommended that the sea kayak guides would be able to guide stand-up paddle sports on the ocean and a recreational guides license would enable someone to guide them on inland waters.

The definition of "Guide" was also updated to include the term "all-terrain vehicle." If you were taking a guided trip with an ATV and remuneration was received, you would be required to have a guide license as was the requirement with other recreational vehicles.

The proposal was amended to further include language suggested by the Guide Advisory Board to allow certain courses such as Wilderness First Responder to acceptable first-aid certification. The language was amended in Section 24.03 A.1. to include equivalent course approved by the Department.

**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 §11701  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.06(1.B., 4, 5, 6), Wild Turkey  
**Filing number:** 2015-061  
**Effective date:** 4/8/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Wildlife Management Districts 1-6 will be open for the first time in the spring of 2015. The rule is a more conservative approach to a full open season by limiting the number of turkey hunters on the landscape through the split A/B season concept prior to 2007. In this system the birth year of each hunter determines when they could hunt in the season, therefore reducing the number of turkey hunters in the field at the same time. The rule also removes the turkey tagging fee reference as it is currently provided for in statute 12 MRS §12301-A and the reference was redundant.

**Basis statement:**

Wildlife Management Districts 1-6 will be open for the first time in the spring of 2015. Wild turkeys are relatively new to this area, and the number of sites where wild turkeys can be found in these districts is limited. This raised some concern with respect to hunter safety and land access. The rule is a more conservative approach to a full open season by limiting the number of turkey hunters on the landscape through the split A/B season concept that was used prior to 2007. In this system the birth year of each hunter determines when they can hunt in the season, therefore reducing the number of turkey hunters in the field at the same time. The season will remain as a five week season like the rest of the state but hunters born in an odd year will hunt the 1st and 3rd week of the season and hunters born in an even year will hunt the 2nd and 4th week of the season. Both even and odd birth years hunt the last week of the season.

This system alternates the following year, so that even birth years hunt the 1st and 3rd weeks and odd birth years hunt the 2nd and 4th weeks. Following a two year period using the A/B season for spring wild turkey hunting in WMD 1-6 an assessment will be completed for consideration of wild turkey hunting regulations in these districts.

The rule also removes the reference to turkey tagging fees as it is currently provided for in statute under 12 MRS §12301-A. Going forward, any changes the legislature may make to tagging fees will not require a rulemaking update to remain consistent. As registration tags are no longer provided with the purchase of a turkey permit (hunters make their own) that reference was also removed from the rule as well as the one bird per season reference under the "Landowner Privilege" section. Some WMDs allow the take of more than one turkey during the season.

**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 §11551  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.05, Moose Hunting  
**Filing number:** 2015-088  
**Effective date:** 5/13/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule is being adopted to establish the number of moose hunting permits to be issued for each Wildlife Management District for the 2015 season.

**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 2015 season. The Department advertised a proposal on February 18, 2015 with a recommended total of 2,815 permits be issued in order to meet moose harvest objectives. This was a decrease in overall permits of 9% from 2014 with the majority of the reduction occurring in WMD 2. In WMD 9, the Department proposed a slight increase in permits as the population was estimated to be above goal. Adjustments to permit numbers in other WMDs were relatively minor.

During the comment period the Department received numerous written comments from the public. Comments were acknowledged and forwarded to the Commissioners Advisory Council and Department staff. In summary, 2 comments were received in favor of the proposed numbers; 13 comments were received expressing concerns over any increase in permit numbers, but not mentioning any specific districts; 3 comments were received for specific WMDs including 2, 3 and 9. 62 written comments were received opposed to the increase in permits for WMD 9, and an online "petition" was created by a guide in Greenville on "Change.org" to solicit comment to "Decrease the proposed 2015 Maine Moose hunting bull tags and suspend the proposed cow hunt for WMD 9" which received 2,675 supporters.

On the day of the comment period deadline, March 20, 2015, the Department received requests from more than 5 members of the public to hold a public hearing in Greenville to discuss the proposed permit numbers for WMD 9. A public hearing was scheduled for April 24, 2015 at the Greenville Consolidated School in Greenville and was advertised on April 1, 2015.

The Commissioner's Advisory Council met on March 27, 2015 and as the 2015 moose permit numbers were scheduled for a vote, the Commissioner briefed them on the request for a public hearing, and recommended the Council vote on the proposed numbers with WMD 9 being withdrawn until the public hearing process was complete. There were 8 Council members in attendance, 7 voting in favor of the recommendation and 1 opposed (Mr. Farrington).

The public hearing to discuss proposed permit allocations for WMD 9 was held on April 24, 2015 and approximately 100 people were in attendance. 3 people provided testimony in favor of the proposed permit numbers of 100 bulls and 50 antlerless; 22 people testified in opposition; and 3 testified neither for nor against (minutes attached). Written comments were also received prior to the comment period deadline of May 4, 2015, 2 supporting the increase in permit numbers and 5 opposed.

Based on the public comments and input from staff the Commissioner recommended not moving forward with the increase in permit numbers in WMD 9 and leaving the allocations as they were in 2014 at 75 bull permits. The Advisory Council gave their consent on May 6, 2015 to adopt the permit numbers as amended in WMD 9. The final count for permit allocations in all WMDs for 2015 were 2085 bull permits, 550 antlerless and 105 any-moose.

**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(G)(2-A),(J).(K),  
Furbearer Trapping Rules  
**Filing number:** 2015-148  
**Effective date:** 8/18/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

In November 2014, the Department finalized its incidental take permit (ITP) with the US Fish and Wildlife Service (USFWS) regarding the unintentional take of Canada lynx through regulated trapping. Under this agreement a maximum of three lynx were allowed to be killed or permanently disabled over a period of 15 years. Within the first month of the 2014-2015 trapping season, two lynx were killed in legally set traps. In response, the Department implemented an emergency rule in December 2014, to prohibit setting killer-type traps (body-gripping traps) at or above ground level in WMDs with resident lynx. This rule expired after 90 days. Because only one additional lynx can be killed over the next 14 years, the Department is concerned that it may exceed the ITP agreement with the USFWS. Therefore, the Department has adopted additional rules regarding killer-type and foothold traps to minimize the take of a lynx in a legally set trap.

**Basis statement:**

In November 2014, the Department finalized its incidental take permit (ITP) with the US Fish and Wildlife Service (USFWS) regarding the unintentional take of Canada lynx through regulated trapping. Under this agreement a maximum of three lynx were allowed to be killed or permanently disabled over a period of 15 years. Within the first month of the 2014-2015 trapping season, two lynx were killed in legally set traps. In response, the Department implemented an emergency rule in December 2014, to prohibit setting killer-type traps (body-gripping traps) at or above ground level in WMDs with resident lynx. This rule expired after 90 days. Because only one additional lynx can be killed over the next 14 years, the Department is concerned that it may exceed the ITP agreement with the USFWS. Therefore, the Department, working closely with the Maine Trappers Association, proposed additional rules regarding killer-type and foothold traps to minimize the take of a lynx in a legally set trap.

The changes address four methods of trapping: 1) the use of killer-type traps, 2) the use of foothold traps, 3) the use of "Hancock" style beaver traps (also known as 'suitcase' traps), and 4) rat snap traps. In all Wildlife Management Districts killer-type traps with a jaw spread not to exceed 8 inches may be used on or above ground level if the trap is placed within a lynx exclusion device. Exclusion device dimensions and structure were clarified from the original proposal based on USFWS comments and staff input. Restrictions to foothold traps are statewide, and in WMDs 1-11, 14, 18 and 19 the use of drags will be prohibited. Also in these WMDs, foothold traps will be required to have a clear "catch circle" as defined. The use of Hancock traps will be limited to authorized Animal Damage Control (ADC) activities by licensed ADC agents. These changes will not likely affect the ability of ADC agents and other licensed trappers to capture beaver.

**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 §11152  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.03, Deer Hunting  
**Filing number:** 2015-149  
**Effective date:** 8/16/2015  
**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 2015 deer hunting season. Any-deer permits are adjusted by MDIFW on an annual basis in response to deer population estimates and population goals in each WMD. The winter of 2014-15 was of above-average severity, in some parts of the state, which may have resulted in increased winter mortality rates for our over-wintering deer. For 2015, the Department is recommending a total of 28,770 permits be issued in order to meet our doe harvest objective of 3,274 animals. This is a decrease of 23% (8,415 permits) from 2014.

**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.

The winter of 2014-15 was of above-average severity in some parts of the state, which may have resulted in increased winter mortality rates for our over-wintering deer.

For 2015, we recommended a total of 28,770 permits be issued in order to meet our doe harvest objective of 3,274 animals. This was a decrease of 23% (8,415 permits) from 2014. The issuance of these permits will provide a substantial doe harvest within WMDs 15-17, 20-26, and 29, which are our most productive WMDs. In addition, biological data and observations by regional staff suggest that deer in WMDs 3, 6, 14, and 18 had experienced population growth or were near social carrying capacity, therefore we recommended issuing a small number of permits in these WMDs. The remaining fourteen WMDs shall be regulated as buck harvest only, with no any-deer permits issued. Wildlife Division staff made these recommendations after careful review of the data and felt that these permit allocation levels would best meet current population objectives. The 2015 harvest should produce a harvest of approximately 19,500 deer, or about 14% less than the 2014 hunting season.

**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, 11855  
**Chapter number/title:** Ch. 4, Hunting and Trapping: 4.02, Migratory Bird Hunting  
**Filing number:** 2015-150  
**Effective date:** 8/18/2015  
**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. Ten additional hunting days for the regular goose season is now being allowed by the USFWS and season dates have been adjusted to reflect this. Brant and canvasback bag and possession limits have also been adjusted to comply with USFWS regulations.

**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.

A public hearing was held on August 5, 2015 with 20 citizens in attendance, including members of the Waterfowl Advisory Council. The Department presented the proposal and stated there were some changes from the original proposal. Fish and Wildlife Service regulation changes that came in after the original proposal included an increase in canvasback duck daily harvest from 1 to 2, possession of 6 up from 3; a reduction in the daily bag limit for Brant from 2 to 1, possession of 3 down from 6; and an additional 10 days being allowed to states by the Fish and Wildlife Service for the regular goose season. The season dates were adjusted so that hunters could take advantage of the 10 days without other seasons going on at the same time.

After the Department's presentation the Commissioner opened the hearing to public comments. Two members of the public spoke at the hearing. One stated they supported almost all of the proposal, but would like to see a season for Barrows Goldeneye in Maine. There is currently no season for Harlequin ducks or Barrow's Goldeneye and Biologist Kelsey Sullivan stated there were probably less than 50 Barrow's in Maine currently. The second comment was regarding the change in the regular goose season dates and whether or not the Waterfowl Council was in support. One of the Council members spoke stating they felt positively about the change and that people would be able to hunt something at all times during the season (i.e., geese 2 weeks, then ducks 2 weeks then the normal season).

After the public hearing was adjourned, Department staff met with Waterfowl Council members present at the meeting to discuss the comments that were received. With a majority vote, the Council recommended the proposal move forward as presented with the changes afforded by the USFWS. No other changes were made from the original proposal.

The Department also received 2 written comments. One regarding black duck bag limits and the other regarding duck blinds and distances from additional party blinds from decoys. Both comments were acknowledged and forwarded to the Commissioner's Advisory Council and appropriate staff for consideration.

**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. 4, Hunting and Trapping: 4.01(G), Upland Game and Furbearing Animals: 1.a – Beaver Season Dates; 1.b – Open and Closed Areas for Beaver Trapping  
**Filing number:** 2015-172  
**Effective date:** 9/27/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

To establish beaver trapping season dates and individual township openings and closings for the beaver trapping season.

**Basis statement:**

These rules amend the annual beaver trapping season dates and replace the 2014-2015 beaver trapping closures for the 2015-2016 beaver trapping season. Certain areas of the State are closed to beaver trapping at the request of landowners, who, for various reasons, do not wish to see the beaver removed from their property. Descriptions of closed areas have been clarified through the use of the names of specific lakes, brooks, rivers and streams whenever possible. There was no public hearing held on this proposal.

These rules are adopted in order to maintain beaver populations as per the Department's beaver management system. Again for the 2015-2016 season the desired objective is to increase the number of beaver harvested and reduce the number of nuisance beaver complaints. Only two written comments were received, both from Department Game Wardens regarding concerns in their districts. These comments were distributed to the Advisory Council and Department staff for their consideration.

The season dates for specific WMDs was modified from the original proposal by adding WMD 3 and removing WMD 5 from the October 19 – May 8<sup>th</sup> season, and further modifying that season to end April 30. WMDs 5 and 6 were added to the November 1 – April 30 season, and WMDs 15 and 16 were moved to the November 15 – March 31 season. These changes were in response to Advisory Council concerns that were discussed at their August 6<sup>th</sup> meeting and an attempt to encourage more trappers to travel to the northern Maine WMDs. People would be more likely to travel to WMDs 1-4 if WMDs with better infrastructure such as 5 opened later and may help reach harvest goals and objectives.

**Fiscal impact of rule:**

No adverse economic impact anticipated.



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**Agency name:** Department of Inland Fisheries and Wildlife  
**Umbrella-Unit:** 09-137  
**Statutory authority:** 12 MRS §§ 10104, 12461  
**Chapter number/title:** Ch. 1, Open Water and Ice Fishing Regulations  
Ch. 1-A, State Heritage Fish Waters  
Ch. 2, Rules Pertaining to Commercial Fishing, Fish Culture and, Fishing Derbies and Tournaments  
**Filing number:** 2015-178, 179, 180  
**Effective date:** 10/5/2015  
**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. The adoptions set specific season dates, bag limits, length limits, taking restrictions and other special regulations designed to accomplish fisheries management objectives. In order to be more consistent with New Hampshire bass tournaments, the Department is also modifying rules as they pertain to bass tournaments on Maine and New Hampshire border waters for catch, measure, release and weigh-in tournaments.

**Basis statement:**

The Department of Inland Fisheries and Wildlife has adopted rules pertaining to the 2016 ice fishing and open water seasons, made additions to the State Heritage Fish Waters list and amended the regulations pertaining to bass tournaments on Maine - New Hampshire border 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, including economic, are retained.

These rules were initiated through Department field personnel. The regulation changes were advertised with 5 public hearings held in Presque Isle, Millinocket, Ellsworth, Farmington and Brunswick (minutes attached). The Department also received 42 comments in writing both for and against various proposals. The bulk of the written comments (26) were regarding the proposal for Upper Dam Pool in Richardson Twp, and were all opposed to the proposed change in wording from "No motorboats allowed from the gates of the dam downstream or westerly 150 yards." to "No motor use on watercraft allowed from the gates of the dam downstream or westerly 150 yards." Other comments that held some concern, discussed mostly at the public hearing in Farmington, were regarding an S-4 regulation and allowing kids to fish with worms on ponds in the Pierce Pond area. These bodies of water were also existing State Heritage Fish waters.

Although no comments were received in opposition to the proposed new listings to the State Heritage Fish waters, Trout Unlimited did comment that it was unclear why DIFW was proposing "Heritage" status for 8th Debsconeag but not for Third Rainbow Deadwater. 2013 surveys indicated similar catches for brook trout in Third Rainbow Deadwater, as well as several others. Trout Unlimited would follow up with the Department on the status of those waters in the fall. No comments were received regarding the Chapter 2 portion of the proposal. The Department acknowledged all written comments and they were forwarded to the Advisory Council and Department staff for review.

The Department did put forth an amendment to the original proposal and removed the Upper Dam Pool proposal based on the fact that the original change to prohibit motorboats

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was initiated through public petition and subsequent changes would need to follow that process. The Department also modified proposals for bodies of water in the Pierce Pond area, Dixon Pond, Helen Pond and High Pond and dropped the kids fishing portion but did keep the S-6 (artificial lures) (see attached).

**Fiscal impact of rule:**

No fiscal impact anticipated as a result of this rule.