

§10105. Other powers

1. Authorize taking or destruction of wildlife. Whenever the commissioner determines it necessary for the accomplishment of the commissioner's statutory duties, the commissioner may authorize a person to assist the commissioner in the taking and destruction of any wildlife. The commissioner may place conditions or restrictions on any authorization granted under this subsection. A person who violates a condition or restriction placed on an authorization granted under this subsection invalidates that authorization and subjects that person to applicable laws under this Part. [PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §20 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

1-A. Authorize taking and destruction of fish. Notwithstanding sections 12454, 12456 and 12457 and chapter 923, subchapters 4 and 5, whenever an illegal introduction of invasive fish species occurs and the commissioner determines it necessary for resource protection and management, the commissioner may authorize licensed anglers to assist the commissioner in the taking and destruction or sale of that invasive fish species. [PL 2009, c. 340, §6 (AMD).]

2. Commissioner's authority to terminate coyote season.
[PL 2013, c. 408, §2 (RP).]

3. Coyote control program.
[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §21 (RP); PL 2003, c. 655, Pt. B, §422 (AFF).]

4. Search and rescue. Whenever the commissioner receives notification that any person has gone into the woodlands or onto the inland waters of the State on a hunting, fishing or other trip and has become lost, stranded or drowned, the commissioner shall exercise the authority to take reasonable steps to ensure the safe and timely recovery of that person, except in cases involving downed or lost aircraft covered by Title 6, section 303.

A. The commissioner may summon any person in the State to assist in search and rescue attempts. Each person summoned must be paid at a rate set by the commissioner with the approval of the Governor and must be provided with subsistence while engaged in these activities. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

B. The commissioner may enter into written agreements with other agencies or corporations, including commercial recreational areas, allowing partial search and rescue responsibility within specified areas. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

C. The commissioner may terminate a search and rescue operation by members of the department when, in the commissioner's opinion, all reasonable efforts have been exhausted. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

D. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or

(2) If a person knowingly provided false information that led to a search and rescue operation, from the person who provided that false information. [PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §22 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §22 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

4-A. Search and rescue dogs. A person assisting the commissioner under subsection 4 with a search and rescue dog certified by or in training with an organization recognized by the Bureau of Warden Service may be accompanied by the search and rescue dog in a place of public accommodation

without being required to pay an extra charge or security deposit for the search and rescue dog. The owner of the search and rescue dog is liable for any damages done to the premises by that animal. For purposes of this subsection, "place of public accommodation" has the same meaning as in Title 5, section 4553, subsection 8, paragraph A.

[PL 2009, c. 543, §1 (NEW).]

5. Boundary waters with New Hampshire and Canada. The commissioner may prescribe bag limits, size limits, open or closed seasons and methods of taking fish from the inland boundary waters between the states of Maine and New Hampshire and provinces of Canada. These rules must be mutually agreed upon by the commissioners of Maine and New Hampshire and the fishery authorities of Canada and approved by the Inland Fisheries and Wildlife Advisory Council.

[PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

6. Establishing line of demarcation. The commissioner, through an agent designated by the commissioner, may establish a line of demarcation between a lake or pond and its outlet or tributaries in areas where the commissioner determines it necessary.

[PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

7. Sale or destruction of confiscated property. The commissioner may sell all property held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife that has been forfeited to the State pursuant to sections 10502 and 10503. A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State, unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand. The commissioner shall transmit all money received from sales under this subsection to the Treasurer of State to be credited to the department.

[RR 2003, c. 2, §18 (COR).]

8. Employee discipline. The commissioner may dismiss, suspend or otherwise discipline any department employee for cause. This right is subject to the right of appeal and arbitration of grievances as set forth in Title 5.

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §23 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

9. Possession and disposal of fish and wildlife. The commissioner may take possession of sick, injured or dead fish and wildlife that is not the property of another person. For any fish and wildlife possessed by the commissioner under this subsection, the commissioner may:

A. For sick or injured fish or wildlife, destroy that fish or wildlife when necessary in a manner consistent with the provisions of Title 17, section 1043; and [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

B. For dead fish or wildlife, dispose of that fish or wildlife in any manner considered appropriate by the commissioner. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

This subsection does not apply to fish or wildlife seized by the commissioner under section 10502.

[PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

10. Taking and importing wildlife. The commissioner may:

A. For scientific purposes, take fish and wildlife and import fish and wildlife into the State or authorize others to do so; and [PL 2003, c. 655, Pt. B, §24 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

B. Take or import wild animals or wild birds of any kind, dead or alive, for the purpose of inspection, cultivation, propagation or distribution or for scientific or other purposes considered by

the commissioner to be of interest to the game industry of this State. [PL 2003, c. 655, Pt. B, §24 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]
[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §24 (RPR); PL 2003, c. 655, Pt. B, §422 (AFF).]

11. Take or import animals and birds.

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §25 (RP); PL 2003, c. 655, Pt. B, §422 (AFF).]

12. Purchase or sale of wildlife for use as evidence. An agent of the commissioner may buy or sell wildlife for use as evidence in the prosecution of a violation of this Part.

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §26 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

13. Prevention of introduction of harmful pathogens into Maine's fish and wildlife population. To prevent the introduction of pathogens into the State that pose a significant risk to the health of Maine's unique fish and wildlife populations, the commissioner may prohibit or otherwise regulate the transportation of a fish or wildlife species or any part of a fish or wildlife species into or within the State. The commissioner may adopt rules to carry out the purpose of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 470, §1 (NEW).]

14. Regulating the feeding of deer, bear, moose and wild turkey. The commissioner may by rule:

A. Prohibit or limit the feeding of deer, bear, moose and wild turkey at any location if there is documented evidence of chronic wasting disease, as defined in Title 7, section 1821, subsection 1, in the State or within 50 miles of the border of the State or if the commissioner has reason to believe that the type or location of feed may create a public safety hazard or may have a detrimental effect on deer, bear, moose and wild turkey; [PL 2021, c. 409, §4 (AMD).]

B. [PL 2019, c. 355, §3 (RP).]

C. Prohibit or otherwise limit the placement of garbage or other known attractants for deer, bear, moose and wild turkey if the department has reason to believe the placement creates a public safety hazard; and [PL 2021, c. 409, §4 (AMD).]

D. Prohibit or otherwise limit the feeding of deer, bear, moose and wild turkey at any location as part of a plan to promote the use of deer wintering areas by deer. [PL 2021, c. 409, §4 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 409, §4 (AMD).]

15. Commissioner's authority to terminate hunting, fishing or trapping season. The commissioner, after consultation with the Governor and the advisory council and by proclamation of the Governor, may terminate an open season for hunting, fishing or trapping at any time in any area if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or unlawful hunting, fishing or trapping activity. If a section of the State is closed to hunting, fishing or trapping pursuant to this subsection, the commissioner, following the annulment of the proclamation of the Governor, with the consent of the Governor may extend the open season in that section of the State for a period of days not to exceed the number of days lost due to the termination proclamation. Whenever a section of the State is closed to hunting pursuant to this subsection during the open season on birds, the commissioner, following the annulment of the proclamation of the Governor, with the consent of the Governor may extend the open season for bird hunting in that section

of the State for a period not to exceed the number of days lost as permitted by regulations of the federal Migratory Bird Treaty Act, 16 United States Code, Sections 703 to 712.

[PL 2013, c. 588, Pt. A, §11 (AMD).]

16. Hunting and fishing adventure permits for children. In addition to the permits issued by the commissioner pursuant to section 11154, subsection 13, in extenuating circumstances the commissioner may issue up to 2 additional permits or licenses for other hunting or fishing adventures to a nonprofit organization dedicated to providing hunting and fishing adventures to children under 21 years of age with life-threatening, critical or terminal illnesses.

[PL 2013, c. 408, §3 (NEW).]

17. Postpone or cancel the start of an open hunting season. Notwithstanding any provision of subpart 4, the commissioner, based on sound scientific wildlife management principles, may postpone or cancel an open hunting season on any game species if the commissioner has concerns regarding disease, weather conditions, reduction in population or other unforeseen factors that may prevent publicly derived management goals from being met.

[PL 2015, c. 57, §1 (NEW).]

18. Extend a trapping season. The commissioner, based on sound scientific wildlife management principles, may extend any open trapping season on any game species for up to 21 days if the commissioner has concerns about weather conditions or other unforeseen factors that may prevent publicly derived management goals from being met.

[PL 2019, c. 19, §1 (NEW).]

19. Species of special concern. The commissioner by rule shall establish criteria for determining when a species of fish or wildlife that is not an endangered species or a threatened species is of special concern. The rules may include different criteria for categories of species of special concern, including a category for species that are rare. The rules must list the species that meet the criteria established in rule. The commissioner shall use the list in administering section 12152 and may also use the list in administering any other laws or programs or when providing advisory recommendations to other entities or agencies on fish and wildlife matters in accordance with applicable laws or rules.

Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 65, §2 (NEW).]

SECTION HISTORY

RR 2003, c. 2, §18 (COR). PL 2003, c. 414, §A2 (NEW). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2003, c. 655, §§B20-26 (AMD). PL 2003, c. 655, §B422 (AFF). PL 2005, c. 470, §1 (AMD). PL 2007, c. 73, §1 (AMD). PL 2009, c. 340, §6 (AMD). PL 2009, c. 543, §1 (AMD). PL 2011, c. 668, §1 (AMD). PL 2013, c. 280, §2 (AMD). PL 2013, c. 408, §§2, 3 (AMD). PL 2013, c. 588, Pt. A, §11 (AMD). PL 2015, c. 57, §1 (AMD). PL 2019, c. 19, §1 (AMD). PL 2019, c. 355, §§2, 3 (AMD). PL 2021, c. 65, §2 (AMD). PL 2021, c. 409, §4 (AMD).

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