

Protecting Wildlife and Habitat in Maine

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A Primer on Federal and State Environmental Laws

Both federal and state laws protect specific wildlife species and wildlife habitat. These laws regulate varied activities including hunting, trapping, fishing, and habitat alteration. This primer will help clarify Maine's environmental laws, and how they work to protect wildlife species and habitat. A listing of Maine's threatened and endangered species is included, as is a listing of the federal and state agencies responsible for administering the laws. Additional information about a specific law can be obtained from the appropriate administering agency.

Laws are made stronger or weaker by communication from citizens like you.

The only way to ensure the protection of our wildlife and natural resources is through active public support of these or stronger laws.

Your Voice Counts!

Maine's legislature is accessible and very responsive to individual citizens. There are many opportunities for Mainers to get involved in the legislative process to help ensure our laws move forward not backward. The power of citizen testimony is evident time and again.

We can't be effective without you, and Maine Audubon is happy to help guide you in how to make your voice count for Maine's woods, waters, and wildlife. Visit our website www.maineaudubon.org or contact our Grassroots Coordinator by email at activist@maineaudubon.org or call 207-781-2330 x219 for more information and to sign up for our grassroots action program.

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Federal and State Laws Protecting Wildlife Species

Federal

The Migratory Bird Treaty Act of 1918

Title 16 U.S. Code Sections 703 to 711

Administered by the U.S. Fish and Wildlife Service

This law protects all migratory birds, with the exception of the nonnative rock dove (common pigeon), European starling, and the English sparrow. It is unlawful for anyone without the proper permits to pursue, hunt, kill, or capture any migratory bird. This act also makes it illegal to possess, buy, sell, purchase, or barter migratory bird products or any migratory bird and their parts, including feathers; pick up and keep a young, injured or dead bird; disturb, take down or collect nests or eggs. The Migratory Bird Treaty Act is the domestic law that affirms, or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource.

Endangered Species Act

Title 16 U.S. Code Sections 1531 to 1544

Administered by the U.S. Fish and Wildlife Service

This law is designed to protect endangered and threatened species and their habitats. Federal agencies must ensure that no agency actions will “jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of [critical] habitat of such species.” This applies to organizations, landowners, and private developers that receive federal funds or permits. In addition, all individuals are prohibited from “taking” any listed threatened or endangered species. A “takings” includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting to engage in any such conduct.



State of Maine

Endangered Species Act

Title 12 M.R.S.A. Sections 7751 to 7759

Administered by the Maine Department of Inland Fisheries and Wildlife

This law is designed to protect state-listed endangered and threatened species, and their habitats. Local and state governments are prohibited from funding, permitting, licensing or carrying out projects that will significantly alter “essential” habitat or violate protection guidelines determined by the Commissioner of the Department of Inland Fisheries and Wildlife. Individuals are prohibited from importing, exporting, hunting, trapping, possessing, selling, transporting, feeding or harassing any endangered or threatened species without a permit from the Commissioner.

In addition to the conventions implemented by the Migratory Bird Treaty Act and the Endangered Species Act, the United States is party to two other international treaties that afford special protection to migratory birds.

- [Ramsar Convention](#) (The Convention on Wetlands of International Importance Especially as Waterfowl Habitats)
- [Antarctic Treaty](#) (designed to protect the native birds, mammals, and plants of the Antarctic)

Maine Endangered and Threatened Species

18 Endangered / 16 Threatened Species as of 6/10/97

Common Name	Scientific Name	Status
BIRDS		
Least Tern	<i>Sterna albifrons</i>	Endangered
Golden Eagle	<i>Aquila chrysaetos</i>	Endangered
Piping Plover	<i>Charadrius melodus</i>	Endangered
Sedge Wren	<i>Cistothorus platensis</i>	Endangered
Grasshopper Sparrow	<i>Ammodramus savannarum</i>	Endangered
Black Tern	<i>Chlidonias niger</i>	Endangered
American Pipit	<i>Anthus rubescens</i>	Endangered
Peregrine Falcon	<i>Falco peregrinus</i>	Endangered
Roseate Tern	<i>Sterna dougallii</i>	Endangered
Bald Eagle	<i>Haliaeetus leucocephalus</i>	Threatened
Razorbill	<i>Alca torda</i>	Threatened
Atlantic Puffin	<i>Fratercula arctica</i>	Threatened
Harlequin Duck	<i>Histrionicus histrionicus</i>	Threatened
Arctic Tern	<i>Sterna paradisaea</i>	Threatened
Upland Sandpiper	<i>Bartramia longicauda</i>	Threatened
REPTILES AND AMPHIBIANS		
Blanding's Turtle	<i>Emydoidea blandingii</i>	Endangered
Box Turtle	<i>Terrapene carolina</i>	Endangered
Black Racer	<i>Coluber constrictor</i>	Endangered
Loggerhead Turtle	<i>Caretta caretta</i>	Threatened
Spotted turtle	<i>Clemmys guttata</i>	Threatened
FISH		
Swamp Darter	<i>Etheostoma fusiforme</i>	Threatened
MOLLUSKS		
Tidewater Mucket	<i>Leptodea ochracea</i>	Threatened
Yellow Lampmussel	<i>Lampsilis cariosa</i>	Threatened
MAYFLIES		
Flat-headed Mayfly	<i>Epeorus frisoni</i>	Endangered
Tomah Mayfly	<i>Siphonisca aerodromia</i>	Threatened
DAMSELFLIES AND DRAGONFLIES		
Ringed Boghaunter	<i>Williamsonia lintneri</i>	Endangered
Pygmy Snaketail	<i>Ophiogomphus howei</i>	Threatened
BUTTERFLIES AND MOTHS		
Clayton's Copper	<i>Lycaena dorcas claytoni</i>	Endangered
Edward's Hairstreak	<i>Satyrium edwardsii</i>	Endangered
Hessel's Hairstreak	<i>Mitoura hesseli</i>	Endangered
Katahdin Arctic	<i>Oenis polixenes katahdin</i>	Endangered
Twilight Moth	<i>Lycia rachelae</i>	Threatened
Pine Barrens Zanclognatha	<i>Zanclognatha martha</i>	Threatened
MAMMALS		
Northern Bog Lemming	<i>Synaptomys borealis</i>	Threatened



The Endangered Species Act Works!

Why List Species?

- Provides predictable information to businesses, landowners, government agencies and others on what is truly rare in Maine, eliminating uncertainties and costly petitions or court cases.
- Prohibits intentional killing or taking of these species from the wild (butterfly collectors, etc.).
- Protects species from commercial harvest, export & import trade.
- Vulnerable species are often tied to specific and rare habitat; protecting species also ensures unique habitat conservation.
- Designating a species as “endangered” under the ESA could leverage funds to implement the conservation plan. Each year, the US Congress provides money to implement federal recovery plans. That money can be used for relevant research, direct management, and for public outreach and education. Funds are appropriated based on priorities and listed species are better able to compete for these limited funds.

Federal Laws Protecting Wildlife Habitat

Clean Water Act

Title 33 U.S. Code Sections 1251 to 1376

Administered by the Army Corps of Engineers, permits reviewed by the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency.

This law is designed to protect and enhance our nation's waters. No discharges are permitted without a federal license, and a state can condition a federal license for a project that may impact the state's water quality standards.

A permit is required in order to dispose of dredged or fill material into navigable waters. The Administrator of the EPA may prohibit disposal of dredged or fill material into an area when the disposal will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

Coastal Zone Management Act

Title 16 U.S. Code Sections 1451 to 1464

Administered by the U.S. Fish and Wildlife Service

This law is designed to preserve, protect, develop, and the restore or enhance the resources of the nation's coastal zones. Under the act, the government identifies land uses that are contributing to the degradation of the coastal waters, and areas of the coast in critical condition. The act focuses on the quality of the coastal water, which has a major impact on the health of coastal habitat, including estuaries. The government provides financial and technical assistance to states for the development and implementation of approved coastal zone management plans.

Nonindigenous Aquatic Nuisance Prevention & Control Act

Title 16 U.S. Code Sections 4701 to 4751

Administered by the U.S. Fish and Wildlife Service

This law is designed to prevent unintentional introduction of non-native species into the waters of the United States, and to minimize the economic and environmental effects of any species that does become established. The law establishes a task force to help contain non-native species, and to minimize the impact of the species. In addition, the law makes available voluntary treatment of ballast water to ensure that no non-native species are released with the ballast into waters of the nation.

Federal Agricultural Improvement and Reform Act of 1996

Public Law No. 104-127

Administered by the United States Department of Agriculture.

This law creates incentives for agricultural improvements that improve water quality. Included are financial incentives to protect wildlife habitat, mitigate or prevent wetlands loss, and create animal waste management facilities. It also provides funds for permanent or thirty-year conservation easements on agricultural land.

Note: These laws are somewhat harder to define and use than laws that protect wildlife species.

Maine State Laws Protecting Wildlife Habitat

Natural Resources Protection Act

Title 38 M.R.S.A. Section 480

Administered by the Dept. of Environmental Protection

This law is designed to protect the state's critical natural resources, including "rivers and streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, coastal wetlands and coastal sand dunes systems." There are several activities that require a permit from the Department of Environmental Protection (DEP) if performed over or adjacent to a protected natural resource. These activities include dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; draining or de-watering; filling; construction, repair or alteration of permanent structures. The DEP will only grant permits for activities that will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses; will not cause unreasonable erosion of soil or sediment; and will not unreasonably harm the state's critical natural resources.

Coastal Management Policy

Title 38 M.R.S.A. Sections 1801 to 1803

Administered by the State Planning Office, Department of Environmental Protection and Department of Conservation

This statement of policy is directed toward balancing the competing uses of Maine's coast. The policies encourage developing ports and harbors, managing marine resources and shorelines, increasing recreation and tourism and protecting natural and scenic areas, and water and air quality.

Shoreland Zoning Ordinance

Title 38 M.R.S.A. Sections 435 to 447

Administered by Dept. of Environmental Protection

This law is designed to "prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat...to protect commercial fishing...to protect freshwater and coastal wetlands...to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas." It requires local governments to restrict certain land uses within 250 feet of the normal high-water line of any great pond, river or saltwater body, and within 250 feet of the upland edge of coastal or freshwater wetlands, and within 75 feet of the high water mark of a stream.

Maine's Rivers Law

Title 12 M.R.S.A. Sections 401 to 407

Administered by Dept. of Environmental Protection and the State Planning Office

This law provides special protection for outstanding Maine rivers. The law protects these rivers from the construction of dams and hydro-electric facilities without consent of the state legislature. This establishes the policy of balancing the diverse needs of the public, particularly the need to restore fisheries, improve recreation, restore the water to fishable/swimmable standards, revitalize waterfronts, and maintain the scenic beauty of these rivers. The law requires several state agencies to cooperate to create a comprehensive river resource management plan for each watershed with a hydroelectric facility.

Water Pollution Control Law

Title 38 M.R.S.A. Sections 411 to 424

Administered by Dept. of Environmental Protection

This law is designed to implement water pollution control measures by granting funds for municipal pollution abatement projects, and requiring licenses for discharges of waste into bodies of water. Narrow exceptions to this rule include 1) discharges of pollutants resulting from erosion related to agricultural activities, 2) discharge of snow dumps, if the Board determines the activity would have no significant adverse effect on the quality of water in the state, and 3) dredge related discharges if the party has a Federal permit under the Clean Water Act, and is discharging at an approved Army Corps of Engineers discharge site.

Interstate Water Pollution Control

Title 38 M.R.S.A. Sections 491 to 501

Administered by the Signatory States of the New England Water Pollution Control Compact

This law affirms Maine's support of the New England Interstate Water Pollution Control Compact. The Compact states (Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont and Maine) work together to manage interstate waters to meet the industry and agriculture's growing need for water and the growing population's increasing need for clean water for consumption and recreation.

More Maine State Laws Protecting Wildlife Habitat

Subdivision Law

Title 30-A M.R.S.A. Sections 4401 to 4407
Administered by the State Planning Office

This law requires local governments to review applications for subdivisions. A subdivision will not be approved if it has an undue effect on the natural beauty of the area, or on rare and irreplaceable natural areas. The developer must map and identify all freshwater wetlands within the proposed area regardless of their size and indicate any rivers, streams, lakes and ponds so the town may consider the potential impact of the subdivision on these natural resources.

Site Location of Development Law

Title 38 M.R.S.A. Sections 481 to 490
*Administered by Dept. of Environmental
Protection*

This law is designed to control the locations of certain developments and subdivisions that may substantially affect the natural environment. The natural resources protected under this act are existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

Maine Forest Practices Act

Title 12 M.R.S.A. Section 8867 to 8869
*Administered by the Department of
Conservation, Maine Forest Service.*

This law creates size limits for clearcuts, establishes requirements for buffer zones between clear cuts, requires reforestation within clearcuts, requires a forest management plan for clearcuts over 20 acres, and expands the authority of the Maine Forest Service to create and enforce water quality protection rules.

Legal Categories of Wildlife Species

All wildlife species have been placed into one of the following categories. These categories are used among wildlife professionals as well as in many laws that conserve and protect wildlife.

Federal Categories

An *endangered species* is any species that is in danger of extinction throughout all or a significant portion of its range.

A *threatened species* is any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

State of Maine

An *endangered species* is any species that is in immediate danger of extinction within its habitat in the state.

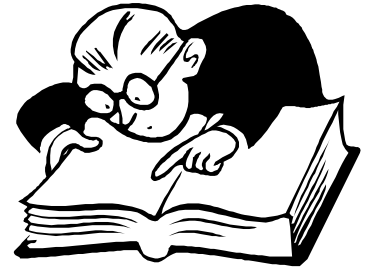
A *threatened species* is any species that will become endangered in the state if current populations experience further decline.

General Terms

Species of Concern may be listed because they are particularly vulnerable to population decline due to restricted distribution or habitat loss, or because there is concern about the status of the species, but there is insufficient information to list it as endangered or threatened.

Game Species are wildlife that can be hunted and/or trapped during a restricted season with permits.

Nongame species are all wildlife that cannot be hunted or trapped.



Legal Definitions of Wildlife Habitat

These specific terms describe wildlife habitat that has special protection under current laws.

Federal

Critical habitat for a threatened or endangered species is specific areas within the geographical area occupied by the species, on which are found those physical or biological features essential to the conservation of the species; and specific areas outside the geographical area occupied by the species that are essential for the conservation of the species.

State of Maine

Essential Habitats are state-designated habitats that are “currently or historically providing physical or biological features essential to the conservation” of endangered or threatened species.

Significant Wildlife Habitats are habitats for species appearing on the official state or federal lists of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; critical spawning and nursery areas for Atlantic salmon; shorebird nesting, feeding and staging areas and seabird nesting islands; and significant vernal pools.

Agencies Which Administer Federal and State Laws to Conserve Wildlife Species and Habitat

Federal Agencies

U.S. Fish and Wildlife Service

300 Westgate Center Drive
Hadley, MA 01035-9589
(413) 253-8200
www.fws.gov/

U.S. Fish and Wildlife Service

PO Box 7342
4 R Fundy Road
Portland, ME 04112-7342
(207) 780-3235
<http://northeast.fws.gov/me.htm>

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue
Washington, D.C. 20460
www.epa.gov

U.S. Environmental Protection Agency Regional Office

1 Congress St.
Boston, MA 02114-2023
1-888-372-7341
<http://www.epa.gov/region1/>

U.S. Army Corps of Engineers New England District

696 Virginia Road
Concord, MA 01742
(978) 318-8111
<http://www.usace.army.mil/>

U.S. Department of Agriculture

14th and Independence Ave., SW
Washington, D.C. 20250
(202) 720-2791
<http://www.usda.gov/>

State Agencies

Maine Department of Conservation

22 State House Station
Augusta, ME 04333
(207) 287-2211
www.state.me.us/doc/

Department of Inland Fisheries and Wildlife Regional Office

284 State Street
41 State House Station
Augusta, ME 04333
(207) 287-8000
www.state.me.us/ifw/

Maine Department of Environmental Protection Maine Law Enforcement Office

17 State House Station
Augusta, ME 04333
1-800-452-1942
www.state.me.us/dep/

Maine State Planning Office

38 State House Station
184 State Street
Augusta, ME 04333
(207) 287-3261
www.state.me.us/spo/

Maine State Legislative Information

(207) 287-1692
<http://state.me.us/legis/>

Maine Senate

(800) 423-6900 / (207) 287-1540
3 SHS, Augusta, ME 04333

Maine House of Representatives

(800) 423-2900 / (207) 287-1400
2 SHS, Augusta, ME 04333

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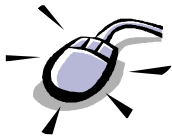
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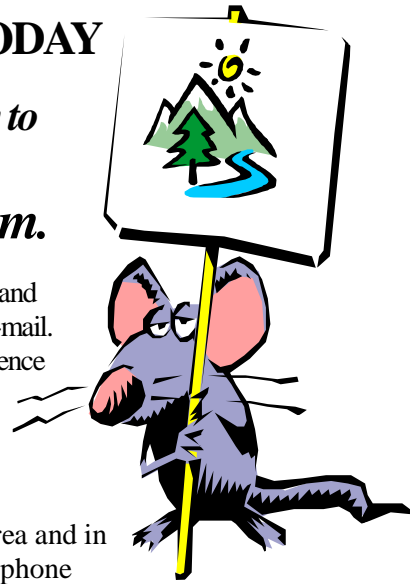
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