

**MAINE
ENDANGERED AND THREATENED SPECIES
LISTING HANDBOOK**

A Guide for Implementing
The Maine Endangered Species Act

Maine Department of Inland Fisheries and Wildlife
Augusta, Maine

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PURPOSE

This Handbook is intended to serve as a guide in recommending species to the Maine Legislature for inclusion on Maine's Endangered and Threatened Species lists. Its purpose is to provide a comprehensive and biologically based system that identifies species in danger of extirpation from Maine, and to serve as a guide for assigning those species to categories relative to their probabilities of extinction from Maine.

The Maine Endangered Species Act (MESA) gives the Commissioner the authority to make recommendations for listing and for maintaining a list of species that are at risk of becoming extinct in Maine. The purpose of MESA is stated in the Act.

§12801. Declaration of purpose

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend.

Listing of a species, and the subsequent management of that species, are two distinct steps.

1. Listing – Listing is the structured, systematic, and scientific examination of the interacting factors that qualifies a species as a candidate for listing as an Endangered or Threatened species in Maine.
2. Management – The listing of a species (in any category) does not automatically ensure a given level of management, nor does it automatically commit resources or programs for that species. Those commitments are part of a subsequent and separate step to the listing process.

Separating these two steps allows the Department to recommend species for listing based solely on biological facts, thus purely reflecting the species' likelihood of extinction within Maine. The decision can be made without being constrained by political pressures; limits on agency funding, staffing, or management capabilities; the ease or difficulty of managing a species; or by a species' potential responsiveness or lack of responsiveness to management.

By having a second step, more thoughtful and refined management decisions are possible. The feasibility, desirability, and practicality of management options can be considered during the second step, along with the management and regulatory jurisdictions of other state, tribal, and federal agencies. This second step is addressed primarily in MDIFW's species planning process as outlined in *Maine's Comprehensive Wildlife Conservation Strategy* (2005).

In summary, the first step recognizes and documents biological concerns for a species by listing it in one of four categories, and the second step looks pragmatically at programs for its protection and recovery. **This Handbook addresses the first step.**

This Handbook covers all aspects of the Department's Endangered Species Listing process, including both regulatory and policy level components. The Maine Endangered Species Act statutorily establishes the categories of "Endangered" and "Threatened" species. Species are added to, or deleted from, these categories via recommendations by the Commissioner of MDIFW to the Legislature, and ultimately, approval by the Legislature. Other administrative categories (Special Concern and Extirpated) are established by policy, not by regulation, and are used for planning and informational purposes; they do not have the legal weight of the first two categories.

DEFINITIONS

Statutory Definitions:

Title 12, Chapter 901: DEFINITIONS (HEADING: PL 2003, c. 414, Pt. A, @2 (new); Pt. D, @7 (aff); c. 614, @9 (aff))

§10001. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

19. Endangered species. "Endangered species" means a species of fish or wildlife that has been determined by the commissioner to be in danger of extinction throughout all or a significant portion of its range and that is listed as a state endangered species under section 12803, subsection 3. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

22. Fish, the noun. "Fish" means a cold-blooded, completely aquatic vertebrate characteristically having gills, fins and an elongated streamlined body usually covered with scales and includes any physical part of a fish. The term refers to fish living predominantly in inland waters and to anadromous and catadromous fish while in inland waters. Whenever the name of a fish, such as "bass" or "trout," is used, it means the named fish or any of its physical parts. [2003, c. 614, §9 (aff); c. 655, Pt. B, §5 (amd); §422 (aff).]

62. Threatened species. "Threatened species" means a species of fish or wildlife that has been determined by the commissioner as likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 12803, subsection 3. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

69. Wild animal. "Wild animal" means a species of mammal, wild by nature, whether or not bred or reared in captivity, as distinguished from the common domestic animals, and includes any physical part of that species of animal. Whenever the name of a wild animal, such as "deer" or "bear," is used, it means the named wild animal or any of its physical parts. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

70. Wild bird. "Wild bird" means a species of bird wild by nature, whether or not bred or reared in captivity, as distinguished from common domestic birds, and includes any physical part of that species of bird. Whenever the name of a wild bird, such as "pheasant" or "eagle," is used, it means the named wild bird or any of its physical parts. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

71. Wildlife. "Wildlife" means any species of the animal kingdom, except fish, that is wild by nature, whether or not bred or reared in captivity, and includes any part, egg or offspring of the animal, or the dead body or parts of the animal. "Wildlife" includes wild animals and wild birds. [2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

Other Definitions as used in this Handbook:

Discrete: Distinct and separable.

Disjunct: Distinctly separate where potentially interbreeding populations are separated from each other by sufficient distance to preclude consistent gene flow (e.g. <1 successful migrant per generation).

Endemic: Native to, and restricted to, a particular geographic area.

Generation: The average duration of a life cycle between birth and first reproduction.

Immigration Rate: The rate at which individuals are added to a population through interchange with other populations.

Migratory: A species having periodic or seasonal movements in or out of Maine.

Northeast: The glaciated northeastern states and provinces, including New England, New York, northeastern Pennsylvania, northwestern New Jersey, Maritime Canada, and southern Quebec (~southeast of the St. Lawrence River)

Population: All individuals of the species or subspecies, statewide, unless otherwise specified.

Population Viability Analysis: A set of estimates that are the product of a systematic process for estimating species-, location-, and time-specific criteria for persistence.

Species: Means species or subspecies.

Vagrant: A species that occurs infrequently in Maine, but has not established a pattern of spending some portion of its annual cycle in Maine, including breeding, migration, or wintering.

LISTING CATEGORIES

Four categories are established to implement Maine's Endangered Species Act: Endangered, Threatened, Special Concern, and Extirpated. **Endangered** and **Threatened** are established and named by statute. **Special Concern** and **Extirpated** are established administratively.

Brief definitions of the four categories follow. Detailed guidelines for assigning species to these categories are presented in the remaining sections of this Handbook.

Endangered Species: "...a species of fish or wildlife that has been determined by the commissioner to be in danger of extinction throughout all or a significant portion of its range and that is listed as a state endangered species under section 12803, subsection 3."

Threatened Species: "...a species of fish or wildlife that has been determined by the commissioner as likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 12803, subsection 3."

Special Concern Species: Any species of fish or wildlife that does not meet the criteria as Endangered or Threatened but is particularly vulnerable, and could easily become, an Endangered, Threatened, or Extirpated species due to restricted distribution, low or declining numbers, specialized habitat needs or limits, or other factors.

Extirpated Species: Any species that was at one time indigenous to Maine but has not been documented as occurring in Maine for the past 50 years, and there has been a reasonable effort to find that species.

LISTING PROCEDURES AND QUALIFICATIONS

MDIFW has the responsibility of maintaining a current and accurate listing of species in danger of extirpation from Maine. This section of the Handbook documents the Department's procedures for periodic reviews or requests to add, remove, or change Listed Species. The Maine ESA and related Department Rules, establish the authority and criteria for listing. The enabling statutes are under 12 MRSA, which include the following (For complete text, refer to Appendix A).

§12803. Designation of endangered species

- 1. Standards.** The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:
 - A. The present or threatened destruction, modification or curtailment of its habitat or range;
 - B. Overutilization for commercial, sporting, scientific, educational or other purposes;
 - C. Disease or predation;
 - D. Inadequacy of existing regulatory mechanisms; or
 - E. Other natural or manmade factors affecting its continued existence within the State.
- 2. Commissioner's duties.** In recommending a species to be listed as endangered or threatened, the commissioner shall:
 - A. Make use of the best scientific, commercial and other data available;
 - B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and
 - C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened.
- 3. Legislative authority.** The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species. The list of state endangered or state threatened species by common name, scientific name and status is as follows:
- 4. Process for recommendation; notice and hearings.** Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.
- 5. Designation by Legislature.** The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

The following are excerpts from MDIFW Rules (09-137 Department of Inland Fisheries and Wildlife, Chapter 8: Endangered Species) (For complete text, refer to Appendix B).

8.01 Agency Jurisdiction

- A. The Commissioner has the authority to recommend to the Legislature the designation of any species of fish or wildlife found in the State as endangered or threatened in accordance with the provisions of the Maine Endangered Species Act. The Legislature has sole authority to designate a species as endangered or threatened.
- B. When IF&W has overlapping jurisdiction with another state agency for a species (i.e. the Atlantic Salmon Authority and Atlantic salmon or the Department of Marine Resources and marine mammals, marine turtles, marine fish, marine invertebrates, and anadromous and catadromous species other than Atlantic salmon when in tidal waters), or another state agency has primary responsibility for a species (i.e. marine fish), IF&W will not recommend that species as threatened or endangered until the agency with overlapping or primary jurisdiction has reviewed the listing request.

8.02 Designation of Endangered and Threatened Species

- A. In determining whether a species meets one or more of the standards for designating a species as endangered or threatened as listed in 12 M.R.S.A. §7753(1), qualifications for consideration for listing, population guidelines for risk of extinction, and other factors will be considered. For the purposes of this chapter, "species" will mean "species" or "subspecies" and "populations" will mean all individuals of the species, statewide.

1. Qualifications for Consideration for Listing

A species may only be recommended for listing as a state endangered or threatened species if it meets all of the following qualifications:

- a. it is a species of mammal, bird, fish, amphibian, reptile, or invertebrate wild by nature as distinguished from domestic species;
- b. it is an indigenous species to Maine, meaning it is not an exotic deliberately or accidentally introduced into Maine, the United States, or North America;
- c. it is a species that spends some portion of its annual cycle in Maine, including breeding, migration, or wintering, but is not a vagrant or accidental visitor;
- d. it is a species that has not expanded into Maine within the past 50 years as part of a general range expansion, unless it historically occurred in Maine or is threatened or declining throughout a significant portion of its total range;
- e. it is a species that has not been reintroduced into Maine as part of an experimental wildlife management program, unless listing is part of the reintroduction plan; and
- f. it is taxonomically classified no finer than a subspecies, unless federally Endangered or Threatened.

3. Other Factors

In addition to population guidelines (2) above, other factors, including range or habitat loss, disease, predation, over-utilization, inadequacy of regulations, and other natural or human-related factors as measured through observation, inference, or projection, will be considered when determining whether to recommend a species for listing as Endangered or Threatened as provided in 12 M.R.S.A. §7001 (7 and 36).

B. Review of List

1. At least every 5 years, the Department shall initiate a review of the designation of species as Endangered or Threatened to determine if any species should be recommended to be added to, deleted from, or changed between the lists.
 2. Requests to add, change, or remove species on the lists may be submitted to the Commissioner for review and recommendation at any time.
- C. Prior to recommending an addition, deletion or other change to the endangered and threatened species list, the Commissioner shall provide for public notice and public hearings on the proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter II.

The decision as to whether to designate a species as Endangered, Threatened, Special Concern, or Extirpated shall be done in accordance with the Maine Endangered Species Act, other statutes and regulations of the State of Maine and the Maine Department of Inland Fisheries and Wildlife, and shall be guided by the criteria and guidelines presented in this handbook.

LISTING GUIDELINES

The listing of a species in Maine is an indication that its risk of extinction from Maine is great enough to warrant concern and recognition. The listing category to which a species is assigned is a reflection of the relative magnitude of that species probability of extinction from Maine.

Step 1

Before a species is considered for listing, it must be determined if the species is qualified for listing as established in rule (refer to page 9). The species must meet all of the following qualifications.

- ✓ It is a species of mammal, bird, fish, amphibian, reptile, or invertebrate wild by nature as distinguished from domestic species;
- ✓ It is an indigenous species to Maine, meaning it is not an exotic deliberately or accidentally introduced into Maine, the United States, or North America;
- ✓ It is a species that spends some portion of its annual cycle in Maine, including breeding, migration, or wintering, but is not a vagrant or accidental visitor;
- ✓ It is a species that has not expanded into Maine within the past 50 years as part of a general range expansion, unless it historically occurred in Maine or is threatened or declining throughout a significant portion of its total range;
- ✓ It is a species that has not been reintroduced into Maine as part of an experimental wildlife management program, unless listing is part of the reintroduction plan; and
- ✓ It is taxonomically classified no finer than a subspecies, unless federally Endangered or Threatened.

Guidelines for Migratory Species that do not Breed in Maine

Some migratory species occur in low numbers in Maine during their non-breeding season. For many of these species, their rarity in Maine is a function of variations in ecological conditions (e.g. winter severity, peripheral migration routes, prey abundance). Such species will not be considered for listing under the Maine Endangered Species Act solely by virtue of their small population size, unless their occurrence is also jeopardized by one or more factors in Maine related to distribution (e.g. clustered occurrence, high site fidelity), fragmentation, broader population declines, inadequate regulations, etc. Migrants that occur strictly as rare transients in Maine are valued as part of the state's wildlife diversity, but there is little conservation benefit from state listing, because their occurrence is largely dependent on movements from source populations in jurisdictions beyond the realm of the Maine ESA.

Step 2

The following criteria are to be considered when recommending species for listing in Maine and the assignment of category. The specific numbers cited are to be used as guidelines. The ultimate recommendation regarding listing status shall be based on the best available scientific information.

Extirpated Species: A species will be listed as extirpated if it was at one time indigenous to Maine but has not been documented as occurring in Maine for the past 50 years, and a reasonable effort has been made to find the species.

Endangered Species: A species will be considered for listing as Endangered if:

A. The following criterion is met:

Population Modeling: A population viability analysis of the species yields a $\geq 30\%$ probability of extirpation from Maine within 20 years or 10 generations, whichever is longer (up to a maximum of 100 years); **OR**

B. Any two of the following five criteria are met, statewide, in Maine:

1. Population Size:

Vertebrates

- a) It is a non-migratory or otherwise isolated population, and the total population is estimated at <500 individuals or the breeding population at <200; **OR**
- b) It is a migratory or otherwise non-isolated population, and the total population is estimated at <250 individuals or the breeding population at <100.

Invertebrates

- a) It is a non-migratory or otherwise isolated population, and the breeding population is estimated at <1,000 individuals; **OR**
- b) It is a migratory or otherwise non-isolated population, and the breeding population is estimated at <500 individuals.

2. Population Trend:

- a) After allowing for normal fluctuations, an observed, estimated, or inferred population decline of $\geq 50\%$ has occurred within the past 10 years or 3 generations (whichever is longer), or $\geq 75\%$ within the past 40 years or 9 generations (whichever is longer); and is continuing to decline, **OR**
- b) After allowing for normal fluctuations, an observed, estimated, or inferred decline in reproductive success or recruitment of young into the breeding age population of $\geq 50\%$ has occurred within the past 10 years or 3 generations (whichever is longer), or $\geq 75\%$ within the past 40 years or 9 generations (whichever is longer).

3. Population Distribution: >90% of the population is found at <5 discrete, disjunct sites during any portion of the species' annual life cycle.
 4. Population Fragmentation: The population is non-migratory or otherwise isolated (immigration rate <1 per year); its distribution is fragmented such that it occurs in discrete, disjunct sites; and there are ≤ 2 of those sites with known or estimated total populations of ≥ 250 individuals (vertebrates) or breeding populations of ≥ 500 individuals (invertebrates).
 5. Endemism: The species is entirely or largely endemic to Maine and/or is assigned a NatureServe global rarity rank of "Critically Imperiled" (G1 for species; T1 for subspecies); **OR**
- C. One or more factors including range or habitat loss, disease, predation, over-utilization, inadequacy of existing regulations, or other natural or human-related factors leading, through observation, inference, or projection to a very high probability of extinction (extirpation from the state) within 100 years.

Threatened Species: A species will be considered for listing as Threatened if it does not meet the criteria for listing as Endangered and:

A. The following criterion is met:

Population Modeling: A population viability analysis of the species yields a $\geq 20\%$ probability of extirpation from Maine within 30 years or 10 generations, whichever is longer (up to a maximum of 100 years); **OR**

B. Any one of B.1, B.2, B.3, or B.4, under "Endangered" are met; {if listing is to be based solely on declining trend (B.2), and trend is from the North American Breeding Bird Survey, list as Special Concern if: (1) there are too many individuals or occurrences to meet the "spirit" of Threatened status, or (2) there is no defensible estimate of the number of individuals or occurrences (i.e., no data to support a total population of < 500 individuals or a breeding population of < 200)}, **OR**

C. Any two of the following five criteria are met:

1. Population Size:

Vertebrates

- a) It is a non-migratory or otherwise isolated population, and the total population is estimated at $< 1,000$ individuals or the breeding population at < 400 ; **OR**
- b) It is a migratory or otherwise non-isolated population, and the total population is estimated at < 500 individuals or the breeding population at < 200 .

Invertebrates

- a) It is a non-migratory or otherwise isolated population, and the breeding population is estimated at $< 3,000$ individuals; **OR**
- b) It is a migratory or otherwise non-isolated population, and the breeding population is estimated at $< 1,500$ individuals.

2. Population Trend:

- a) After allowing for normal fluctuations, an observed, estimated, or inferred population decline of $\geq 25\%$ has occurred within the past 10 years or 3 generations (whichever is longer) $\geq 50\%$ within the past 40 years or 9 generations (whichever is longer); **OR**
- b) After allowing for normal fluctuations, an observed, estimated, or inferred decline in reproductive success or recruitment of young into the breeding age population $\geq 25\%$ has occurred within the past 10 years or 3 generations (whichever is longer), or $\geq 50\%$ within the past 40 years or 9 generations (whichever is longer).

3. Population Distribution: $> 90\%$ of the population is found at < 8 discrete, disjunct sites during any portion of the species' annual life cycle.

4. Population Fragmentation: The population is non-migratory or otherwise isolated (immigration rate <1 per year); its distribution is fragmented such that it occurs in disjunct, discrete sites; and there are ≤ 5 of those sites with known or estimated total populations of ≥ 250 individuals (vertebrates) or breeding populations of ≥ 500 individuals (invertebrates).
5. Endemism: The species is entirely or largely endemic to Maine and/or is assigned a NatureServe global rarity rank of "Imperiled" (G2 for species; T2 for subspecies); **OR**

D. One or more factors including habitat or range loss, over-utilization, disease, predation, inadequacy of existing regulations, or other natural or human-related factors leading, through observation, inference, or projection to a high probability of extinction (extirpation from Maine) within 100 years.

Special Concern Species: A species will be considered for listing as Special Concern if it does not meet the criteria for listing as Endangered or Threatened and:

- A. Any one of C.1, C.2, C.3, or C.4 under “Threatened” are met; **OR**
- B. Population Modeling: A population viability analysis of the species yields a $\geq 10\%$ probability of extirpation from Maine within 100 years; **OR**
- C. Any two of the following criteria are met:

1. Population Size:

Vertebrates

- a) It is a non-migratory or otherwise isolated population, and the total population is estimated at $< 2,000$ individuals or the breeding population at < 800 ; **OR**
- b) It is a migratory or otherwise non-isolated population, and the total population is estimated at $< 1,000$ individuals or the breeding population at < 400 .

Invertebrates

- a) It is a non-migratory or otherwise isolated population, and the breeding population is estimated at $< 10,000$ individuals ; **OR**
- b) It is a migratory or otherwise non-isolated population, and the breeding population is estimated at $< 5,000$ individuals.

2. Population Trend:

- a) After allowing for normal fluctuations, an observed, estimated, or inferred population decline of $\geq 25\%$ has occurred within the past 20 years or 6 generations (whichever is longer), or $\geq 50\%$ within the past 80 years or 12 generations (whichever is longer); **OR**
- b) After allowing for normal fluctuations, an observed, estimated, or inferred decline in reproductive success or recruitment of $\geq 25\%$ has occurred within the past 20 years or 6 generations (whichever is longer), or $\geq 50\%$ within the past 80 years or 12 generations (whichever is longer).

3. Population Distribution: $> 90\%$ of the population is found at < 12 discrete, disjunct sites during any portion of the species’ annual life cycle.

4. Population Fragmentation: The population is non-migratory or otherwise isolated (immigration rate < 1 per year); its distribution is fragmented such that it occurs in disjunct, discrete sites; and there are ≤ 8 of those sites with known or estimated total populations of ≥ 500 individuals (vertebrates) or breeding populations of $\geq 1,000$ individuals (invertebrates).

5. Endemism: The species is endemic to the Northeast and/or is assigned a NatureServe global rarity rank of “Vulnerable” (G3 for species; T3 for subspecies);

6. Federal Status: The species is listed as Endangered, Threatened, or Special Concern under the Federal ESA; **OR**

D. One or more factors including habitat or range loss, over-utilization, disease, predation, inadequacy of existing regulations, or other natural or human-related factors leading, through observation, inference, or projection to a moderate probability of extinction (extirpation from Maine) within 100 years.

APPENDIX A
Maine Endangered Species Act

The Maine Endangered Species Act
State of Maine, Inland Fisheries and Wildlife Laws

Title 12, CHAPTER 925

Subchapter 3: ENDANGERED SPECIES; MANAGEMENT AND RESEARCH (HEADING: PL 2003, c. 414, Pt. A, @2 (new); Pt. D, @7 (aff); c. 614, @9 (aff))

12 §12801. DECLARATION OF PURPOSE

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

This subchapter and chapter 631 are established to carry out the purposes of this section. [2003, c. 573, §5 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 573, §5 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 573, §8 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §C3,6 (AFF).

12 §12802. COMMISSIONER'S AUTHORITY, INVESTIGATIONS AND PROGRAMS

1. Investigations. The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any species of fish or wildlife occurring in the State, whether endangered or not.

[2003, c. 655, Pt. B, §308 (AMD); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Programs. The commissioner may develop programs to enhance or maintain the populations described in subsection 1.

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

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 655, §B308 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF).

12 §12803. DESIGNATION OF ENDANGERED SPECIES

1. Standards. The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:

A. The present or threatened destruction, modification or curtailment of its habitat or range; [2003, c.

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

B. Overutilization for commercial, sporting, scientific, educational or other purposes; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. Disease or predation; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. Inadequacy of existing regulatory mechanisms; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

E. Other natural or manmade factors affecting its continued existence within the State. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

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

2. Commissioner's duties. In recommending a species to be listed as endangered or threatened, the commissioner shall:

A. Make use of the best scientific, commercial and other data available; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

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

3. Legislative authority. The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species. The list of state endangered or state threatened species by common name, scientific name and status is as follows:

A. Least tern, *Sterna antillarum*, endangered; [2007, c. 166, §1 (AMD).]

B. Golden eagle, *Aquila chrysaetos*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

C. Piping plover, *Charadrius melodus*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

D. Sedge wren, *Cistothorus platensis*, endangered; [2007, c. 166, §1 (AMD).]

E. Grasshopper sparrow, *Ammodramus savannarum*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

F. Box turtle, *Terrapene carolina*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

G. Black racer, *Coluber constrictor*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

H. Roseate tern, *Sterna dougallii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

I. Northern bog lemming, *Synaptomys borealis*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

- J. Blanding's turtle, *Emydoidea blandingii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- K. Black tern, *Chlidonias niger*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- L. American pipit, *Anthus rubescens* (breeding population only), endangered; [2007, c. 166, §1 (AMD).]
- M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered; [2007, c. 166, §1 (AMD).]
- N. Roaring Brook mayfly, *Epeorus frisoni*, endangered; [2007, c. 166, §1 (AMD).]
- O. Ringed boghaunter, *Williamsonia lintneri*, threatened; [2007, c. 166, §1 (AMD).]
- P. Clayton's copper, *Lycaena dorcas claytoni*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Q. Edwards' hairstreak, *Satyrrium edwardsii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- R. Hessel's hairstreak, *Callophrys hesseli*, endangered; [2007, c. 166, §1 (AMD).]
- S. Katahdin arctic, *Oenis polixenes katahdin*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- T. Spotted turtle, *Clemmys guttata*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- U. [2009, c. 60, §1 (RP).]
- V. Razorbill, *Alca torda*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- W. Atlantic puffin, *Fratercula arctica*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- X. Harlequin duck, *Histrionicus histrionicus*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Y. Arctic tern, *Sterna paradisaea*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Z. Upland sandpiper, *Bartramia longicauda*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- AA. Swamp darter, *Etheostoma fusiforme*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- BB. Tidewater mucket, *Leptodea ochracea*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- CC. Yellow lampmussel, *Lampsilis cariosa*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- DD. Tomah mayfly, *Siphonisca aerodromia*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- EE. [2007, c. 166, §1 (RP).]
- FF. Twilight moth, *Lycia rachelae*, threatened; [2007, c. 166, §1 (AMD).]

GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened; [2007, c. 166, §1 (AMD).]
HH. Redfin pickerel, *Esox americanus americanus*, endangered; [2007, c. 166, §1 (NEW).]
II. Juniper hairstreak, *Callophrys gryneus*, endangered; [2007, c. 166, §1 (NEW).]
JJ. Rapids clubtail, *Gomphus quadricolor*, endangered; [2007, c. 166, §1 (NEW).]
KK. New England cottontail, *Sylvilagus transitionalis*, endangered; [2007, c. 166, §1 (NEW).]
LL. Black-crowned night heron, *Nycticorax nycticorax*, threatened; [2007, c. 166, §1 (NEW).]
MM. Common moorhen, *Gallinula chloropus*, threatened; [2007, c. 166, §1 (NEW).]
NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened; [2007, c. 166, §1 (NEW).]
OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened; [2007, c. 166, §1 (NEW).]
PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened; [2007, c. 166, §1 (NEW).]
QQ. Sleepy duskywing, *Erynnis brizo*, threatened; [2007, c. 166, §1 (NEW).]
RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened; [2007, c. 166, §1 (NEW).]
SS. Brook floater, *Alasmidonta varicosa*, threatened; [2007, c. 166, §1 (NEW).]
TT. Barrow's goldeneye, *Bucephala islandica*, threatened; and [2007, c. 166, §1 (NEW).]
UU. Least bittern, *Ixobrychus exilis*, endangered. [2007, c. 166, §1 (NEW).]

[2007, c. 166, §1 (AMD); 2009, c. 60, §1 (AMD) .]

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

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

5. Designation by Legislature. The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

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

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 573, §6 (AMD). 2003, c. 414, §D7 (AFF).
2003, c. 573, §8 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§C3,6 (AFF).
2007, c. 166, §1 (AMD). 2009, c. 60, §1 (AMD).

12 §12804. CONSERVATION OF ENDANGERED SPECIES

1. Conservation of nongame and endangered species. The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:

A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

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

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

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the Atlantic Salmon Commission, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

E. In the extraordinary case where population pressures within a given group ecosystem can not be otherwise relieved, regulated taking. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

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

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may by rule identify areas currently or historically providing physical or biological features essential to the conservation of the species and that may require special management considerations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 655, Pt. B, §309 (AMD); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Protection guidelines. The commissioner may by rule develop guidelines for the protection of species designated as endangered or threatened under this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 655, Pt. B, §309 (AMD); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF) .]

4. Annual report.

[2007, c. 651, §14 (RP) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 573, §7 (AMD). 2003, c. 655, §B309 (AMD).
2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF).
2007, c. 651, §14 (AMD).

12 §12805. COOPERATIVE AGREEMENTS

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered or threatened species and may receive all federal funds allocated for obligations to the State pursuant to these agreements. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

12 §12806. STATE AND LOCAL COOPERATION

1. Review. A state agency or municipal government may not permit, license, fund or carry out projects that will:

A. Significantly alter the habitat identified under section 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Violate protection guidelines set forth in section 12804, subsection 3. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

The commissioner shall make information under section 12804 available to all other state agencies and municipal governments for the purposes of review.

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

2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. A public hearing is held on the proposed action. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

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

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section 12804, subsections 2 and 3 are governed by this section.

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

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

12 §12807. INTRODUCTION OF WOLVES TO STATE; APPROVAL

A person may not release a wolf in the State for the purpose of reintroducing that species into the State without the prior approval of both Houses of the Legislature and the commissioner. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

A person who violates this section commits a Class E crime. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

12 §12808. MISUSE OF ENDANGERED OR THREATENED SPECIES

For the purposes of this section, "to take," "take" and "taking" mean the act or omission that results in the death of any endangered or threatened species. [2003, c. 655, Pt. B, §310 (AMD); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF).]

1. Prohibited acts regarding endangered or threatened species; negligence. Except as provided in subsections 2 and 3, a person may not negligently:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates

this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime; or [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR) .]

1-A. Prohibited acts regarding endangered or threatened species; intentional. Except as provided in subsections 2 and 3, a person may not intentionally:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class D crime; or [2005, c. 477, §23 (AMD).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2005, c. 477, §23 (AMD) .]

2. Exceptions for certain purposes. Notwithstanding subsections 1 and 1-A or section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may:

A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 655, Pt. B, §313 (AMD); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt.

B, §422 (AFF) .]

3. Exceptions; incidental take plan. Notwithstanding subsection 1, the commissioner may:

A. Permit the taking of any endangered species or threatened species if:

- (1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;
- (2) The taking will not impair the recovery of any endangered species or threatened species; and
- (3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or threatened species pursuant to paragraph B; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:

- (1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;
- (2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;
- (3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;
- (4) The procedures for monitoring the effectiveness of the recovery measures in the plan;
- (5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and
- (6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be necessary for the recovery of species consistent with this section. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.

If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.

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

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 655, §§B310-313 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2005, c. 477, §23 (AMD).

12 §12809. JUDICIAL ENFORCEMENT

1. General. In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the department.

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

2. Restoration. The court may order restoration of any area affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter,

to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:

A. A threat to public health and safety; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

B. Environmental damage; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

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

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

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF) .

12 §12810. DELISTED SPECIES

1. Definition. For purposes of this section, "delisted species" means a species that was listed as a state endangered or threatened species under section 12803 and after 2007 was removed from that list by the Legislature. The following is a delisted species:

A. Bald eagle, *Haliaeetus leucocephalus*. [2009, c. 60, §2 (NEW) .]

[2009, c. 60, §2 (NEW) .]

2. Prohibited acts regarding delisted species. Except as otherwise authorized by the commissioner pursuant to this Part, a person may not intentionally:

A. Import into the State or export out of the State a delisted species. A person who violates this paragraph commits a Class D crime; [2009, c. 60, §2 (NEW) .]

B. Hunt, trap or possess a delisted species within the State. A person who violates this paragraph commits a Class D crime; [2009, c. 60, §2 (NEW) .]

C. Process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, a delisted species or any part of a delisted species. A person who violates this paragraph commits a Class D crime; or [2009, c. 60, §2 (NEW) .]

D. Feed, set bait for or harass a delisted species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2009, c. 60, §2 (NEW) .]

[2009, c. 60, §2 (NEW) .]

SECTION HISTORY

2009, c. 60, §2 (NEW) .

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APPENDIX B

Maine Endangered Species Act – Related Rules

Chapter 8: ENDANGERED SPECIES

8.01 Agency Jurisdiction

- A. The Commissioner has the authority to recommend to the Legislature the designation of any species of fish or wildlife found in the State (12 M.R.S.A. §12803) as Endangered [12 M.R.S.A. §10001 (19)] or Threatened (12 M.R.S.A. §10001 (63)) in accordance with the provisions of the Maine Endangered Species Act (12 MRSA §12804). The Legislature has sole authority to designate a species as Endangered or Threatened.
- B. *(Repealed)*

8.02 Designation of Endangered and Threatened Species

- A. In determining whether a species meets one or more of the standards for designating a species as Endangered or Threatened as listed in 12 M.R.S.A. §12803, qualifications for consideration for listing, population guidelines for risk of extinction in Maine, and other factors will be considered. For the purposes of this chapter, "species" will mean "species" or "subspecies" and "populations" will mean all individuals of the species, statewide.

1. Qualifications for Consideration for Listing

A species may only be recommended for listing as a state Endangered or Threatened species if it meets all of the following qualifications:

- a. It is a species of mammal, bird, fish, amphibian, reptile, or invertebrate wild by nature as distinguished from domestic species;
- b. It is an indigenous species to Maine, meaning it is not an exotic deliberately or accidentally introduced into Maine, the United States, or North America;
- c. It is a species that spends some portion of its annual cycle in Maine, including breeding, migration, or wintering, but is not a vagrant or accidental visitor;
- d. It is a species that has not expanded into Maine within the past 50 years as part of a general range expansion, unless it historically occurred in Maine or is threatened or declining throughout a significant portion of its total range;
- e. It is a species that has not been reintroduced into Maine as part of an experimental wildlife management program, unless listing is part of the reintroduction plan; and

- f. It is taxonomically classified no finer than a subspecies, unless federally Endangered or Threatened.

2. **Population Guidelines for Risk of Extinction**

The following population characteristics, when available, will be considered by the Commissioner when recommending whether a species meets the definition of Endangered or Threatened as provided 12 M.R.S.A.) §10001 (19 and 63).

- a. Population viability,
- b. Population size,
- c. Population trend,
- d. Population distribution,
- e. Population fragmentation, and
- f. Endemism, meaning the species entirely or largely occurs only in Maine and immediate bordering jurisdictions.

3. **Other Factors**

In addition to population guidelines (2) above, other factors, including range or habitat loss, disease, predation, over-utilization, inadequacy of regulations, and other natural or human-related factors as measured through observation, inference, or projection, will be considered when determining whether to recommend a species for listing as Endangered or Threatened as provided in 12 M.R.S.A.) §10001 (19 and 63).

4. **Listing Handbook**

The Department shall develop an “Endangered and Threatened Species Listing Handbook” that will provide scientifically based listing guidelines and criteria based on Sections A-1, 2, and 3 of this rule to guide the listing process.

B. **Review of List**

1. At least every 8 years, the Department shall initiate a review of the designation of species as Endangered or Threatened to determine if any species should be recommended to be added to, deleted from, or changed between the lists.
2. Requests to add, change, or remove species on the lists may be submitted to the Commissioner for review and recommendation no later than six months before the start of the next legislative session. Each request must include a completed and current “Maine Endangered and Threatened Species Listing Review Work Sheet” and scientific documentation that the species meets the criteria for an

Endangered or Threatened species. Guidelines for completing the worksheet can be found in a current version of the “Maine Endangered and Threatened Species Listing Handbook.”

- C. Prior to recommending an addition, deletion or other change to the Endangered and Threatened Species List, the Commissioner shall provide for public notice and public hearings on the proposed recommendation(s) in accordance with the provisions of **Title 5, chapter 375, subchapter II.**

8.03 Federally Listed Species *(Repealed)*

8.04 *(Repealed)*

8.05 Essential Habitat for Species Designated as Endangered or Threatened

Maps identifying Essential Habitat entitled “Essential Habitat for Endangered and Threatened Species” will be submitted upon adoption.

The following areas, identified as currently or historically providing physical or biological features essential to the conservation of an Endangered or Threatened species and requiring special management considerations, and the management guidelines for the protection of these areas are adopted in accordance with the provisions of 12 M.R.S.A. **§12804**. The Commissioner has identified and mapped such habitats as depicted on the maps entitled "Essential Habitat for Endangered and Threatened Species," which incorporated herein.

(APA Office Note: the maps are available from the Department of Inland Fisheries and Wildlife, 284 State Street, 41 State House Station, Augusta, ME 04330-0041, phone (207) 287-5252. The latest index is at the end of this file.)

A. **Bald Eagle Nest Site** *(Repealed)*

- 1. *(Repealed)*

B. **Roseate Tern Nesting Area**

1. **Purpose**

To provide special protection to maintain breeding habitat and to prevent disturbance, which may cause nesting failure of roseate terns. Protection is focused on the nesting area.

2. **Definitions**

- a. **Nesting area.** "Nesting area" means a locality encompassing an island or portion of an island used by at least one pair of nesting roseate terns.

- b. **Nesting.** "Nesting" means the presence of one or more nests, eggs, chicks, or pairs of territorial adult terns between May 15 and August 15.
- c. **Project.** "Project" means a planned undertaking, newly initiated or reinitiated.

3. **Designation Criteria**

Roseate tern nesting areas identified and mapped by the Commissioner of Inland Fisheries and Wildlife as Essential Habitat must:

- a. Have a record of at least one pair of nesting roseate terns since 1930,
- b. Have suitable habitat as indicated by the presence of nesting common, arctic, or roseate terns in at least any 3 years since 1976, and
- c. Be considered essential to the achievement of the Department's management goals and objectives for roseate terns.

Roseate tern nesting areas designated as Essential Habitat will be deleted if:

- a. The nesting area has not been occupied by any nesting pairs of common terns, arctic terns, or roseate terns during the most recent 10 years, and the lack of occupancy is not related to predation or competition from other species, or to any human-related activity, or
- b. The nesting area is no longer considered essential to the achievement of the Department's management goals and objectives for roseate terns.

4. **Protection Guidelines**

- a. **Projects Prohibited Without the Commissioner's Approval**

Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a Roseate Tern Nesting Area designated as Essential Habitat shall not be permitted, licensed, funded, or carried out unless the Commissioner determines that the activity will not significantly alter or unreasonably harm the Essential Habitat. Projects that may be affected include, but are not limited to: Subdivision of land or buildings, construction, installation, expansion, alteration or repair of permanent structures; agricultural management; mineral exploration and extraction; forest management; road projects and construction; shoreland alteration, utility construction; water crossing; water impoundment; dredging; aquaculture; conversion of seasonal dwelling; installation of subsurface wastewater disposal system; and issuance of an exemption of the minimum lot size requirement.

- b. **Exemptions**

The following activities are exempted from the requirements of this paragraph.

- (1) Projects limited to repairs, maintenance and alterations to the interior of an existing structure.
- (2) Emergency repairs to existing structures and utilities which due to unforeseen circumstances require immediate action.
- (3) Emergency activities which due to unforeseen circumstances require immediate action for public health or safety.
- (4) Licenses and permits to operate or occupy a completed project.
- (5) Projects that address the protection of the Essential Habitat and the Endangered and Threatened species and are conducted as part of a Department Wildlife Management Area Plan or Species Management Plan, or a Land Use Regulation Commission Resource Protection Plan (P-RP) to which the Department is a party, provided that the parties of the agreement perform according to its terms.

5. **Significant Alteration of Habitat**

In determining whether a project significantly alters or unreasonably harms essential nesting habitat, the following factors will be considered:

- a. Magnitude and time of year of noise and human activity generated by the project.
- b. Physical alteration to the landscape of the uplands, waters, and submerged lands.
- c. Destruction of or alteration to key habitat components such as island vegetation, nesting and roosting substrate, and foraging areas.
- d. Increase in disturbance by humans, and in predation or competition by other species.
- e. Demonstrated tolerance of terns at the site to human activity and disturbance.
- f. Reduction in the future suitability of the nesting area to nesting roseate terns.

C. **Piping Plover and Least Tern Nesting, Feeding, and Brood-Rearing Areas**

1. **Purpose**

The purpose of Essential Habitat designation for Piping Plovers and Least Terns is to: 1) provide special protection to maintain nesting, feeding, and brood-rearing habitats essential to the conservation of these species; and 2) minimize human-related disturbance that can cause nesting failure of these species. Protection is focused on the coastal wetlands and coastal sand dune systems used by nesting Piping Plovers or Least Terns.

This rule is not intended to, and shall not be interpreted to: 1) preclude rebuilding of existing structures in accordance with implementation of the coastal sand dune regulations (38 M.R.S.A., Sec. 480-A (Q) and Chapter 355 of Department of Environmental Protection Rules), nor 2) preclude recreational uses in practice at the time an area was designated as Essential Habitat and that are otherwise allowed by law.

2. **Definitions**

When used in this section, the following words and terms shall have the following meaning:

- a. **Nesting.** "Nesting" means the presence of one or more nests, eggs, or chicks of Piping Plovers or Least Terns.
- b. **Nesting, feeding, and brood-rearing area.** "Nesting, feeding, and brood-rearing area" means a locality encompassing portions of coastal wetlands and coastal sand dune systems (including subtidal, intertidal and beach and associated salt marshes and wetlands) used by at least one pair of nesting Piping Plovers or Least Terns.
- c. **Project.** "Project" means a planned undertaking, newly initiated or reinitiated.

3. **Designation Criteria**

Piping Plover and Least Tern nesting, feeding, and brood-rearing areas identified and mapped as Essential Habitat by the Commissioner of Inland Fisheries and Wildlife (IF&W) must be essential to the achievement of the Department's management goals and objectives for Piping Plovers or Least Terns.

Piping Plover and Least Tern nesting, feeding, and brood-rearing areas designated as Essential Habitat will be deleted if:

- a. The area has not been occupied by any nesting pairs of Piping Plovers or Least Terns during the most recent 10 years and the lack of occupancy is not related to predation or competition from other species, or to any human-related activity; or
- b. The area is no longer considered essential to the achievement of the Department's management goals and objectives for Piping Plovers or Least Terns.

4. **Interpretation of Essential Habitat Area Boundaries**

The following guidelines shall be used to interpret mapped Essential Habitat boundaries:

- a. In shaded areas, boundary lines are delineated in greater detail on composite aerial photographs (see "Boundary Line Detail Photos for Piping Plover and Least Tern Essential Habitat", prepared in November, 1994 and August 2008) Copies of these photographs are available for viewing at town offices in affected municipalities; and Maine Department of Environmental Protection offices in Portland and Augusta and all Maine Department of Inland Fisheries and Wildlife offices.

Outside of shaded areas, the lines on the maps indicate the boundaries. Where a line is solid, the line on the map determines the boundary, and the inside of the line is the edge of the boundary. Where a line is dashed, the boundary is determined by the edge of the coastal wetlands as defined by **38 M.R.S.A., Sect. 480-B**. Cross-hatched areas are not part of the Essential Habitat.

- b. Where a boundary line follows a seawall or similar protective structure, only the beach area on the seaward side is intended to be included within the Essential Habitat: neither the seawall itself nor the property behind it are part of the Essential Habitat.

5. **Protection Guidelines**

a. **Projects Prohibited Without the Commissioner's Approval**

Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a Piping Plover and Least Tern nesting, feeding, and brood-rearing area designated as Essential Habitat shall not be permitted, licensed, funded or carried out unless the Commissioner determines that the project will not significantly alter the Essential Habitat.

Examples of projects that may be affected include, but are not limited to: subdivision of land or buildings; construction, installation, expansion, alteration or repair of permanent structures; mineral exploration and extraction; road projects and construction; dredging; bulldozing; removing or displacing soil, sand, vegetation, or other materials; draining or otherwise dewatering; filling, including adding sand or other material to a coastal sand dune; beach nourishment projects; dune restoration projects; utility construction; water crossing; water impoundment; aquaculture; installing of subsurface wastewater disposal system; and issuance of an exemption to the minimum lot size requirement.

Projects located wholly outside an area designated as Essential Habitat, regardless of whether some other portion of the lot or parcel of land is within the Essential Habitat, are not affected by this rule.

Licensed activities which are not considered projects and therefore are not affected by this rule include, but are not limited to: recreational hunting and fishing, shellfish harvesting, sulky driving, dog ownership, and motor vehicle and boat operation.

b. Exemptions

Within areas designated as Essential Habitat, the following projects are exempted from the requirements of this paragraph:

- (1) Emergency repairs to existing utilities and structures, including roads and seawalls that, due to unforeseen circumstances, require immediate action and do not require a coastal sand dune permit under **38 M.R.S.A., Section 480-A, §Q**.
- (2) Emergency activities that, due to unforeseen circumstances, require immediate action for public health or safety.
- (3) Licenses and permits to operate or occupy a completed project.
- (4) Projects limited to repairs, maintenance, and alterations to the interior of an existing structure.
- (5) Projects that address the protection of the Essential Habitat and the Endangered or Threatened Species and are conducted as part of a Department Management Area Plan or Species Management Plan, or a Land Use Regulation Commission Resource Protection Plan (P-RP) to which the Department is a party, provided that the parties of the agreement perform according to its terms.
- (6) Municipal licenses or permits for a project for which the Department, through another permitting process, has already found no significant alteration of the habitat or violation of protection guidelines for the Essential Habitat as currently mapped.

c. Review Process

For projects located partly or wholly within Essential Habitat as defined by **12 M.R.S.A. §12804-2** and this chapter, it is the responsibility of the state agency or municipality considering the permit or license application, or funding or carrying out the project, to obtain the Department's review. The Department will provide forms entitled Request for Project Evaluation. Upon receiving a completed Request for Project Evaluation,

the Department will provide an evaluation of whether the project would significantly alter the Essential Habitat or violate the Department protection guidelines as set forth in 12 M.R.S.A. §12806-1. If the proposed project will significantly alter Essential Habitat or violate the protection guidelines, and if a variance is sought, the Commissioner will determine whether a certification of no significant risk to the population, as described in 12 M.R.S.A. §12806-2 can be issued.

6. Significant Alteration of Habitat

In determining whether a project significantly alters essential nesting, feeding, and brood-rearing habitat for Piping Plovers and Least Terns, the following factors will be considered:

- a. Magnitude and time of year of noise and human activity generated by the project;
- b. Within the area designated as Essential Habitat, destruction, alteration, or degradation of a portion of a coastal wetlands or coastal sand dune system (including subtidal, intertidal, beach, associated salt marshes, and wetlands) which will adversely affect the Essential Habitat;
- c. Increase in disturbance by humans and their pets, or increased predation (or attraction of predators) or competition from other species; and
- d. Reduction in the future suitability of the nesting, feeding, and brood-rearing habitat for Piping Plovers and Least Terns.

STATUTORY AUTHORITY: 12 M.R.S.A. §§ 10104, 12803 and 12804

EFFECTIVE DATE:

January 4, 1984 - Sec. 1

AMENDED:

January 17, 1987 - Sec. 1

March 1, 1990 - Sec. 3

March 11, 1991 - maps only

March 1, 1992 - maps only

March 24, 1993

March 29, 1994 - added new Sec. 1, 2 & renumber previous sec. 1, 2 & 3

May 23, 1994 - Sec. 3, 4 & 5

March 28, 1995 - maps only

May 31, 1995 - Sec. 5 (C)

February 23, 1998 - Sec. 5 - added first sentence; 5(A)(3); converted to M.S. Word 2.0.

October 29, 1998 - amended maps for existing Essential Habitat Site #PPLT 04 (Pine Point and Western Beach, Scarborough and Old Orchard Beach); added PPLT #11 (Fortunes Rocks Beach, Biddeford) and PPLT #12 (Scarborough Beach, Scarborough); added "List of Essential Habitat Maps and Their Current Effective Dates" as Appendix I. Maps are available from the Department.

October 1, 1999 - replaced Appendix I, added Appendix II

June 17, 2002 - maps only. added APA Office Note in Section 8.05
April 19, 2003 - maps only, for bald eagles -- filing 2003-102
August 15, 2004 - index only; APA Office Note refers users to Department for Index and maps. - filing
2004-315
June 18, 2005 - index and maps; APA Office Note refers users to Department for Index and maps - filing
2005-315
September 17, 2007 – index only - filing 2007-399
December 5, 2009 – filing 2009-642
April 5, 2010 – filing 2010-113

**INDEX TO ESSENTIAL WILDLIFE HABITATS
BY TOWN
Effective January 2010**

TOWN NAME	ESSENTIAL HABITAT ID#
Addison.....	RT021
Biddeford	PPLT11, RT001
Bristol	RT011
Brooklin	RT018
Cape Elizabeth.....	PPLT07, PPLT09, PPLT13, PPLT17
Criehaven	RT015, RT016
Falmouth	RT007
Georgetown.....	PPLT06, RT002, RT003, RT014
Harpswell	RT004, RT009
Kennebunk	PPLT02
Kennebunkport.....	PPLT03, RT006
Matinicus Isle Plt.....	RT012, RT013
Milbridge.....	RT020
Ogunquit.....	PPLT01
Old Orchard Beach	PPLT04, PPLT08, PPLT14, PPLT15
Phippsburg.....	PPLT05, RT002, RT003
Saco.....	PPLT08, RT005
Scarborough.....	PPLT04, PPLT09, PPLT12
South Bristol	RT010
St. George.....	RT017, RT022
Wells	PPLT01, PPLT02
Winter Harbor.....	RT019
Yarmouth	RT0

APPENDIX C

Species Listing Review Worksheet

MAINE ENDANGERED AND THREATENED SPECIES LISTING REVIEW WORK SHEET

INSTRUCTIONS: Complete all appropriate sections as directed for species Qualifying for Consideration for Listing in the E&T Listing Handbook.

Scientific Name: _____

Common Name: _____

Taxonomic Group: Amphibian ___; Bird ___; Fish ___; Invertebrate ___; Mammal ___; Reptile ___.

SECTION A

If the species was at one time indigenous to Maine but has not been documented as occurring in Maine for the past 50 years, **and** a reasonable effort has been made to find the species, the species is **EXTIRPATED**. If Extirpated, Go to Section E; otherwise continue to Section B.

Section A comments:

SECTION B

1. **Population Model.** A population viability analysis of the species has been done and indicates one of the following (check the one most applicable):
 - a. ___ A $\geq 30\%$ probability of extirpation from Maine within 20 years or 10 generations, whichever is longer (up to a maximum of 100 years). Species is a candidate for **ENDANGERED** (Go to Section E).
 - b. ___ A $\geq 20\%$ probability of extirpation from Maine within 30 years or 10 generations, whichever is longer (up to a maximum of 100 years). Species is a candidate for **THREATENED** (Go to Section E).
 - c. ___ A $\geq 10\%$ probability of extirpation from Maine within 100 years. Species is a candidate for **SPECIAL CONCERN** (Go to Section E).
 - d. ___ None of the above, or a PVA has not been done or is unavailable. (Continue to Section C)

Section B comments:

SECTION C

1. **Population Size.** The population is best described as (check the one most appropriate):

Vertebrates

- a. ___ Non-migratory, or otherwise isolated, with <500 total individuals or <200 breeding individuals; **OR** migratory, or otherwise non-isolated, with <250 total individuals or <100 breeding individuals.
- b. ___ Non-migratory, or otherwise isolated, with <1,000 total individuals or <400 breeding individuals; **OR** migratory, or otherwise non-isolated, with <500 total individuals or <200 breeding individuals.
- c. ___ Non-migratory, or otherwise isolated, with <2,000 total individuals or <800 breeding individuals; **OR** migratory, or otherwise non-isolated, with <1,000 total individuals or <400 breeding individuals.
- d. ___ None of the above, or unknown.

Invertebrates

- a. ___ Non-migratory, or otherwise isolated population, and the breeding population is estimated at <1,000 individuals; **OR** migratory, or otherwise non-isolated population, and the breeding population is estimated at <500 individuals.
- b. ___ Non-migratory, or otherwise isolated population, and the breeding population is estimated at <3,000 individuals; **OR** migratory, or otherwise non-isolated population, and the breeding population is estimated at <1,500 individuals.
- c. ___ Non-migratory, or otherwise isolated population, and the breeding population is estimated at <10,000 individuals; **OR** migratory, or otherwise non-isolated population, and the breeding population is estimated at <5,000 individuals.
- d. ___ None of the above, or unknown.

Population Size comments:

2. **Population Trend.** After allowing for normal population fluctuations, an observed, estimated, or inferred decline in either population **or** reproductive success or recruitment of young into the breeding population has occurred as follows (check the one most appropriate):
- $\geq 50\%$ within the past 10 years or 3 generations (whichever is longer), or $\geq 75\%$ within the past 40 years or 9 generations (whichever is longer).
 - $\geq 25\%$ within the past 10 years or 3 generations (whichever is longer), or $\geq 50\%$ within the past 40 years or 9 generations (whichever is longer).
 - $\geq 25\%$ within the past 20 years or 6 generations (whichever is longer), or $\geq 50\%$ within the past 80 years or 12 generations (whichever is longer).
 - None of the above, or unknown.

Population Trend comments:

3. **Population Distribution.** During any portion of the species' annual life cycle, (check the one most appropriate):
- $>90\%$ of the population is found at <5 discrete, disjunct sites.
 - $>90\%$ of the population is found at <8 discrete, disjunct sites.
 - $>90\%$ of the population is found at <12 discrete, disjunct sites.
 - None of the above, or unknown.

Population Distribution comments:

4. **Population Fragmentation.** The population is non-migratory or otherwise isolated (immigration rate <1 per year), its distribution is fragmented such that it occurs in discrete, disjunct sites, and (check the one most appropriate):
- There are ≤ 2 of those sites with known or estimated total populations of ≥ 250 individuals (vertebrates), or breeding populations of ≥ 500 individuals (invertebrates).
 - There are ≤ 5 of those sites with known or estimated total populations of ≥ 250 individuals (vertebrates), or breeding populations of ≥ 500 individuals (invertebrates).
 - There are ≤ 8 of those sites with known or estimated total populations of ≥ 500 individuals (vertebrates), or breeding populations of $\geq 1,000$ individuals (invertebrates).
 - None of the above, or unknown.

Population Fragmentation comments:

5. **Endemism.** Check the appropriate one.
- The species is entirely or largely endemic to Maine and/or is assigned a Nature Serve global rarity ranking of "Critically Imperiled" (G1 for species; T1 for subspecies).
 - The species is entirely or largely endemic to Maine and/or is assigned a Nature Serve global rarity ranking of "Imperiled" (G2 for species; T2 for subspecies).
 - The species is endemic to the Northeast (see Definitions in Listing Handbook) and/or is assigned a Nature Serve global rarity ranking of "Vulnerable" (G3 for species; T3 for subspecies).
 - None of the above, or unknown.

Endemism comments:

6. **Federal Status.** Is the species listed as Endangered, Threatened, or Special Concern under the Federal ESA? (If "yes," check a, b, and c.)
- Yes
 - Yes
 - Yes
 - No

Federal Status comments:

SECTION C SUMMARY: Circle the highest category recommended by this section:

If two or more "a"s in **1-5** of this section are checked, the species is a candidate for **ENDANGERED**. (*Go to Section E*)

If two or more "b"s in **1-5** of this section are checked, the species is a candidate for **THREATENED**. (*Go to Section E*)

If one "a" in **1-4** of this section is checked, the species is a candidate for **THREATENED**. (*Go to Section E*)

If one "b" in **1-4** of this section is checked, the species is a candidate for at least **SPECIAL CONCERN**. (*Continue to Section D*)

If two or more "c" in **1-6** of this section is checked, the species is a candidate for at least **SPECIAL CONCERN**. (*Continue to Section D*)

Otherwise, *continue to Section D*

Section C comments:

SECTION D

1. Based on all available information, one or more factors including: habitat or range loss, over-utilization, disease, predation, inadequacy of existing regulations, or other natural or human-related factors lead (through observation, inference, or projection) to a probability of extinction of the species from Maine as roughly characterized by:
 - a. ___ A very high probability of extinction within 100 years. Species is a candidate for **ENDANGERED**. (*Go to Section E*)
 - b. ___ A high probability of extinction within 100 years. Species is a candidate for **THREATENED**. (*Go to Section E*)
 - c. ___ A moderate probability of extinction within 100 years. Species is a candidate for **SPECIAL CONCERN**. (*Go to Section E*)
 - d. ___ None of the above, or unknown. (*Continue to Section E*)

Section D comments:

SECTION E

Listing Category Recommendation and rationale:

ENDANGERED; THREATENED; SPECIAL CONCERN; EXTIRPATED; NONE;

Section E comments:

NOTE: For species recommended for Endangered, Threatened, Special Concern, or Extirpated Status, the Species Listing Documentation Form must be completed and attached.

Name of recorder/reviewer: _____, **Date of review:** _____

APPENDIX D

Species Listing Recommendation Form

2006 Endangered and Threatened Species Listing Recommendation
Maine Department of Inland Fisheries and Wildlife

Scientific Name:

Common Name:

Taxonomic Group:

Range in Maine:

Habitat:

Seasonal Residency:

Recommended Listing Status:

Basis for Listing Recommendation:

Selected References:

Taxonomic Review Committee Chair: _____ (Signature)

Date: