

NATURAL RESOURCES

**Some of the regulatory summaries referenced from U.S. Northern Review publication.

STATE

FINAL:

HB 797 NONTIDAL WETLAND MITIGATION BANKING HB 797 (Public Act: 631) amends the state's nontidal wetland mitigation policy to conform to standards established under the 2008 federal mitigation rule. The amendments: (1) repeal current law provisions that establish compensation ratios for wetland mitigation through mitigation banks; (2) require the potential for on-site mitigation to be considered whenever it may be environmentally preferable; (3) add specificity to mitigation bank policies; and (4) add several related definitions. The bill also states that mitigation through a mitigation bank must be accomplished within a "service area," as determined by the Maryland Department of the Environment (MDE) in coordination with an interagency review team. Finally, the bill establishes that public notice and comment is required when siting any wetland bank, not just those that are greater than five acres in size. A notice of the bill's introduction was published in the March 2016 Northern Review. The bill was signed by the governor on 19 MAY 16 and became effective on 1 JUL 16.

PROPOSED:

REGULATION OF INVASIVE PLANTS The Maryland Department of Agriculture (MDA) [proposed](#) amendments to COMAR 15.06.04, Regulation of Invasive Plants. The amendments: (1) establish a list of tier 1 plants and tier 2 plants in accordance with MDA's risk assessment protocol; (2) establish a procedure for the classification or the declassification of an invasive plant as a tier 1 invasive plant or a tier 2 invasive plant; (3) establish a procedure for the disposal of tier 1 plants; (4) designate signage requirements; and (5) provide for the distribution of a list of tier 2 invasive plants to licensed nurseries, plant dealers, and plant brokers on an annual basis.

AMENDMENTS TO THREATENED AND ENDANGERED SPECIES REGULATIONS The Maryland Department of Natural Resources (MDNR) proposed amendments to [COMAR 08.03.08](#), Threatened and Endangered Species. The amendments: (1) list 23 new species of animals and plants in need of conservation, or that are endangered, threatened or endangered extirpated; (2) reclassify 31 species that are currently listed as in need of conservation, threatened, endangered or endangered extirpated; (3) provide protection for 10 nongame mammal species that are not currently listed and for one mammal species that is proposed to be delisted; and (4) repeal and replace certain regulations due to the large number of proposed plant species' common name changes.

FEDERAL

FINAL:

DESIGNATION OF EXPERIMENTAL POPULATIONS The National Marine Fisheries Service (NMFS) issued a final rule regarding experimental populations under the ESA ([81 FR 33416](#)). The final rule became effective on 27 JUN 16.

U.S. FRESHWATER TURTLES PROTECTED FROM INTERNATIONAL TRADE FWS issued a [final rule](#) protecting four species of freshwater turtles from illegal trade ([81 FR 32664](#)) including the common snapping turtle, Florida softshell turtle, smooth softshell turtle, and spiny softshell turtle, under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ([CITES](#)). The final rule becomes effective on 21 NOV 16.

FOREST SERVICE ECOSYSTEM RESTORATION POLICY The U.S. Forest Service (USFS) issued a permanent Ecosystem Restoration policy that replaces the Interim Directive, Ecological Restoration and Resilience Policy, in the USFS Manual 2020 ([81 FR 24785](#)). The directive became effective on 27 MAY 16. For more information, click [here](#).

NATIONAL WETLAND CONDITION ASSESSMENT USEPA released the first ever [National Wetland Condition Assessment](#), a collaborative survey of the nation's wetlands ([81 FR 30300](#)). The assessment describes the results of the nationwide probabilistic survey that was conducted in the spring and summer of 2011 by USEPA and its state and tribal partners. The final report shows that nearly half of the nation's wetlands are in good health, while 20 percent are in fair

NATURAL RESOURCES

health, and the remaining 32 percent in poor health. The National Wetland Condition Assessment is part of a series of [aquatic resource surveys](#) designed to advance the science of coastal monitoring and answer critical questions about the condition of waters in the United States. To view a fact sheet, click [here](#).

NATIONAL ESTUARY PROGRAM [Public Law No: 114-162](#), signed in May 2016, reauthorized the [National Estuary Program](#) by amending the Federal Water Pollution Control Act. The legislation provides modest funding amounts (authorizing \$26.5 million each for FY 2017 through 2021) for competitive grants and awards to address issues that threaten the ecological wellbeing of coastal areas. Relevant topics include: (1) extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality; (2) recurring harmful algae blooms; (3) unusual marine mammal mortalities; (4) invasive exotic species that may threaten wastewater systems and cause other damage; (5) flooding that may be related to sea level rise or wetland degradation or loss; and (6) low dissolved oxygen conditions in estuarine waters and related nutrient management.

WILDLAND-URBAN INTERFACE RISK MITIGATION President Obama issued Executive Order (EO) 13728, Wildland-Urban Interface Federal Risk Mitigation ([81 FR 32221](#)). The EO directs federal departments and agencies to enhance the wildfire resilience of their buildings when making investment decisions to ensure continued performance of essential functions and to reduce risks to building occupants.

NATIONAL PLANT LIST The U.S. Army Corps of Engineers (USACE) released the final [2016 National Wetland Plant List](#) ([81 FR 22580](#)). The plant list is used to determine whether the hydrophytic vegetation parameter is met when conducting wetland determinations under CWA and the Wetland Conservation Provisions of the Food Security Act. Other applications of the list include wetland restoration, establishment, and enhancement projects. The list, effective 1 MAY 16, must be used in any wetland delineation performed after this date. Delineations received prior to this date may use the 2014 list.

NORTHERN LONG-EARED BAT USFWS issued a determination that it is not prudent to designate critical habitat for the [northern long-eared bat](#) ([81 FR 24707](#)). The species was listed as threatened in April 2015. The determination was made on 27 APR 16.

NORTHERN LONG-EARED BAT CONSERVATION USFWS issued a final rule that establishes necessary measures to provide for the conservation of the northern long-eared bat ([81 FR 1900](#)). The northern long-eared bat ranges from Alaska down to northern Florida, but is absent from western United States. The final rule became effective on 16 FEB 2016.

REGIONAL MONITORING NETWORKS TO DETECT CHANGING BASELINES IN FRESHWATER WADEABLE STREAMS USEPA released a document, Regional Monitoring Networks (RMNs) to Detect Changing Baselines in Freshwater Wadeable Streams ([81 FR 10240](#)).

ENDANGERED SPECIES ACT: INTERAGENCY COORDINATION POLICY The USFWS) and NMFS have announced an interagency policy to clarify the role of state agencies in activities undertaken by the services under authority of the Endangered Species Act (ESA) and associated regulations ([81 FR 8663](#)). The updated policy was published on 22 FEB 2016. For more information, click [here](#).

INTERAGENCY COOPERATION: DEFINITIONS – DESTRUCTION OR ADVERSE MODIFICATION USFWS and NMFS have issued a final rule revising the definition of “destruction or adverse modification” of critical habitat, which is integral to the implementation of the Endangered Species Act (ESA) ([80 FR 7214](#)). The final rule became effective 14 MAR 2016.

EXCLUSION FROM CRITICAL HABITAT DESIGNATION USFWS and NMFS have released their final policy on excluding lands from critical habitat designation ([81 FR 7226](#)). The final policy became effective on 14 MAR 2016.

REGULATIONS FOR DESIGNATING CRITICAL HABITAT USFWS and NMFS have issued a final rule amending the regulations that clarify, interpret, and implement procedures and criteria used for adding species to the lists of

NATURAL RESOURCES

endangered and threatened wildlife and plants and designating and revising critical habitat ([81 FR 7413](#)). The final rule became effective 14 MAR 2016.

EAGLE TAKE PERMIT DURATION USFWS has issued a final rule reinstating the five-year maximum programmatic permit limit for eagle non-purposeful take permits ([81 FR 8001](#)). The final rule became effective on 17 FEB 2016.

NORTH ATLANTIC RIGHT WHALE NMFS has issued a final rule expanding critical habitat for the endangered North Atlantic right whales to cover its northeast feeding areas in the Gulf of Maine/Georges Bank region and southeast calving grounds from North Carolina to Florida ([81 FR 4837](#)). The final rule does not exclude any particular area from the final critical habitat.

NATIONAL COASTAL CONDITION ASSESSMENT USEPA released the final National Coastal Condition Assessment 2010 ([81 FR 3409](#)).

PROPOSED:

HABITAT CONSERVATION PLANNING HANDBOOK The U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) released a [draft revision](#) of their joint Habitat Conservation Plan (HCP) Handbook, which describes requirements, procedures, and guidance for permit issuance and conservation-plan development ([81 FR 41896](#)).

ATLANTIC STURGEON: CRITICAL HABITAT FOR THREE DPSs NMFS issued a proposed rule to designate critical habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs of [Atlantic Sturgeon](#) ([81 FR 35701](#)). The specific areas proposed for designation include approximately 453 miles of aquatic habitat in rivers in Maryland, Virginia, and the District of Columbia for the Chesapeake Bay DPS of Atlantic sturgeon.

EAGLE INCIDENTAL TAKE The U.S. Fish and Wildlife Service (FWS) issued a proposed rule to update its eagle conservation and management program, including revisions to its 2009 eagle incidental take permit and eagle nest take regulations ([81 FR 27933](#)). In a related effort, FWS released a [draft programmatic environmental impact statement](#) which analyzes the effects of eagle management at different geographic scales, different take limits for bald and golden eagles, and proposed permit revisions. For more information, click [here](#).

CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES (CCAAs) FWS issued two separate proposed rules to amend the regulations and policy governing enhancement of survival permits associated with CCAAs ([81 FR 26796](#) and [81 FR 26817](#)).

PETITIONS FOR THREATENED AND ENDANGERED SPECIES The U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) issued a proposed rule to revise a [May 2015](#) proposed rule that modified regulations governing petitions for T&E species conservation ([81 FR 23448](#)).

MITIGATION POLICY The U.S. Fish and Wildlife Service (USFWS) has announced proposed revisions to its mitigation policy ([81 FR 12379](#)). The primary intent of the policy is to apply mitigation in a strategic manner that ensures an effective linkage with conservation strategies at appropriate landscape scales.

NATIONAL HANDBOOK OF CONSERVATION PRACTICES The Natural Resources Conservation Service (NRCS) provided notice that it intends to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices ([81 FR 11509](#)). These practices may be used in conservation systems that treat highly erodible land or on land determined to be a wetland.

ANTHROPOGENIC SOUND The National Oceanic and Atmospheric Administration (NOAA) proposed [amendments](#) to its draft Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing ([81 FR 14095](#)). For more information, click [here](#).

NATURAL RESOURCES

ALL SALAMANDERS ADDED TO LIST OF INJURIOUS AMPHIBIANS USFWS issued an interim rule adding all 201 species of salamanders to the list of injurious amphibians ([81 FR 1534](#)). The interim rule prohibits, except by permit, both the importation into the U.S. and the interstate transportation of any live or dead specimen of the 20 genera of salamanders. The interim rule became effective on 28 JAN 2016.

WHITE TIPPED SHARK The National Marine Fisheries Service (NMFS) announced that it will conduct a status review of the oceanic white-tipped shark to determine if listing is warranted ([81 FR 1376](#)).

OTHER

WHALE AND DOLPHIN DENSITY CHARTS New, highly detailed maps charting the seasonal movements and population densities of 35 species of whales, dolphins and porpoises in the crowded waters of the U.S. East Coast and Gulf of Mexico are now available. The [maps](#) integrate data from nearly 1.1 million linear kilometers of surveys and more than 26,000 sightings collected by researchers at five institutions over 23 years. The maps also reveal large regional differences in population densities for harbor porpoises and small dolphins, and large seasonal shifts in the densities of migratory baleen whales. To read more, click [here](#).