

# NATURAL RESOURCES

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

## STATE

### FINAL:

**AMENDMENTS TO THREATENED AND ENDANGERED SPECIES REGULATIONS.** The Maryland Department of Natural Resources (MDNR) has [adopted](#) 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. A notice of the proposed amendments was published in the February 2016 Northern Review. The amendments became effective on 29 AUG 16.

## FEDERAL

### FINAL:

**ENDANGERED AND THREATENED LISTING FORMAT.** The U.S. Fish and Wildlife Service (FWS) has issued a final rule amending the format of the Lists of Endangered and Threatened Wildlife and Plants to reflect current practices and standards ([81 FR 51549](#)). The final rule became effective on 4 AUG 16.

**ANTHROPOGENIC SOUND.** NMFS has issued final technical guidance for assessing the effects of anthropogenic sound on marine mammal hearing ([81 FR 51693](#)). The [guidance](#) provides updated received levels, or acoustic thresholds, above which individual marine mammals under NMFS jurisdiction are predicted to experience changes in their hearing sensitivity (either temporary or permanent) for all underwater anthropogenic sound sources. The guidance is intended for use by NMFS analysts and managers and other relevant user groups and stakeholders, including other federal agencies, when seeking to determine whether and how their activities are expected to result in hearing impacts to marine mammals via acoustic exposure.

**METHODOLOGY FOR PRIORITIZING STATUS REVIEWS, 12-MONTH FINDINGS** FWS has released a final methodology for prioritizing status reviews and accompanying 12-month findings on petitions for listing species under the Endangered Species Act ([81 FR 49248](#)). The methodology will be used to help build a multi-year National Listing Workplan for completing all types of actions in the listing program. According to FWS, the National Listing Workplan will be posted [here](#). The workplan will complement FWS's 1983 Endangered and Threatened Species Listing and Recovery Priority Guidelines, which applies to species that have already been determined to warrant a listing proposal.

### PROPOSED:

**NATIONAL HANDBOOK OF CONSERVATION PRACTICES.** The Natural Resources Conservation Service (NRCS) has proposed to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices ([81 FR 56579](#)). Revised standards include: (1) Compost Facility (Code 317); (2) Constructed Wetland (Code 656); (3) Critical Area Planting (Code 342); (4) Drainage Water Management (Code 554); and (5) Stream Habitat Improvement (Code 395). NRCS state conservationists who choose to adopt the standards for use within their states will incorporate them into section IV of their respective electronic Field Office Technical Guide. The standards may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland.

**MID-ATLANTIC REGIONAL OCEAN ACTION PLAN** The federal agencies making up the [Mid-Atlantic Regional Planning Body](#), are requesting public comment on the draft [Mid-Atlantic Regional Ocean Action Plan](#) ([81 FR 44040](#)). The draft plan has two main goals: healthy ocean ecosystems and sustainable ocean uses. The draft plan describes best practices for federal inter-agency coordination, as well as coordination among federal agencies, states, and other stakeholders. The draft plan is foundational and will continue to evolve.

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**PERIODIC REVIEW OF REGULATIONS.** The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) has published a proposed plan to comply with the Regulatory Flexibility Act (RFA) ([81 FR 51426](#)). The RFA requires that NMFS periodically review existing regulations that have a significant economic impact on a substantial number of small entities. The plan describes how NMFS will perform the review and describes the regulations that are being proposed for review during the current review cycle.

## **OTHER:**

**PLANTS DATABASE AND WEBINAR** The Natural Resources Conservation Service (NRCS) [PLANTS database](#) provides standardized information about the vascular plants, mosses, liverworts, hornworts, and lichens of the U.S. and its territories. It includes names, plant symbols, checklists, distributional data, species abstracts, characteristics, images, crop information, automated tools, weblinks, and references. PLANTS data is used by NRCS to implement conservation initiatives, including pollinator plantings, cover crop selections, establishment and maintenance, soil health planning, ecological site descriptions, climate change planning, recognizing the need to adapt and/or mitigate using appropriate plant materials, and invasive plant eradication/mitigation. In addition to NRCS, PLANTS serves many other agencies in the Departments of Agriculture, Interior, Defense (USACE), USEPA, state and local agencies, conservation organizations, academic researchers, and the general public.

**CLIMATE-READY ESTUARIES** The USEPA Climate-Ready Estuaries (CRE) program has added sea-level rise resources to its [website](#). The CRE program works with the [National Estuary Program](#) and the coastal management community to assess climate change vulnerabilities, develop and implement adaptation strategies, and engage and educate stakeholders. Recently added resources to the CRE website address how much the sea has risen, how much it might rise, and what the impacts might be.

**GUIDE FOR CONSIDERING CLIMATE CHANGE IN COASTAL CONSERVATION** The National Oceanic and Atmospheric Administration (NOAA) released a [new guide](#) providing a step-by-step approach for incorporating climate change information into new or existing conservation plans. The guide's six steps draw from existing strategic conservation planning frameworks but focus on climate considerations and key resources specifically relevant to the coastal environment, including coastal watersheds.

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## ARCHIVED

### 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

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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 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 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

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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 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.