

ENDANGERED & THREATENED SPECIES

FEDERAL & STATE LISTINGS



Closing the Gap...





INDIVIDUALS:

- *Edward Baum, Fisheries Scientist, Retired Program Coordinator for Maine Atlantic Sea-Run Salmon Commission*
- *Topher Browne, Journalist and author of “Atlantic Salmon Magic”*
- *Mark Des Meules, Former Science & Stewardship Director for The Nature Conservancy VT, Former Executive Director Land for Maine’s Future, Maine Atlantic Salmon Collaborative, Former Executive Director Damariscotta River Association*
- *Joan Garner Trial, Ph.D., Retired MDIFW Fisheries Biologist, Atlantic Salmon Commission, DMR Bureau Sea Run Fisheries*
- *Albert M. Manville II, Ph.D., Retired Senior Wildlife Biologist for USFWS, Certified Wildlife Biologist for The Wildlife Society, Adjunct Professor at Johns Hopkins University, Sole Proprietor of Wildlife and Habitat Conservation Solutions, LLC*
- *Paul Nickerson, Retired USFWS and co-author of the federal rule listing Atlantic salmon in Maine*
- *Ray “Bucky” Owen, Ph.D., Former MDIFW Commissioner*
- *Catherine Schmitt, Journalist and author of “The President's Salmon: Restoring the King of Fish and its Home Waters”*
- *Matthew Scott, Emeritus, AFS, AIFRB; Retired Chief Biologist Maine DEP and former Deputy Commissioner MDIFW*
- *Mark Whiting, Ph.D., Retired DEP Biologist for DEP Salmon Rivers Program*

UNITED STATES ENDANGERED SPECIES ACT...

When Congress passed the Endangered Species Act (ESA) in 1973, it recognized that our rich natural heritage is of “esthetic, ecological, educational, recreational, and scientific value to our Nation and its people.”

Source: <https://www.fws.gov/endangered/laws-policies/>

The purpose of the ESA is to protect and recover imperiled native species and the ecosystems they depend to prevent them from going extinct.

Source: <https://www.fws.gov/endangered/laws-policies/>

The Federal ESA is administered by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS).

Source: <https://www.fws.gov/endangered/laws-policies/>

Under the ESA, species may be listed as either Endangered or Threatened:

"Endangered" means a species is in danger of extinction throughout all or a significant portion of its range.

"Threatened" means a species is likely to become endangered within the foreseeable future.

Source: <https://www.fws.gov/endangered/laws-policies/>

Federally-Listed Species Found in Maine

There are currently 16 federally-listed endangered and threatened birds, mammals, reptiles and fish found in Maine. Of those, 10 are also listed at the state level. The 6 federally-listed species found in Maine that are not listed at the state level are:

- *Red knot*
- *Canada lynx*
- *Blue whale*
- *Green turtle*
- *Atlantic salmon*
- *Atlantic sturgeon*

MAINE ENDANGERED SPECIES ACTS...

MESA/Marine ESA Timeline

1975: Maine's 109th Legislature enacts the Maine Endangered Species Act (MESA) and establishes Maine's first Endangered and Threatened Species List, containing only federally listed species whose ranges include Maine.

Sec. 1. 12 MRSA Pt. 10 §7001

§7. Endangered species. “Endangered species” means any species of fish or wildlife **which has been determined by the Secretary of the Interior of the United States** pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, or the commissioner pursuant to this chapter to be in danger of extinction throughout all or a significant portion of its range.

Source: http://lldc.mainelegislature.org/Open/Laws/1979/1979_PL_c420.pdf

MESA/Marine ESA Timeline (cont.)

1995: The Maine Legislature eliminates the provision in MESA that automatically lists federally Endangered and Threatened species on Maine's list through LD428 “An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature.”

1996: The Maine Legislature eliminates the designation by the Secretary of the Interior as integral to the definition of “Endangered” through the passage of Emergency Bill LD1645, amended to read:

“Endangered species” means any species of fish or wildlife that has been determined by the ~~Secretary of the Interior of the United States pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended,~~ commissioner to be in danger of extinction throughout all or a significant portion of its range...”

2003: The Maine Legislature enacts Marine ESA.

Sources: <http://ldc.mainelegislature.org/Open/LDs/117/117-LD-0428.pdf>
http://ldc.mainelegislature.org/Open/Laws/1995/1995_PL_c667.pdf

Maine Endangered Species Act (MESA)

Title 12: CONSERVATION

Part 13: INLAND FISHERIES AND WILDLIFE

Chapter 925: FISH AND WILDLIFE MANAGEMENT AND RESEARCH

Subchapter 3: ENDANGERED SPECIES; MANAGEMENT AND RESEARCH

§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.

§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.

Maine Marine Endangered Species Act (ESA or Marine ESA)

Title 12: CONSERVATION

Part 9: MARINE RESOURCES

Chapter 631: ENDANGERED OR THREATENED MARINE SPECIES

§6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner may recommend a marine species found in the State for designation as a state endangered or state threatened marine species if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

§6974. Legislative authority

The Legislature has sole authority to designate a marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975.

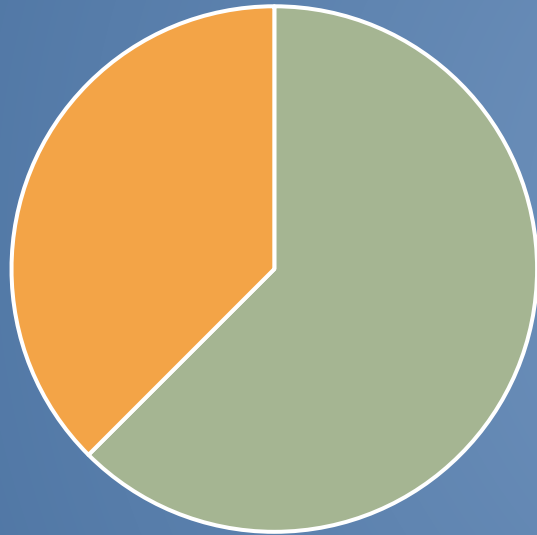
ENDANGERED SPECIES IN MAINE...

State-Listed Species

There are currently 40 species of endangered and threatened birds, mammals, reptiles and fish listed under Maine ESA and Maine Marine ESA. Of those, 10 species are also listed at the federal level:

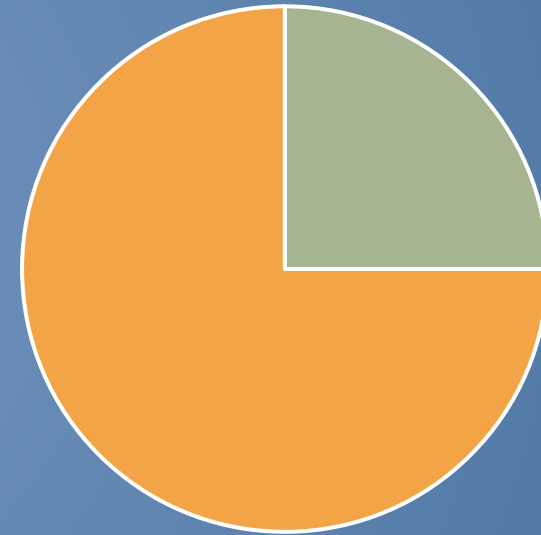
- *Piping plover*
- *Roseate tern*
- *Northern long-eared bat*
- *Right whale*
- *Fin whale*
- *Sperm whale*
- *Sei whale*
- *Loggerhead turtle*
- *Leatherback turtle*
- *Shortnose sturgeon*

FEDERALLY-LISTED ENDANGERED & THREATENED SPECIES



■ Federal and State listing (10) ■ Federal listing only (6)

STATE-LISTED ENDANGERED & THREATENED SPECIES



■ Federal and State listing (10) ■ State listing only (30)

BIRDS...

SPECIES	FEDERAL ESA	MAINE ESA (MESA)	MAINE MARINE ESA (ESA)
BIRDS:			
American pipit		E (1997) ?	
Arctic tern		T (1997)	
Atlantic puffin		T (1997)	
Barrow's goldeneye		T (2007)	
Black tern		E (1997)	
Black-crowned night heron		E (2007)	
Common gallinule (moorhen)		T (2007)	
Golden eagle		E (1986)	
Grasshopper sparrow		E (1986)	
Great cormorant		T (2007)	
Harlequin duck		T (1997)	
Least bittern		E (2007)	
Least tern		E (1981)	
Peregrine falcon		E (1986)	
Piping plover	T (1985)	E (1986)	
Razorbill		T (1997)	
Red Knot	T (2015)		
Roseate tern	E (1987)	E (1986)	
Sedge wren		E (1986 or 1997) ?	
Short-eared owl		T (2007)	
Upland sandpiper		T (1997)	

MAMMALS...

SPECIES	FEDERAL ESA	MAINE ESA (MESA)	MAINE MARINE ESA (ESA)
MAMMALS:			
Blue whale	E (1970)		
Canada lynx	E (2000)		
Eastern small-footed bat		T (2015)	
Finback whale	E (1970)		E (2003)
Humpback whale			E (2003)
Little brown bat		E (2015)	
New England cottontail		E (2007)	
Northern bog lemming		T (1986)	
Northern long-eared bat	T (2015)	E (2015)	
Right whale	E (1970)		E (2003)
Sei whale	E (1970)		E (2003)
Sperm whale	E (1970)		E (2003)

REPTILES...

SPECIES	FEDERAL ESA	MAINE ESA (MESA)	MAINE MARINE ESA (ESA)
REPTILES:			
Atlantic ridley turtle			E (2003) ?
Black racer		E (1986)	
Blanding's turtle		E (1986)	
Box turtle		E (1986)	
Green turtle	E (1978); T (2016)		
Leatherback turtle	E (1970)		E (2003) ?
Loggerhead turtle	T (1978)		T (1997) ?
Spotted turtle		T (1986)	

FISH...

SPECIES	FEDERAL ESA	MAINE ESA (MESA)	MAINE MARINE ESA (ESA)
FISH:			
Atlantic salmon	E (2009)		
Atlantic sturgeon	T (2012)		
Redfin pickerel		E (2007)	
Shortnose sturgeon	E (1967)		E (2007) ?
Swamp darter		T (1997)	

NOTE: Invertebrates are not included in this analysis; and ME has no Endangered amphibians.

Federal, State or Both?

State listing without Federal listing:

- Maine has listed 30 species of birds, mammals, reptiles and fish as Endangered or Threatened at the state level that are not listed under the Federal ESA.
- Species listed at the state level but not at the federal level are in trouble in Maine but not in danger of going extinct throughout their range.
- A state-level listing is used so that appropriate action is taken to prevent the species from having to be listed at the Federal level.

Federal, State or Both?

Federal listing without State listing:

If a species is listed as Endangered under the Federal ESA, it is by default and definition in danger of going extinct throughout its range.

If we know enough to list 30 species as Endangered or Threatened at the state level when the species is not at risk of extinction across its range, how can we justify not listing a species at the state level when it is at risk of extinction across its range?

Why Maine's lists are different than the Federal List

From 1979 to 1996, Maine's definition of Endangered Species included a designation by the Secretary of the Interior.

But with the passage of LD164 in 1996, that changed:

In 1996, Maine took responsibility for listing endangered species away from the state and federal scientists and gave it to the legislature. Twenty-five years later it's time we gave it back.

There is no biological reason for Maine not to list a species that USFWS and NMFS have listed as Endangered or Threatened.

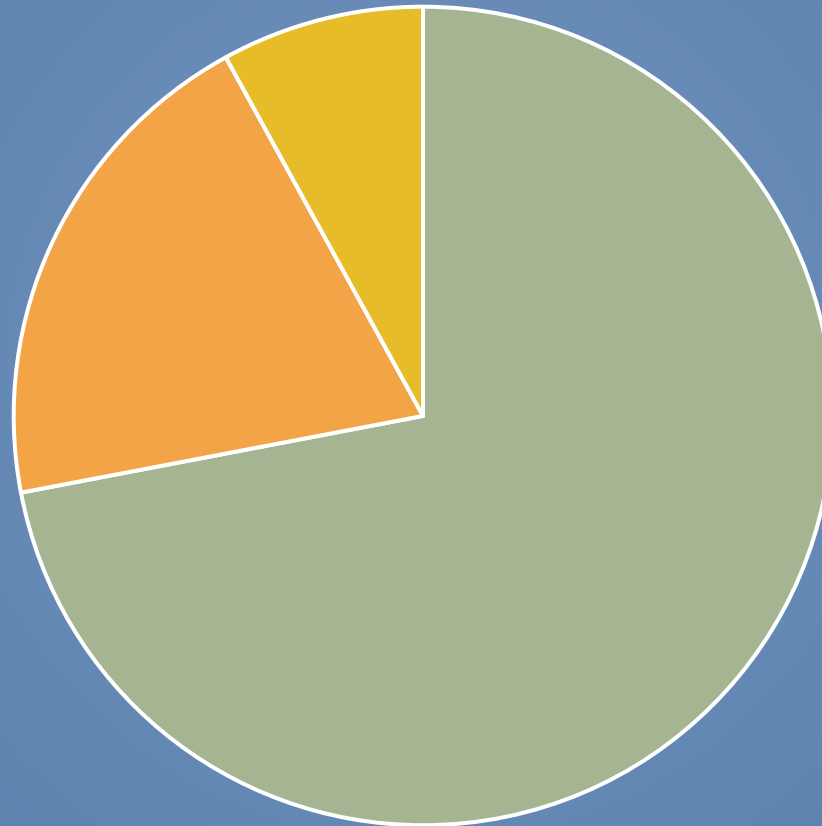
How Maine Compares to Other States

36 states mandate listing at the state level for all federally listed species found in their respective state. In 4 other states listing is “recommended” or “highly recommended” in statute.

Only 10 states do not mandate listing:

- *Alabama*
- *Alaska (some species are state listed)*
- *Arkansas*
- *California (most species are state listed)*
- *Colorado (most species are state listed)*
- *Maine (some species are state listed)*
- *Nevada (some species are state listed)*
- *South Dakota (some species are state listed)*
- *West Virginia*
- *Wyoming*

MANDATORY STATE LISTING OF FEDERALLY-LISTED ENDANGERED & THREATENED SPECIES



■ YES (36 states) ■ NO (10 states) ■ OTHER* (4 states)

** OTHER –
“Recommended” or
“Highly Recommended”
in statute*

PROPOSED LEGISLATION...

LD 883: An Act to Protect Endangered
Species Whose Life Cycles Include
Maine Land or Waters

Title 12: CONSERVATION

Part 13: INLAND FISHERIES AND WILDLIFE

Subchapter 3: ENDANGERED SPECIES; MANAGEMENT AND RESEARCH

New text
Deletions

§. 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.

The commissioner shall also recommend to be listed as endangered or threatened any species that is federally listed as endangered or threatened pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if that species uses land or waters in this State for any part of its life cycle.

The following amendment will be proposed in committee:

3. Legislative authority

Any federally listed threatened or endangered species (1) using Maine lands and or waters for any part of their life cycles must also be listed under Maine's Endangered Species Act or Maine Marine Endangered Species Act. The Legislature, as sole authority, shall designate ~~a~~ additional 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...

Title 12: CONSERVATION

Part 9: MARINE RESOURCES

Chapter 631: ENDANGERED OR THREATENED MARINE SPECIES

New text
Deletions

§6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner ~~may~~ **shall** recommend a marine species ~~found in the State~~ for designation as a state endangered or state threatened marine species if that species is listed as an endangered or threatened species by the United States Secretary of the Interior pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, **and if that species uses waters in this State for any part of its life cycle.**

The following amendment will be proposed in committee:

§6974. Legislative authority

Any federally listed threatened or endangered species (1) using Maine lands and or waters for any part of their life cycles must also be listed under Maine's Endangered Species Act or Maine Marine Endangered Species Act. The Legislature has sole authority to designate ~~a~~ **additional marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975 **pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.****

SUMMARY:

This bill requires the Commissioners of Inland Fisheries and Wildlife and Marine Resources to recommend state listing of all species of fish and wildlife that are listed as Threatened or Endangered pursuant to the U.S. Endangered Species Act of 1973, and inhabit land or waters in this state for any part of its life cycle.

Mandating the legislature must list all such recommended species ensures defacto state listing of all federally-listed Endangered and Threatened species.

KEY POINTS:

This legislation would cover all federally listed Endangered and Threatened marine and terrestrial animal species, including:

- *Birds*
- *Mammals*
- *Reptiles*
- *Fish*
- *Invertebrates*

Maine Natural Areas Program lists many plants as Special Concern, Threatened, Endangered or Possibly Extirpated, but none have legal protections.

All Federally-Listed Endangered and Threatened Species Should be listed at the state level

