

Regulatory Protection Definitions

The following are summaries of laws, rules, or practices that in some way help protect wildlife and habitats in New Hampshire. These are not full descriptions of any law, rule, or practice, and are meant only to provide a brief overview.

Alteration of Terrain Permitting, NHDES

New Hampshire Alteration of Terrain permits are issued by the DES Alteration of Terrain (AoT) Bureau. This permit protects New Hampshire surface waters, drinking water supplies and groundwater by controlling soil erosion and managing stormwater runoff from developed areas. An AoT permit is required whenever a project proposes to disturb more than 100,000 square feet of contiguous terrain (50,000 square feet, if any portion of the project is within the protected shoreland), or disturbs an area having a grade of 25 percent or greater within 50 feet of any surface water. In addition to these larger disturbances, the AoT Permit by Rule applies to smaller sites. This permitting program applies to earth moving operations, such as industrial, commercial, and residential developments as well as sand pits, gravel pits, and rock quarries. Permits are issued by DES after a technical review of the application, which includes the project plans and supporting documents.

Anadromous Fish Conservation Act

Authorizes the Secretaries of the Interior and Commerce to enter into cooperative agreements with the States and other non-Federal interests for conservation, development, and enhancement of anadromous fish, and to contribute up to 50 percent as the Federal share of the cost of carrying out such agreements. This provides for investigations, engineering and biological surveys, research, stream clearance, construction, maintenance and operations of hatcheries and devices and structures for improving movement, feeding and spawning conditions. The USFWS is authorized to conduct studies and make recommendations to the Environmental Protection Agency concerning measures for eliminating or reducing polluting substances detrimental to fish and wildlife in interstate or navigable waters and their tributaries. Refer to 16 U.S.C 757a-757g for more information.

Bald and Golden Eagle Protection Act (1940)

Prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." Refer to 16 U.S.C. 668-668c for complete language.

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**BCR or PIF
priority species**

The Department of Defense (DoD) operates a Partners in Flight (PIF) program, which has identified nearly 100 bird species that occur on DoD lands and are at risk of becoming listed as threatened or endangered under the federal Endangered Species Act if current populations trends continue. The purpose of this list is to help DoD resource managers better prioritize monitoring and management efforts on those species (and their habitats) having the highest potential to impact the military mission should they become Federally listed. Focus areas are split into Bird Conservation Regions (BCR).

**CITES -
Convention on
International Trade
of Endangered
Species of Wild
Fauna and Flora**

CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It accords varying degrees of protection to more than 35,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. Rather it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level. For many years CITES has been among the conservation agreements with the largest membership, with now 180 Parties.

**Clean Water Act-
Section 404**

Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities). Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. No discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation’s waters would be significantly degraded. Proposed activities are regulated through a permit review process. For projects that have potentially significant impacts, permits are reviewed by U.S. Army Corps of Engineers; for minimal impact projects, a general permit may be issued on a nationwide, regional, or State basis for particular categories of activities. For more information on this Act, refer to 33 U.S.C. 1251.

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Comprehensive Shoreland Protection Act, NHDES

The Act establishes minimum standards for the subdivision, use and development of shorelands adjacent to the state's public water bodies. It includes limits on impervious surfaces, limits vegetation removal within a waterfront buffer, shoreland protection along rivers designated under RSA 483 (Designated Rivers), and the establishment of a permit requirement for new construction, excavation and filling activities within the protected shoreland. The review process is designed to provide a level of oversight for construction, fill, and excavation activities to ensure that projects are carried out in a manner that meet the minimum standards of the Act and protect water quality.

Endangered Species Conservation Act (RSA 212-A)

This Act allows NHFG to conduct investigations on wildlife species in order to develop information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data to determine conservation measures necessary for their continued ability to sustain themselves successfully, and allows NHFG to designate species as threatened or endangered. Prohibits the taking, possession, transportation or sale of endangered species, and regulates such activities with regard to threatened species.

Federal Endangered Species Act

Under the federal Endangered Species Act, administered by the US Fish and Wildlife Service, 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. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. The Act establishes regulations and policy to reduce harm and take of listed species, and provides for recovery plans for listed species. For more information refer to 16 U.S.C. Chapter 35.

Federal Endangered Species Act - under consideration

A species *under consideration* for inclusion in the federal Endangered Species Act means a final decision has not been reached on the status of the species and the need for federal listing and a recovery plan. The US Fish and Wildlife Service makes this decision on a timeline.

Federal Energy Regulatory Commission (FERC)

FERC regulates interstate transmission of electricity, natural gas, and oil. The Energy Policy Act of 2005 assigned FERC with the responsibility of overseeing environmental matters related to natural gas, hydroelectricity projects, and related issues. This includes preparing Environmental Assessments or Environmental Impact Statements.

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Federal Insecticide, Fungicide, and Rodenticide Act	Provides federal control of pesticide distribution, sale, and use. All pesticides used in the United States must be registered (licensed) by the Environmental Protection Agency. Registration assures that pesticides will be properly labeled and that, if used in accordance with specifications, they will not cause unreasonable harm to the environment. Use of each registered pesticide must be consistent with the directions contained on the label. For the full Act, refer to 7 U.S.C. 136-136y.
Federal Land Management and Policy Act	Guides land-use planning and acquisition on federal lands, addresses range management and rights-of-way, and designates management areas. Wilderness areas can be established under the management section. For the full scope of this Act, refer to 43 U.S.C. Chapter 35.
Fill and Dredge in Wetlands, NHDES	The Wetlands Bureau within the NH Department of Environmental Services (DES) requires a permit for any minor or major impact projects including fill or dredge in a wetland. An evaluation for the presence of threatened and endangered species from the Natural Heritage Bureau is also required. For both shoreline structures and dredge & fill projects, a fee is required to apply for a permit, and under certain circumstances DES or NHFG may offer Best Management Practices or require mitigation for wetland loss or species impacts.
Harvest permit, season/take regulations	New Hampshire species that are eligible for collection or harvest are regulated by daily limits, season limits, season setting, and/or equipment specifications. Species that are hunted or fished require the appropriate NH-issued license.
Marine Mammal Protection Act (1972)	All marine mammals are protected under this Act administered by the National Oceanic and Atmospheric Administration (NOAA), which prohibits the take of a marine mammal in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals or marine mammal products into the U.S. In 1994, an amendment outlined exceptions to the rule, including the taking of marine mammals incidental to commercial fishing operations and a program to authorize this, and circumstances where access by Alaska Natives to marine mammal subsistence resources can be preserved. The amendment also provides for permits for research, stock assessments of these species, and studies of pinniped-fishery interactions. Refer to 16 U.S.C. Chapter 31 for more information.
Migratory Bird Treaty Act (1918)	Under Federal law, this Act prohibits: “pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or

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cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird.” This prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and Russia. For the full scope of this Act, refer to 16 U.S.C. 703-712; Ch. 128. Through 50 CFR Part 20, the USFWS establishes frameworks for migratory bird hunting regulations.

National Forest Management Act

Enacted in 1976, this Act states that “the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity.” Under this Act the Secretary of Agriculture assesses forest lands in the National Forest System, and develops management plans for sustainability and accommodation of multiple uses. Refer to 16 U.S.C. 1600 for more information.

National Plant Protection Act

This Act gives responsibility to the Secretary to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds. It is administered by APHIS and provides for the regulation of plant movement, movement of plant pests, plant products, biological control organisms, noxious weeds, articles, and means of conveyance. For certain pest species, the Act outlines general remedial measures, disaster prevention, or control & management plans. It also includes a provision for the recovery of compensation for activities deemed unauthorized within this Act. For more information, refer to 7 U.S.C. Chapter 104.

**Native Plant Protection Act
RSA 217-A**

This Act protects plant species that are determined to be endangered or threatened by prohibiting the taking, possession, transportation, processing, sale or offer for sale, exportation from this state, or shipment within this state of such species without required and valid federal and state permits. This Act provides for the investigation of plant species and natural communities indigenous to and throughout this state necessary to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data, and to determine protective measures and requirements necessary for their survival.

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NHFG Memorandum of Understanding, timber harvest rules	The Division of Forests and Lands Director may enter into cooperative agreements or memoranda of understanding for the enforcement of Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire.
NHFG Permit for Collection or Possession	There are numerous types of permits for collection or possession of fish and wildlife that individuals can apply for through the NHFG department. The official rules for these permits are described under FIS 800: The importation, possession, and use of all wildlife. Applications for various permits are available on the NHFG website.
NHFG Rule FIS 308. Wildlife Control Operators	This regulates how Wildlife Control Operators can respond to public concerns about nuisance wildlife. The Rule contains guidelines for trapping wildlife, including a requirement that any incidentally killed non-targeted wildlife, that has no open season, shall be reported to the Department within 72 hours. There are specific rules that apply to bats, which include: 1) Bats shall be controlled by exclusion techniques only; and 2) Bats shall not be excluded from unoccupied buildings from May 15 to August 15 unless the department of health and human services has documented a rabid bat on the property.
NHFG Rule FIS 606. Harvest of Softshell Clams	This Rule details regulations for harvesting clams and clam worms. The Rule explains which species are eligible for harvest, and sets specifications for the tools that can be used to harvest clams. Currently, the taking of clams shall only be permitted, between one-half hour before sunrise and sunset on Saturdays, from the day after Labor Day to May 31, and shall only be dug with hand held tools with handle lengths not to exceed 18 inches. The Rule specifies size and harvest limits, licensing, and addresses the sale of clams. See FIS 606 for full details.
NHFG Rule FIS 607. Harvest of scallops and Rules for Certain Shellfish Species	FIS 607 addresses harvest guidelines for sea scallop, Northern shrimp, horseshoe crabs, and other shellfish species. Currently, no person shall fish for, take, land, transport, or have in possession any northern shrimp while on or leaving the waters of the state. Scallop harvesting is prohibited from April 15 to October 31 by hand, and from April 15 to November 30 by dredge. See Rule language for additional harvest specifications.
NHFG Rule FIS 803. Importation.	This Rule addresses the importation of wildlife to the state. A permit is required to import any species listed as controlled. Specifically, 803.02 states that all wildlife imported into the state shall be in compliance with any requirements of the New Hampshire Department of Agriculture, US Department of Agriculture, and the US Fish and Wildlife Service.

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NHFG Rule FIS 804. Possession.	NH Fish and Game Rule 804 deals with the possession of wildlife species. A permit is required to possess any species listed as controlled. Specifically, 804.02 lists non-controlled wildlife species, and defines possession limits for native amphibian and reptiles.
NHFG Rule FIS 811. Sale of Reptiles.	FIS 811 addresses the sale of wildlife, and 811.01 specifically addresses the sale of native reptiles and amphibians. This rule prohibits the sale of spotted turtles (<i>Clemmys guttata</i>), Blanding's turtles (<i>Emydoidea blandingii</i>), wood turtles (<i>Glyptemys insculpta</i>) or Eastern box turtles (<i>Terrapene carolina carolina</i>). It also prohibits the sale of other reptiles and amphibians, with the exception of non-living specimens acquired outside the state for educational purposes, and non-living snapping turtles (<i>Chelydra serpentina</i>) and bull frogs (<i>Rana catesbeiana</i>) raised outside the state for use as food. See FIS 811 for further details.
NHFG Rule FIS 1400. Nongame special rules	FIS 1400 provides for special rules related to non-game wildlife species, and prohibits exportation of any native reptile or amphibian from the state. FIS 1400.02 and 1400.03 list the species legally eligible for collection (by hand capture only) and sets possession limits (5 for amphibians, 2 for reptiles). No one may possess a native turtle from May 15 to July 15, and outside of that window, a snapping turtle may only be taken if it measures less than 6 inches or 12 to 15 inches in length from the front to rear along the top of the shell. See FIS 1400 for details.
NH NHB Database – historic or current	NH Natural Heritage Bureau (NHB) in coordination with NHFG Nongame and Endangered Wildlife Program keeps a database of occurrence records (known as Element Occurrences). The list (Rare Animal List for New Hampshire) includes information about state rank and global rank. Although this is not a regulatory list, it does include all species listed as threatened or endangered under the NH Endangered Species Conservation Act. The database currently contains information about more than 6,000 plant, animal, and natural community occurrences in New Hampshire.
Possession Prohibited	Title XVIII, Section 207:14: No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director of New Hampshire Fish and Game, with few exceptions. The executive director has the authority to determine the time period and any other conditions governing the issuance of such permit. Except where otherwise provided, any person who violates this section or any rule adopted under this section shall be guilty of a violation and guilty of an additional violation for each marine species or wildlife possessed.

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Rivers Management and Protection Program, NHDES

This Program allows for *state* designation of significant rivers to manage and protect the river’s values & characteristics and *local* development of river corridor management plans for shorelines and adjacent lands to protect river resources. This is administered by DES and is staffed by a rivers coordinator. Each river designated under this Act is appointed a local river management advisory committee, which is then responsible for developing a local river corridor management plan and reviewing and commenting on activities affecting the river that require state or federal permits. The Program can be used to regulate dam construction, instream water flow levels, channel modification, water quality, solid and hazardous waste storage/treatment facilities, and motorized boating traffic.

US FWS Federal Trust Species

The USFWS is responsible for the conservation and management of federal trust species. Federal trust species include migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern. The Partners for Fish and Wildlife Program (established 1987) provides technical and financial assistance to private landowners and Tribes who are willing to work with the USFWS and other partners on a voluntary basis to help meet the habitat needs of Federal Trust Species.

White Mountain National Forest (WMNF) sensitive species

The WMNF includes in its Species Viability Evaluation the list of Regional Forester’s Sensitive Species. During updates of the Forest Plan, sensitive species are placed in a habitat group for evaluation. Current condition, threats, and potential direct, indirect, and cumulative impacts of forest management activities are addressed for each habitat group. For each species, the number of known occurrences and differences from information provided for the habitats were identified, including any additional impacts. A determination is made for each species of whether each alternative activity would increase or decrease the risk to viability for the species in the planning area. This information is incorporated into the Forest Plan.
