

SECTION II - D

THREATENED AND ENDANGERED SPECIES

Introduction

The federal Endangered Species Act of 1973 provides a means for categorizing species of plants and animals as threatened or endangered, and for protecting the critical habitats in which these species live. The state of Maryland has a similar law to protect threatened and endangered (T & E) species at the state level.

In Maryland, T & E species include plants and animals listed by the U.S. Fish and Wildlife Service (USFWS) and those listed by the Maryland Department of Natural Resources, Wildlife and Heritage Service (DNR). **The state list includes all of the federally listed species that occur in Maryland, plus additional species that are endangered, threatened, or in need of conservation (“rare”) on the state level.**

Definitions

The following terms are used to describe threatened and endangered species:

Extirpated Species - any species that once was a viable component of the flora or fauna, but for which no naturally occurring populations are now known to exist. Extirpated species may be listed on state and/or federal lists.

Endangered Species - any species whose continued existence as a viable component of the flora or fauna is in jeopardy, as determined by the federal Endangered Species Act.

Separate listings of endangered species are maintained by the USFWS and DNR. All federally listed endangered species that occur in Maryland are required by Maryland law to be included on the state list. Other state-listed endangered species are not necessarily endangered nationwide. Although their existence in the state may be in jeopardy, they may be abundant elsewhere in the nation or in the world.

Threatened Species - any species of flora or fauna that appears likely, within the foreseeable

future, to become endangered if protection and/or enhancement is not provided, based on criteria contained in the Endangered Species Act.

USFWS and DNR maintain separate lists of threatened species. If a federally listed species occurs within Maryland, that species will also be included on Maryland’s list.

Rare Species - any species of flora or fauna whose populations and numbers are low or poorly represented. These species exist as a viable component of the biota, but are likely to become threatened if protective measures are not provided. Under present conditions, they are in need of conservation.

DNR includes rare species on its lists of plants and animals, although these species are not officially designated as “rare” in the state regulations. (Some of these rare species are included in the regulatory list of species that are “in need of conservation” at the state level.) USFWS does not maintain any official listing of “rare” species.

Area of Special State Concern - any area designated by the state of Maryland as having exceptional ecological or educational value. These areas are either: (1) rare ecological communities, or (2) areas that contain endangered, threatened, or rare species.

The Maryland Department of the Environment (MDE) has listed wetland areas of special state concern in Section .26 of the Maryland Nontidal Wetlands regulations. These areas, which contain threatened and endangered species or rare ecological communities, are delineated on MDE’s Nontidal Wetlands Guidance maps. Each NRCS field office has a set of these maps for their county.

There are no similar published maps for upland areas, but Section .10 of the Maryland Threatened and Endangered Species regulations contains a list of “Natural Heritage Areas” which include upland and wetland communities of special concern.

Legal Requirements

The federal Endangered Species Act requires federal agencies to carry out their programs in such a manner that threatened and endangered species are protected. **A federal agency must consult with the USFWS when any federal assistance may adversely affect a T & E species. The state law contains similar provisions with respect to state agencies.**

Federal and state laws concerning T & E species contain the following provisions:

T & E Animals - federal and state laws prohibit the taking, transportation, possession, sale, offering for sale, import, or export of T & E animals without a special permit. State law also includes animals in need of conservation ("rare" species) in this prohibition. To "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in such conduct.

T & E Plants - federal and state laws prohibit the transportation, possession, sale, offering for sale, import, or export of T & E plants without a special permit. However, neither law prohibits a landowner from destroying ("taking") a plant species on his/her own property. As long as a plant is not collected or removed from the property, no federal or state permit is required.

NRCS Policy Concerning Threatened and Endangered Species

It is the policy of NRCS to assist in the conservation of threatened and endangered species, including federally listed and state listed species. Complete information concerning NRCS policy is found in the NRCS General Manual 190, Part 410.22.

As part of the planning process, NRCS conducts an environmental evaluation to identify resource problems and resources of special concern on a property, including the presence of threatened and endangered species. The following procedures concerning T & E species apply to NRCS activities in Maryland:

1. If NRCS finds that a T & E species is present on a property, NRCS will notify the landowner of the presence of the plant or animal species. NRCS will also advise the landowner of the state and federal requirements to protect such

species, as well as any conservation practices that would provide suitable protection. NRCS will **not** notify other agencies or individuals about the T & E species on the property, except with permission of the landowner.

2. If a proposed activity may adversely affect a T & E species or its habitat, NRCS will request permission of the landowner to initiate consultation with the U.S. Fish and Wildlife Service and Maryland DNR, Wildlife and Heritage Service, in order to obtain additional information concerning what can be done.

If the landowner refuses to allow NRCS to contact these agencies, the District Conservationist will advise the landowner in writing that NRCS must withdraw technical and financial assistance for the proposed activity. NRCS cannot provide assistance on a proposed activity that may adversely affect a T & E species unless we consult with the appropriate agencies. The letter to the landowner will include an explanation of why assistance must be withdrawn, and will include the landowner's legal obligations concerning protection of T & E species. NRCS will encourage the landowner to implement alternative measures that avoid any adverse effects.

3. NRCS may provide to the public and to other agencies general information concerning T & E species, such as what species are listed on federal and state lists, their typical habitat requirements, and other readily available published information.
4. NRCS will **not** provide to the public or to other agencies any unpublished site-specific information concerning T & E species on a landowner's property, except under a formal Freedom of Information Act request, or with permission of the landowner.

In general, requests for unpublished information concerning T & E species should be referred to the USFWS and DNR. NRCS may provide information about T & E species to the Farm Service Agency (for example, as required to complete the AD-862) without the explicit permission of the landowner, based on the landowner's prior request for technical or financial assistance from USDA.

References and Electronic Links

1. Maryland's Threatened and Endangered Species Lists and Regulations. COMAR 08.03.08. https://constmail.gov.state.md.us/comar/dsd_web/default.htm
2. Listed Animals of Maryland. Maryland Department of Natural Resources. September 26, 2005, and as updated.
3. Rare, Threatened, and Endangered Plants of Maryland. Maryland Department of Natural Resources. April 30, 2001, and as updated. <http://www.dnr.state.md.us/wildlife/>
4. Rare, Threatened, and Endangered Animals of Maryland. Maryland Department of Natural Resources. April 30, 2001, and as updated. <http://www.dnr.state.md.us/wildlife/>
5. Explanation of Rank and Status Codes. Maryland Department of Natural Resources. January 26, 2003.
6. For additional information on Federally listed species, refer to the USFWS Endangered Species Program at: <http://endangered/fws/gov>