

Michigan's State Threatened & Endangered Species Program Updates ▶ 2023

Amy Bleisch

Endangered Species Biologist

Michigan Department of Natural Resources

Wildlife Division

Michigan's Threatened and Endangered Species Law - Public Act 451, Part 365

- ▶ Statute
- ▶ 2023 List Revision
- ▶ Environmental Review and Permitting



Michigan's Threatened and Endangered Species Law - Public Act 451, Part 365

- ▶ "Endangered species" means any species of fish, plant life, or wildlife that is in danger of extinction throughout all or a significant part of its range.
- ▶ "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.
- ▶ Species listed as Threatened or Endangered are protected from "Take"
- ▶ For fish and wildlife, "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct.
- ▶ In reference to plants, "Take" means to collect, pick, cut, dig up, or destroy in any manner.

Regulatory Authority

- ▶ Public Act 451, Part 365, Section 36503.
- ▶ Michigan's endangered species statute requires the Department to review and update the state's list of threatened and endangered species.
- ▶ The previous revision was completed on April 9, 2009.

Expert Review and Recommendations



Expert Review and Recommendations

- ▶ Technical Advisory Committees (TACs) reviewed the latest species knowledge and made recommendations for T & E listing.
- ▶ The TACs consisted of volunteer species experts from across the state.
- ▶ There were seven different TACs that advised on the following taxonomic groups: mollusks, insects, fishes, amphibians, reptiles, birds, mammals, and plants.

List Update Changes

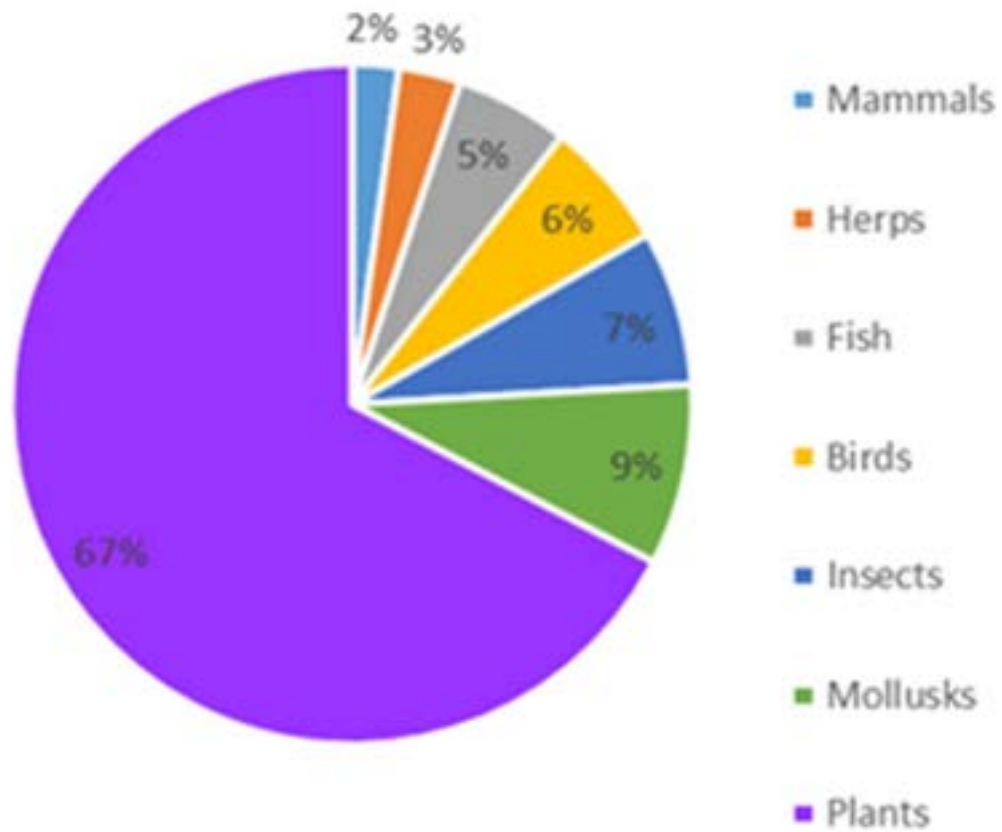
- ▶ List contains 407 species:
 - ▶ 155 endangered
 - ▶ 252 threatened
- ▶ 141 Status changes from the 2009 list.
 - Add: 58 species.
 - Delist to no status: 36 species.
 - Delist to extirpated: 13 species.
 - Up-list: 26 species.
 - Down-list: 8 species.

Proposed status changes: shift within any status (T, E, or X) status.

Add: include species newly listed as Threatened or Endangered only.

Delist: move from Threatened or Endangered to any other status including Extirpated.

State T&E List Composition



Changes of Interest

Newly Listed

- ▶ Bats (northern long-eared, tricolored, little brown) - T
- ▶ Turtles (eastern box, wood) - T
- ▶ Northern goshawk - T
- ▶ Spruce grouse - T
- ▶ Eastern Massasauga Rattlesnake - T
- ▶ American bumble bee - E

Down-listed

- ▶ Kirtland's warbler - T

Delisted to Special Concern

- ▶ Merlin
- ▶ Red-shouldered hawk
- ▶ Trumpeter swan
- ▶ Rough fescue



Common themes - species added or up-listed

- ▶ Habitat loss and/or degradation.
- ▶ Habitat fragmentation.
- ▶ Declines from historic ranges.
- ▶ Disease.
- ▶ Poaching.

Common themes - species delisted or down-listed

- ▶ Habitat management and restoration.
- ▶ Increased protections.
- ▶ Education/outreach.



Species of Special Concern

- ▶ Reviewed at each threatened and endangered species list revision, and may also be added by the Michigan Natural Features Inventory at any time
- ▶ Goal: track and manage to avoid future endangerment
- ▶ When and where possible treat with similar management consideration as listed species
- ▶ NOT protected under Part 365, but may be protected by other rare species laws

Resources

- ▶ DNR's website contains a list with all the listed species and the changes to the list.
- ▶ Michigan Natural Features Inventory website has been fully updated and is a great resource for learning more about the species on the list.

State Threatened and Endangered Species Regulatory Process



UPDATED THIS YEAR,
TRANSITIONING TO THE
NEW PROCESS NOW



FOCUS IS ON
STREAMLINING THE
PERMITTING PROCESS TO
INCREASE TRANSPARENCY
AND EFFICIENCY



CLARIFY WHEN PERMITS
ARE AND ARE NOT NEEDED



SPEND OUR TIME AND
EFFORT ON SPECIES THAT
NEED IT MOST



USING THE REGULATORY
PROGRAM TO INFORM
PROACTIVE
CONSERVATION IN THE
FUTURE

State Threatened and Endangered Species Regulatory Process

- ▶ Desktop Review
- ▶ Take assessment
 - ▶ Desktop Review
 - ▶ Surveys
 - ▶ No-Take Avoidance Measures
 - ▶ Compliance Checklist
- ▶ Application
- ▶ Review
- ▶ Permits
- ▶ Reports

Environmental Desktop Review Process

- ▶ To initiate the state threatened and endangered species permit review process, project proponents will need a desktop review of the Michigan Natural Features Inventory Biotics database
 - ▶ Can be completed by MNFI or a consultant with a subscription to Biotics
 - ▶ EGLE will provide a desktop review of MNFI's Biotics database in some cases
 - ▶ The DNR cannot conduct desktop reviews
- ▶ There is a fee for the review
- ▶ The federal endangered species review process is entirely separate

Environmental Desktop Review Process

- ▶ If the desktop review of MNFI's Biotics database shows potential to “take” a state listed species, a state threatened and endangered species permit may be needed
- ▶ Part 365 applies to everyone
 - ▶ Federal, State, Local agencies
 - ▶ Private landowners
- ▶ Applies to public and private land

Take Assessment

▶ Surveys

- ▶ Must be conducted by a qualified surveyor in the appropriate time frame as indicated by the MNFI species web pages
- ▶ For plants, if a field survey of the project footprint is conducted in the appropriate window by a qualified surveyor and no plants are found, the applicant may assume that project activities will not result in take of the plant
- ▶ Surveys that may result in take must be conducted under a state threatened and endangered species permit

Take Assessment

- ▶ No-Take Avoidance Measures
 - ▶ Developed by the DNR for some taxa
 - ▶ Examples:
 - ▶ Mussels and Fish: Our project impact footprint does not impact stream, river, pond, or lake, or alter hydrology, or result in runoff that would impact mussel or fish species.
 - ▶ Birds: Our project will be conducted outside of nesting season.

Take Assessment

▶ Compliance Checklist

- ▶ Helps applicants identify at least one compliance mechanism per species in the desktop review or on-site surveys
- ▶ If the project can identify compliance mechanisms that avoid take, no state threatened and endangered species permit is necessary
- ▶ Helps clarify conservation measures proposed by the applicant
- ▶ Example compliance mechanisms:
 - ▶ No habitat present for this species in the project footprint and no impacts outside the project footprint
 - ▶ No-Take Avoidance Measures
 - ▶ Species is Special Concern
 - ▶ Element Occurrence Ranks are Historic (H) or Extirpated (X)
 - ▶ Applying for take permit, with or without proposing conservation measures

Application

- ▶ Threatened and Endangered Species Permit Application is moving to an online form TODAY
- ▶ All permit types require the standard application
- ▶ Additional requirements vary by permit type
- ▶ Attachments for additional requirements may be sent to [DNR-
StateTEPermit@michigan.gov](mailto:DNR-StateTEPermit@michigan.gov)
- ▶ There is no fee to apply

State and Federally Co-listed Species



For most projects that impact federally listed animals, the DNR will defer to the U.S. Fish and Wildlife Service

State permits are required for projects that propose bat handling

State permits are required for eastern massasauga for priority populations



State permits are required for all federally listed plants

Application

- ▶ Permit categories
 - ▶ Consultant Survey
 - ▶ Education or Scientific
 - ▶ Species and Habitat Management
 - ▶ Development 1
 - ▶ Construction projects, Utilities, Local Area Road Commissions, Individuals
 - ▶ Development 2
 - ▶ Wind and Solar energy development, MDOT projects
 - ▶ Salvage
 - ▶ Live Animal Programs

Application - Consultant Survey

- ▶ Typically for visual surveys only; can include minor handling of T&E species
- ▶ Consultant Survey permits are intended for collecting information in service to development but are not intended to cover projects that alter habitat or result in significant take of listed species
- ▶ Contact information for Consultant Survey permittees may be made available to the public to facilitate procurement of consulting services
- ▶ Additional requirements
 - ▶ Taxa group targeted
 - ▶ Credentials
 - ▶ Region
 - ▶ Name and location of public institution where specimens will be placed
 - ▶ Some species may require additional information

Application - Development 1

Construction projects, Utilities, Local Area Road Commissions, Individuals

- ▶ Can be held by consultants, project managers, or other project proponents
- ▶ Permittee is responsible for compliance and reporting
- ▶ Additional requirements
 - ▶ 2-page summary of impacts to species, including description of area and habitat and GPS location
 - ▶ Desktop review of Biotics
 - ▶ Aerial photos or spatial data
 - ▶ Compliance checklist
 - ▶ For projects including multiple entities, a 1-page communication plan
 - ▶ Any proposed conservation measures, including methods for translocation of plants and monitoring if applicable

Application Review Process



Permit review and processing can take up to 60 days after all necessary documentation is received



Application volume is currently very high due to the list revision transition process



In times of high application volume, human health and safety permits are prioritized



Apply early to avoid project delays!

Projects that require mussel or plant surveys should apply well in advance of the appropriate survey windows to avoid delays

Application Review Process

- ▶ Justifications for issuing permits under Part 365
 1. For scientific, zoological or educational purposes (Sec. 36505-4)
 2. For propagation in captivity of such fish, plants, or wildlife to ensure their survival (Sec. 36505-4)
 3. To protect human health and safety (Sec. 36505-5)
 4. To alleviate damage to property (Sec. 36505-5)
 5. For the conservation benefit of the species (Sec. 36504)

Application Review Process

- ▶ Conservation measures
 - ▶ Reduce level of take and become conditions of the permit
 - ▶ The DNR can help develop appropriate conservation measures in coordination with taxa experts
 - ▶ Project proponents can also propose conservation measures and doing so can expedite permit review

Permits

- ▶ Include your application, formal letters with standard permit conditions, and project-specific conservation measures
- ▶ Changes to your permit may be approved as amendments pending review
- ▶ Duration depends on permit type and applicant request

Reports

- ▶ Annual and/or final reports are required to maintain permits and obtain future permits
- ▶ Reporting requirements vary by permit type and justification
- ▶ Data collected via annual reports is shared with the Michigan Natural Features Inventory to inform future conservation efforts



▶ Questions?

Regulations on the Take of Reptiles and Amphibians

- ▶ Unlawful to kill, take, trap, possess, buy, sell, offer to buy or sell, barter, or attempt to take, trap, possess or barter any reptile or amphibian from the wild, or the eggs of any reptile or amphibian from the wild, except as provided within this order
- ▶ Includes T&E and SC species
- ▶ Authority lies with DNR Fisheries Division
 - ▶ Tom Goniea, gonieat@michigan.gov, 517-284-5825

Michigan Christmas Tree Act

Part 529 of NREPA

- ▶ Protects attractive plants from collectors and commercial exploitation, to prevent these plants from becoming rare
- ▶ Prohibits collection of plants on list on someone's land without their permission
- ▶ If these plants occur on your land, you may do as you wish with them, except if they are also threatened or endangered
- ▶ Species include trilliums, holly, bittersweet, etc.
- ▶ Authority lies with MDARD
 - ▶ Amber Niels

Michigan Ginseng Act

- ▶ Passed in 1994 to regulate the harvest, sale, and distribution of American Ginseng in Michigan
- ▶ This act covers both cultivated and wild ginseng
- ▶ Unlawful to take ginseng from the wild without a permit from the DNR
- ▶ Authority for cultivated ginseng lies with MDARD
 - ▶ Amber Niels