



Committee on Environment and Natural Resources
% Legislative Information Office
100 State House Station
Augusta, ME 04333

February 11, 2026

RE: LD 2171, Resolve, Regarding Legislative Review of Portions of Chapter 305: Natural Resources Protection Act - Permit by Rule Standards and Portions of Chapter 335: Significant Wildlife Habitat, Major Substantive Rules of the Department of Environmental Protection (Emergency)

Dear Sen. Tepler, Rep. Doudera, and Members of the Committee:

My name is Francesca “Ches” Gundrum and I am Maine Audubon’s Director of Advocacy. Maine Audubon is a wildlife conservation nonprofit – we fulfill our mission to “conserve Maine wildlife and wildlife habitat” by engaging people of all ages in nature through a science-based approach to education, conservation, and advocacy. On behalf of Maine Audubon and our 30,000 members, supporters, and volunteers, thank you for the opportunity to submit testimony in support of LD 2171, *Resolve, Regarding Legislative Review of Portions of Chapter 305: Natural Resources Protection Act - Permit by Rule Standards and Portions of Chapter 335: Significant Wildlife Habitat, Major Substantive Rules of the Department of Environmental Protection (Emergency)*.

Our organization has long engaged on matters related to the Natural Resources Protection Act (NRPA) – from its creation in 1987 and nearly every suggested change since. NRPA is one of Maine’s most important environmental protection laws designed to protect certain natural resources from impacts associated with development-related activities. From education to conservation, Maine Audubon works to conserve the diverse natural resources of state significance that NRPA was created to help protect.

The changes proposed to both Chapters 305 and 335 are primarily prompted by recent statutory changes to Significant Wildlife Habitat (SWH) under NRPA that this Committee supported in 2023 and 2025. We were pleased with the bills proposed within the 131st and 132nd Legislatures, which advanced protections for endangered and threatened species habitat (P.L. 2023, ch. 156) and significant vernal pools (P.L. 2025, ch. 338) under this law.

Maine Audubon participated in the Department of Environmental Protection’s (DEP) related rulemaking to amend Section 9 of Chapter 335 (NRPA, Significant Wildlife Habitat rules) and Section 19 of Chapter 305 (NRPA, Permit by Rule Standards) to ensure consistency with the revised statutory language. We continue to express our support for these measures and that includes

Department of Inland Fisheries and Wildlife's (DIFW) proposed rule changes to define significant habitat for state endangered and state threatened species and update the provisions governing significant vernal pools (SVPs) to align with current statutory requirements as well. **Maine Audubon supports the proposed rule changes in LD 2171.**

Significant vernal pools (SVPs) —

Prior to recent statutory changes, existing regulations did not fully protect state-recognized "Significant Vernal Pools" nor did they protect the full suite of habitats that vernal pool wildlife require. Unfortunately – given their temporal nature – vernal pools are at high risk of habitat loss and degradation. Importantly, based on data provided by the DIFW this past spring, we now understand that these protections under NRPA only capture ~20% of vernal pools across the landscape.¹ While the original law and rules were developed to capture 50% of vernal pools across the landscape.

We were pleased with several of the proposals related to SVPs within the legislation that partially enabled this rulemaking, including:

1. Establishing a 100 ft. "protection zone" around each of these important pools. Notably, it does not remove the existing 250 ft. critical terrestrial habitat (CTH) buffer around the pools that developers are tasked with avoiding disturbing as much as possible, but rather reinforces protections for the areas closest to the pools. State biologists have confirmed that one of the best things we can do to protect the health of vernal pools is to eliminate disturbance within the 100 ft. directly surrounding the pools. In their testimony for the original bill, DIFW stated: *"While partial, careful development within the 250-ft zone can be compatible with pool conservation (and is currently eligible for Permit by Rule), permanent disturbance of the immediate envelope surrounding the pool (i.e., 0-100 ft) is often detrimental to habitat and water quality, potentially rendering a formerly productive pool of little future wildlife value."*²
2. It reinforces that the existing 250 ft. buffer protections around vernal pools should apply to all surrounding properties as wildlife migration does not adhere to our property lines. We concur with DIFW's assessment of this change delivered at the enabling legislation's public hearing on May 5, 2025: *"This [250-ft critical terrestrial habitat] zone, informed by scientific study of amphibian movements, is critical for supporting pool-breeding amphibian life outside of the breeding season, and of course migrating wildlife are blind to property lines. Notably, the original Chapter 335 Significant Vernal Pool rule did not include this exemption. To our knowledge, there*

¹ See DIFW's testimony for LD 1882 from the 132nd Legislature.

² See DIFW's testimony for LD 1882 from the 132nd Legislature.

is no other protected natural resources in Maine where setbacks and other regulatory standards end at a property boundary.”³

3. Based on feedback from state biologists, the changes presented also slightly adjust dates related to surveying SVP habitat, as state biologists have determined that climatic changes are altering the timing of seasonal patterns associated with the departure of these pools from the landscape.

We appreciate DEP incorporating these statutory changes with a balanced and science-based approach throughout the rulemaking process.

Habitat for state endangered and state threatened species —

The world is experiencing a biodiversity crisis. Scientists at NatureServe⁴ estimate that about a third of all U.S. species are at risk of extinction. That percentage translates to more than 8,500 of our country’s best-known plant and animal species. Notably, only 20 percent of the country’s more than 200,000 identified species have been evaluated for extinction risk, so the true total might be much higher. Maine is no exception. Per DIFW’s recommendation, eight new species were added to Maine’s Endangered Species Act (MESA) in 2023 – and we expect to add more in the coming years.⁵ Currently, there are 57 species listed under MESA.

As species’ populations begin to drop or as once-common animal species become less common, it is imperative that we keep laws that protect our state’s most vulnerable fish and wildlife – including NRPA – intact and strong. Maine Audubon has been fighting to protect Maine wildlife and wildlife habitat for nearly two centuries, and both the climate and biodiversity crises may be our most difficult battles yet. **Habitat loss to development is the leading cause of species endangerment.** According to the Maine Climate Council’s Scientific and Technical Subcommittee’s recent report, *Scientific Assessment of Climate Change and Its Effects in Maine 2024 Update*, while climate change exacerbates the issue there have been three to 11 times more terrestrial vertebrate extinctions due to habitat loss than by climate change since 1900. The impacts of habitat loss and overexploitation manifest more rapidly than those of climate change, especially in the case of local extirpations.⁶

By more comprehensively including endangered and threatened species habitat within the definition of SWH, the DEP will more adequately consider and mitigate impacts to these habitats during permitting. For example, worldwide, there are approximately 60 to 70 Ringed

³ See DIFW’s testimony for LD 1882 from the 132nd Legislature.

⁴ NatureServe, Inc. is a U.S.-based non-profit organization that provides wildlife conservation-related data, tools, and services to private and government clients, partner organizations, and the public.

⁵ See LD 57 from the 131st Legislature, *An Act to Amend Maine’s Endangered and Threatened Species List*.

⁶ Maine Climate Council, Scientific and Technical Subcommittee. *Scientific Assessment of Climate Change and Its Effects*. 2024.



Boghaunter populations. Ringed Boghaunters are small, black and orange ringed dragonflies. Maine has 10 to 12 confirmed populations, meaning we have an outsized responsibility for conserving a large portion of the species. These populations could be wiped out without an adequate buffer around wetlands where they breed or filling those wetlands, for example. These rule changes would solidify DEP's regulatory authority to issue a NRPA permit with conditions that would avoid or mitigate impacts to these habitats – authority that the DEP did not have prior to the law changes in 2023. Importantly, saying “no” to proposed development activity is rarely the answer to mitigating impacts. More often than not, mitigation is achieved by recommending adjustments such as larger culverts so that species are not blocked by roadways; shifting building footprints to avoid habitats; recommending that septic systems be located on a particular side of a building; or avoiding outdoor lighting at night. These steps are often not costly, are actionable, and have a positive impact on these vulnerable populations.

Maine Audubon supports the changes forwarded in this rulemaking proposal – notably, we understand that these changes will not unduly burden DEP or landowners since they only apply to circumstances in which a landowner is *already* seeking a permit from DEP and that the habitat is *already* mapped by DIFW. In other words, if endangered and threatened species habitat is not mapped by DIFW, it would not be subject to this rule.

It is important to recall that both of the legislative efforts that prompted changes to Chapters 305 and 335 advanced with compromises in order to help ensure amendments were rooted in science *and* did not unduly burden our state's agencies nor the regulated community. Additionally, both received widespread positive support, including citizen petitions; sign-on letters from dozens of environmental and conservation organizations; supportive testimony from our state's leading endangered species and vernal pool scientists; and more.

Maine Audubon greatly appreciates DIFW and DEP's work wrestling with these important issues – ever-pressing as the threats to our state's protected natural resources are only mounting. In order to abide by the intent of recent legislation, we urge the committee to support LD 2171. The suggested changes before you are reasonable, timely, and required to adequately fulfill the purpose of this bedrock environmental law. We thank both agencies for their thoughtful review of these changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Francesca Gundrum".

Francesca “Ches” Gundrum
Director of Advocacy