

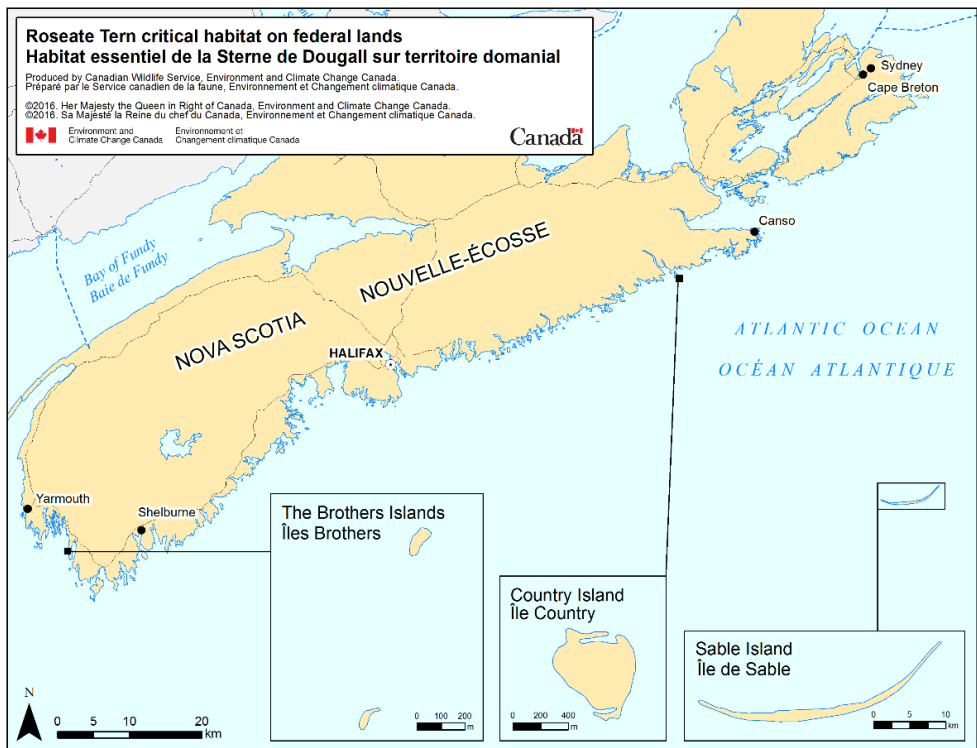
ORDER SUMMARY

Critical Habitat of the Roseate Tern (*Sterna dougallii*) Order



The objective of the [Critical Habitat of the Roseate Tern \(*Sterna dougallii*\) Order](#) (the Order) is to support the survival and recovery of the Roseate Tern through the legal protection of its critical habitat on federal land. The Order applies to:

1. Sable Island, Nova Scotia – any area within a 200 meter perimeter of each polygon encompassing each individual nesting colony of any species of tern on that island, excluding the area that is within the Sable Island National Park Reserve of Canada, as described in Schedule 2 of the *Canada National Parks Act*¹;
2. North Brother and South Brother Islands, Nova Scotia – the aquatic habitat extending 200 meters seaward from the mean high tide line of each island;
3. Country Island, Nova Scotia – the entire terrestrial habitat of the island, as well as aquatic habitat extending 200 meters seaward from the mean high tide line.



Sable Island is administered by the Parks Canada Agency and is currently both a Migratory Bird Sanctuary under the *Migratory Bird Convention Act* (MBCA) and a National Park Reserve under the *Canada National Parks Act* (CNPA).

North and South Brother Islands are uninhabited islands on the southwest coast of Nova Scotia, and the terrestrial habitat on the islands is under the jurisdiction of Nova Scotia².

Country Island, which is also uninhabited, is located off the eastern shore of Nova Scotia, and is under the administration of Fisheries and Oceans Canada and managed by the Canadian Coast Guard.

The Order was made under section 58 of the [Species at Risk Act](#) (SARA). It came into force on October 28, 2016.

¹ The critical habitat located within Sable Island National Park Reserve of Canada is excluded from this Order, as it is already protected by measures under the *Canada National Parks Act* pursuant to subsection 58(5)(b) of the *Species at Risk Act*. See [Legal Protection Statement for the Critical Habitat of Roseate Tern \(*Sterna dougallii*\), in Sable Island National Park Reserve of Canada](#) for more information.

² The islands are a Nova Scotia Wildlife Management Area, with provincial protections in effect for water within a 250 meters radius circle around the center of each island.

About the Roseate Tern

The Roseate Tern (*Sterna dougallii*) is a medium-sized, pale seabird, closely related to gulls, with a long and deeply forked tail. During breeding, adults are mostly white with a black cap and a long, white tail that resembles long streamers during flight. The bill of the Roseate Tern is black with red appearing at the base later in the breeding season.

Roseate Terns nest in colonies, almost exclusively on small islands with low vegetation, but will occasionally nest on mainland spits. The species requires specific foraging and breeding habitats, and that both habitats be at close proximity. They generally forage in shallow areas close to shore, near shoals and tidal rips and build nests on the ground to provide for sheltering, incubation, and hatching of eggs, and the rearing and feeding of young. The most important habitat feature in northeastern North America for breeding Roseate Terns appears to be the presence of breeding Common Terns, as they have not been known to nest at sites without them. Terns require colony sites that are relatively free from predators and will abandon a colony after heavy predation. The main threats to Roseate Tern are predation (by Gulls, American Mink, Great Horned Owl, American Crow), displacement by Herring and Great Black-backed Gulls, and breeding habitat loss (non-native vegetation, sea-level rise, island erosion due to storms).

The Roseate Tern was listed as endangered under SARA in 2003. The general prohibitions under section 32 (for individuals) and section 33 (for residences) of SARA therefore apply everywhere in Canada to the Roseate Tern. As such, it is prohibited:

- to kill, harm, harass, capture or take an individual Roseate Tern;
- to possess, collect, buy, sell or trade an individual Roseate Tern or any part or derivative of such; and
- to damage or destroy a residence of the Roseate Tern (the residence of a Roseate Tern is a nest).

Additionally, the Roseate Tern is a migratory bird, and is afforded protection under the *Migratory Birds Convention Act, 1994* (MBCA) everywhere it is found in Canada. The MBCA and its regulations prohibit the following:

- the disturbance, destruction or taking of a migratory bird, its nest, eggs or nest shelter; and
- the possession, trade, or exchange of a migratory bird (alive or dead), its nest or eggs.

The species was also listed as endangered under the Nova Scotia *Endangered Species Act* in 2000 and benefits from protections under this piece of legislature.

Prohibitions under the Order

The Order applies the prohibition against the destruction of critical habitat, as set out in subsection 58(1) of SARA, to the critical habitat of the Roseate Tern described in the Order. Destruction of critical habitat would result if any part of the critical habitat were degraded, either permanently or temporarily, such that it would not serve its function when needed by the species. Examples of activities likely to result in destruction of critical habitat for the species include, but are not limited to, the following:

1. modification of the surface of Country Island, such as the removal of material (for example, debris, rock, nesting structures) or the addition of material (for example, sand, rock, gravel), or the installation of anthropogenic (human-constructed) structures;
2. modification of the vegetation cover, such as the partial or complete removal of vegetation used by Roseate Terns and/or other terns, whether manually, mechanically, or chemically (for example, by herbicides) or through activities connected with constructing, maintaining or operating anthropogenic structures, as well as the intentional addition of vegetation; and
3. modification of hydrological characteristics, such as activities that would increase turbidity or change the chemical composition of surface waters

Applying for a permit under SARA

If you plan to undertake activities that could affect Roseate Tern individuals or residences, or if these activities are planned on the lands and surface waters to which the Order applies, and those activities could destroy any part of the critical habitat of the Roseate Tern, then you will need to apply for a permit under section 73 of SARA. A permit may be issued only if the activity meets one of three conditions: the activity is (a) for scientific research relating to the conservation of the species; (b) benefitting the species or required to enhance chance of survival in the wild; or (c) incidentally affecting the species.

Permits are assessed on a case-by-case basis at the time of application. They may be granted only when all three of the following preconditions are met: all reasonable alternatives that would reduce impact on the species have been considered and the best solution has been adopted; all feasible measures will be taken to minimize the impact of the activity on the species, its critical habitat or residences of its individuals; and the activity will not jeopardize the survival or recovery of the species.

To apply for a permit, refer to the [Species at Risk Permit System](#).³

Enforcement and penalty provisions

Enforcement officers designated under SARA and MBCA may conduct inspections and investigations to verify compliance with these acts. Persons found guilty of an offence under SARA, on summary conviction, are liable to fines up to \$250,000 or to imprisonment for a term of not more than five years, or to both. Corporations are liable to fines up to \$1,000,000. The Migratory Birds Regulations (MBR), under the MBCA, also provide provisions that prohibit the disturbance, destruction or taking of an egg or nest of a migratory bird. Persons found guilty of an offence, on summary conviction, are liable to fines up to \$50,000 or to imprisonment or both. For SARA and the MBCA, the court may also find convicted persons liable for costs and may order that items seized from them by enforcement officers be forfeited to Her Majesty.

For more information

Roseate Tern information and recovery documents are available on the [Roseate Tern Species profile page](#), on the [Species at Risk Public Registry](#). For more details on SARA and how it may apply to you, visit the [Species at Risk Education Centre](#).

Contacts

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WARNING

This order summary and any documents it refers to are intended to provide general guidance only with respect to the *Critical Habitat of the Roseate Tern (Sterna dougallii) Order*. These documents are not a substitute for the *Species at Risk Act*. In the event of any inconsistency between the order summary, its accompanying documents and the Act, the latter prevails. The official legal publication of the *Species at Risk Act* can be found on the [Justice Laws Website](#). Individuals with specific legal concerns are urged to seek advice from their legal counsel.

³ Other than in the areas covered by the Order, a person intending to engage in an activity that is prohibited under SARA and that affects the Roseate Tern, any part of its critical habitat on federal lands or the residences of its individuals, needs to apply to the competent minister for a permit under section 73 of the Act. Further, a SARA-compliant MBCA permit may be issued to authorize an activity affecting a listed migratory bird.