
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1576 Session of
2013

INTRODUCED BY PYLE, GERGELY, MALONEY, MILLARD, MULLERY,
KAUFFMAN, D. COSTA, BLOOM, HELM, HARHAI, RAPP, GOODMAN,
CUTLER, GIBBONS, AUMENT, MARSHALL, C. HARRIS, REED, PICKETT,
MATZIE, HEFFLEY, EVERETT, MASSER, M. K. KELLER, SWANGER,
KNOWLES, METCALFE, DUNBAR, SONNEY, GROVE, KRIEGER, REESE,
STEVENSON, NEUMAN, SANKEY, CAUSER, SACCONI, ROCK, GODSHALL,
TOBASH, MURT, R. BROWN, SCHLEGEL CULVER, P. COSTA, DAVIS,
BURNS, P. DALEY, ENGLISH, TALLMAN, BAKER, BARRAR, CHRISTIANA,
ELLIS, EVANKOVICH, KORTZ, JAMES, KULA, MAJOR, METZGAR, MOUL,
MUSTIO, OBERLANDER, TOOHIL, SNYDER, PASHINSKI, READSHAW, ROAE
AND SAYLOR, JUNE 24, 2013

REFERRED TO COMMITTEE ON GAME AND FISHERIES, JUNE 24, 2013

AN ACT

1 Providing a process for the designation of certain species.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Endangered
6 Species Coordination Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Acceptable data." Current, best available scientific and
12 commercial, empirical data as evidenced in supporting
13 documentation, statistics, reports, studies or research. As it

1 pertains to wild trout stream designation, such data that is
2 replicable and testable.

3 "Action." Any of the following activity:

- 4 (1) Promulgation of regulations.
- 5 (2) Designations or listing of species.
- 6 (3) Enforcement of rules and regulations.

7 "Acts." Any of the following:

- 8 (1) The Endangered Species Act of 1973, (Public Law 93-
9 205, 16 U.S.C. § 1531 et seq.);
- 10 (2) The act of June 23, 1982 (P.L.597, No.170), known as
11 the Wild Resource Conservation Act.
- 12 (3) 30 Pa.C.S. (relating to fish).
- 13 (4) 34 Pa.C.S. (relating to game).

14 "Centralized database." The database of listed species and
15 critical habitat maintained in accordance with this act.

16 "Commonwealth agency." Any of the following:

- 17 (1) The Department of Conservation and Natural Resources
18 of the Commonwealth.
- 19 (2) The Pennsylvania Fish and Boat Commission.
- 20 (3) The Pennsylvania Game Commission.

21 "Critical habitat." The specific areas within the geographic
22 area occupied by a listed species designated in accordance with
23 the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C.
24 § 1531 et seq.).

25 "Department." The Department of Conservation and Natural
26 Resources of the Commonwealth.

27 "Listed species." Species of fish, wildlife or plants
28 designated under the acts as "endangered," "Pennsylvania
29 endangered," "threatened" or "Pennsylvania threatened" and
30 included in the centralized database.

1 "Persons." The term includes:

2 (1) Persons, including any natural person, partnership,
3 association, corporation or other legal entity, including
4 associated consultants, scientists and planners, involved in
5 commercial activities involving potential land disturbances
6 or other activity for which a permit is required by Federal
7 or State law and which may impact listed species or their
8 critical habitats, as defined by the Endangered Species Act
9 of 1973 (Public Law 93-205, 16 U.S.C. § 1531 et seq.) or this
10 act.

11 (2) Persons with a bona fide interest involved in
12 conservation planning or involved in resource management as
13 determined by the Department of Conservation and Natural
14 Resources.

15 "Wild trout stream." A wilderness trout stream, a Class A
16 wild trout stream or any other stream or stream segment
17 designated by the Pennsylvania Fish and Boat Commission as a
18 wild trout stream.

19 Section 3. Coordination of designation.

20 No Commonwealth agency may take action to designate or
21 consider fish, wildlife or plants as threatened or endangered
22 unless the fish, wildlife or plants are designated under the
23 Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. §
24 1531 et seq.) or pursuant to this act.

25 Section 4. Designation process.

26 (a) Applicable law.--Any action by a Commonwealth agency to
27 designate fish, wildlife or plants as threatened or endangered
28 or to designate a stream as a wild trout stream shall be subject
29 to the requirements of the act of July 31, 1968 (P.L.769,
30 No.240) referred to as the Commonwealth Documents Law, and the

1 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
2 Review Act.

3 (b) Detailed reasons and summary of data and methodology.--

4 The Commonwealth agency shall provide detailed reasons and a
5 summary of the acceptable data and methodology upon which the
6 proposed designation is based, as well as the activities that
7 may be affected by such designation, to the Independent
8 Regulatory Review Commission and to the standing committees of
9 the Senate and the House of Representatives with jurisdiction
10 over the Commonwealth agency for purposes of this act.

11 (c) Inclusion in centralized database.--Upon final
12 promulgation of a regulation designating a fish, wildlife or
13 plant species as threatened or endangered, that species shall be
14 included in the centralized database.

15 (d) Removal.--Any species designated as threatened or
16 endangered pursuant to 30 Pa.C.S. (relating to fish) or 34
17 Pa.C.S. (relating to game) prior to the effective date of this
18 section shall be removed from the centralized database after a
19 period of two years unless the Commonwealth agency redesignates
20 the species as threatened or endangered in accordance with the
21 provisions of this act.

22 Section 5. Designation determination and data.

23 (a) General rule.--All Commonwealth agency actions to
24 designate fish, wildlife or plants as Pennsylvania threatened or
25 Pennsylvania endangered species shall be promulgated as
26 regulations in accordance with this act, solely on the basis of
27 acceptable data.

28 (b) Conditions for designation.--

29 (1) Any designation of a Pennsylvania endangered species
30 shall be made only when the species is in danger of

1 extinction throughout all or a significant portion of its
2 range.

3 (2) Any designation of a Pennsylvania threatened species
4 shall be made only when the species is likely to become a
5 Pennsylvania endangered species throughout all or a
6 significant portion of its range within the foreseeable
7 future.

8 (c) Wild trout streams.--Any Commonwealth agency action to
9 designate a stream or stream segment as a wild trout stream
10 shall be promulgated as a regulation based solely on acceptable
11 data. The designation of a stream or stream segment as a wild
12 trout stream shall not be effective until the regulation is
13 promulgated as final.

14 Section 6. Permits and approvals.

15 When reviewing applications for permits, approvals or other
16 authorizations or taking actions, State and local government
17 agencies shall consider impacts only to listed species and their
18 critical habitats included in the centralized database. Permits,
19 approvals, authorizations or regulations shall not require
20 persons to conduct field surveys or other activities to
21 determine or evaluate the presence of species or their habitats,
22 unless acceptable data exist indicating the presence of a listed
23 species in the area.

24 Section 7. Centralized database.

25 The department shall develop, maintain and manage the
26 operation of the centralized database. Each Commonwealth agency
27 shall provide the department with all information identified in
28 section 8.

29 Section 8. Access to data.

30 (a) General rule.--The department shall provide persons

1 access to data regarding the location of listed species or other
2 designated species, including:

3 (1) Geographic Information System spatial data
4 identifying specific areas in which each listed species or
5 other designated species is known to be present.

6 (2) Geographic Information System spatial data
7 identifying critical habitat areas where listed species occur
8 or sensitive habitat of other designated species.

9 (3) Geographic Information System spatial data
10 identifying buffer areas for listed species or other
11 designated species, along with a description of the
12 acceptable data, rationale and methodology used by a
13 Commonwealth agency to establish the extent of the buffer
14 areas.

15 (4) The names of all political subdivisions within which
16 the listed or other designated species, their habitats and
17 buffer areas are located.

18 (b) List of potential avoidance and mitigation measures.--
19 The department shall also provide persons a list of potential
20 avoidance and mitigation measures, seasonal considerations or
21 other best practices associated with each of the listed species
22 or other designated species and habitats.

23 (c) Public dissemination.--

24 (1) Notwithstanding any provision of law to the
25 contrary, the department shall provide the information
26 described in subsection (a), including records identifying
27 the location of endangered or threatened plant or animal
28 species not already known to the general public, to persons
29 who request it.

30 (2) Persons receiving the information may only disclose

1 the information to other persons with prior written
2 authorization from the department.

3 (d) Use of information.--Information obtained under
4 subsection (a) shall be used solely for:

5 (1) conservation, development planning, natural
6 resources management;

7 (2) compliance with statutory and regulatory
8 requirements for the protection of listed species applicable
9 to permits, approvals or other authorizations; or

10 (3) voluntary measures to mitigate impacts to other than
11 listed species.

12 (e) Civil penalty.--Any person intentionally violating the
13 provisions of subsection (c) or (d) is subject to a civil
14 penalty of not less than \$250 nor more than \$5,000.

15 Section 9. Repeal.

16 All acts and parts of acts are repealed insofar as they are
17 inconsistent with this act.

18 Section 10. Effective date.

19 This act shall take effect in 90 days.