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, SACCONE, 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 COMMITEE 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

pertains to wild trout stream designation, such data that is 1 2 replicable and testable. 3 "Action." Any of the following activity: Promulgation of regulations. 4 (1)5 Designations or listing of species. (2) Enforcement of rules and regulations. 6 (3) "Acts." Any of the following: 7 8 (1)The Endangered Species Act of 1973, (Public Law 93-205, 16 U.S.C. § 1531 et seq.); 9 The act of June 23, 1982 (P.L.597, No.170), known as 10 (2) the Wild Resource Conservation Act. 11 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: The Department of Conservation and Natural Resources 17 (1)18 of the Commonwealth. 19 (2) The Pennsylvania Fish and Boat Commission. 20 The Pennsylvania Game Commission. (3) 21 "Critical habitat." The specific areas within the geographic area occupied by a listed species designated in accordance with 22 23 the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. 24 § 1531 et seq.). "Department." The Department of Conservation and Natural 25 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 included in the centralized database. 30

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1 "Persons." The term includes:

2 (1) Persons, including any natural person, partnership, 3 association, corporation or other legal entity, including associated consultants, scientists and planners, involved in 4 5 commercial activities involving potential land disturbances or other activity for which a permit is required by Federal 6 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.

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

25 Section 4. Designation process.

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

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

3 (b) Detailed reasons and summary of data and methodology .--The Commonwealth agency shall provide detailed reasons and a 4 summary of the acceptable data and methodology upon which the 5 proposed designation is based, as well as the activities that 6 may be affected by such designation, to the Independent 7 8 Regulatory Review Commission and to the standing committees of the Senate and the House of Representatives with jurisdiction 9 10 over the Commonwealth agency for purposes of this act. 11 Inclusion in centralized database.--Upon final (C)

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.

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

22 Section 5. Designation determination and data.

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

28 (b) Conditions for designation.--

29 (1) Any designation of a Pennsylvania endangered species30 shall be made only when the species is in danger of

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extinction throughout all or a significant portion of its
 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 persons to conduct field surveys or other activities to 20 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.

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

29 Section 8. Access to data.

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

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access to data regarding the location of listed species or other
 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.

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

23 (c) Public dissemination.--

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

30 (2) Persons receiving the information may only disclose 20130HB1576PN2133 - 6 - 1 the information to other persons with prior written 2 authorization from the department.

3 (d) Use of information.--Information obtained under4 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.

(e) Civil penalty.--Any person intentionally violating the provisions of subsection (c) or (d) is subject to a civil 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.

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