

TITLE 2: NATURAL RESOURCES
DIVISION 5: ANIMALS, PLANTS AND FOOD

§ 5108. Endangered and Threatened Species.

(a) (1) The director shall, by regulation, determine whether any species should be designated as an endangered species or a threatened species, taking into consideration the status of its habitat or range, its utilization by man for various purposes, diseases or predators, other natural or manmade factors affecting its continued existence, and the need for adequate regulation or management.

(2) When appropriate, the director shall include in such regulation the designation of any portion of such range as the critical habitat of such species, taking into consideration the economic impact and other relevant impacts of the designation. The director may exclude from the designation any area with respect to which it is determined that the benefits of the exclusion outweigh the inclusion of the area, unless the exclusion will result in the extinction of the species throughout the world.

(b) No designation may be made pursuant to subsection (a) of this section until the director has conducted a review of the status of the species, has consulted with appropriate Commonwealth, federal, regional, and foreign officials, and has held a public hearing on the proposed designation and other regulations relating to the species.

(c) The director shall revoke the designation when he or she finds it is no longer applicable in the same manner as provided for making such designation.

(d) If any consultation pursuant to 2 CMC § 5105 results in an irresolvable conflict between the director and any agency regarding any activity to be conducted which would jeopardize the survival of any endangered or threatened species or which would destroy any critical habitat designated pursuant to this section, the conflict shall be resolved by the Governor. The Governor shall permit the agency to conduct or authorize such activity if he determines that:

(1) There is no reasonable alternative to the proposed activity;

(2) The benefits of the activity are significant to the Commonwealth and clearly outweigh the benefits of other courses of action consistent with conserving the species or critical habitat; and

(3) Reasonable mitigation and enhancement measures have been or will be established to minimize the adverse effects of the proposed activity on such species or critical habitat.

Source: PL 2-51, § 9.

Commission Comment: With respect to the references to the “director” of the Department of Natural Resources, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.