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State Endangered Species Act Statutes:

Connecticut



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Connecticut Endangered Species Act § 26-303 – 26-316

Current through 20-1 of the 2020 First Regular Session, and 20-4 of the July Special Session.

§ 26-303. Findings. Policy.

The General Assembly finds that certain species of wildlife and plants have been rendered extinct as a consequence of man's activities and that other species of wildlife and plants are in danger of or threatened with extinction or have been otherwise reduced or may become extinct or reduced because of destruction, modification or severe curtailment of their habitats, exploitation for commercial, scientific, educational, or private use or because of disease, predation or other factors; that such species are of ecological, scientific, educational, historical, economic, recreational and aesthetic value to the people of the state, and that the conservation, protection and enhancement of such species and their habitats are of state-wide concern. Therefore the General Assembly declares it is a policy of the state to conserve, protect, restore and enhance any endangered or threatened species and essential habitat.

§ 26-304. Definitions.

As used in sections 22a-2, 23-5c, 23-74, 23-75, 26-40c, 26-40d, 26-40f and 26-303 to 26-315, inclusive:

- (1) "Department" means the Department of Energy and Environmental Protection;
- (2) "Conserve" and "conservation" mean to use all methods and procedures necessary to maintain or increase the populations of any endangered or threatened species to the point at which the provisions of sections 22a-2, 23-5c, 23-74, 23-75, 26-40c, 26-40d, 26-40f and 26-303 to 26-315, inclusive, are no longer necessary, including, but not limited to, all activities associated with resources management, such as research, census, monitoring, regulation and law enforcement, habitat acquisition, restoration and maintenance, propagation, live trapping, transplantation and regulated taking;
- (3) "Wildlife" means all species of invertebrates, fish, amphibians, reptiles, birds and mammals which are wild by nature and parts thereof;
- (4) "Plants" means any member of the plant kingdom and parts thereof;
- (5) "Native" means any species indigenous to this state;
- (6) "Species" means any species, subspecies, or variety of animal or plant, and includes any distinct population segment of any animal or plant;



(7) “Endangered species” means any native species documented by biological research and inventory to be in danger of extirpation throughout all or a significant portion of its range within the state and to have no more than five occurrences in the state, and any species determined to be an “endangered species” pursuant to the federal Endangered Species Act;

(8) “Threatened species” means any native species documented by biological research and inventory to be likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the state and to have no more than nine occurrences in the state, and any species determined to be a “threatened species” pursuant to the federal Endangered Species Act, except for such species determined to be endangered by the commissioner in accordance with section 26-306;

(9) “Species of special concern” means any native plant species or any native nonharvested wildlife species documented by scientific research and inventory to have a naturally restricted range or habitat in the state, to be at a low population level, to be in such high demand by man that its unregulated taking would be detrimental to the conservation of its populations or has been extirpated from the state;

(10) “Endangered Species Act” means the Endangered Species Act of 1973, Public Law 93-205, as amended from time to time;

(11) “Take” or “taking” mean to capture, collect, destroy, harm, hunt, kill, pursue, shoot, trap, snare, net, possess, transport, remove, sell or offer for sale, export or import or to attempt to engage in any such conduct or any act of assistance to any other person in taking or attempting to take such native wildlife and native plants whether or not such act results in capture or collection;

(12) “Essential habitat” means the geographic area which contains those physical or biological features which are identifiable and have been demonstrated as being decisive to the continued existence of any endangered or threatened species and includes, but is not limited to, significant areas used for courtship, mating, and other reproductive activities, rearing of young, feeding and shelter of endangered and threatened species;

(13) “Destruction or adverse modification of essential habitat” means any activity that significantly alters, pollutes, impairs, degrades, damages, destroys or otherwise reduces the ability of the habitat to sustain populations of endangered or threatened species;

(14) “Threaten the continued existence” means to engage in any action that reduces appreciably the likelihood of the survival and recovery of an endangered or threatened species in the wild by reducing the reproduction, numbers, or distribution of such species;

(15) “Occurrence” means a population of a species breeding and existing within the same ecological community and capable or potentially capable of interbreeding with other members of that species within that community.

§ 26-305. Program for the protection of endangered and threatened species.

There is established a program for the protection of endangered and threatened species. The commissioner may conduct investigations of wildlife and plants in order to develop



information relating to population, distribution, habitat needs, limiting factors, essential habitats, and other biological and ecological data to determine conservation and management measures necessary for their continued ability to sustain themselves successfully.

§ 26-306. Regulations. Determination of whether any native species is endangered, threatened or of special concern. List. Essential habitats identified.

(a) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing procedures for determining whether any native species is endangered, threatened or of special concern. In making such determination, the commissioner shall consider: (1) The destruction or threatened destruction, modification or curtailment of the habitat of the species; (2) overutilization of the species for commercial, recreational, scientific, educational or private purposes; (3) disease, predation or competition affecting the species; (4) the inadequacy of existing regulatory mechanisms to affect the continued existence of the species within the state; or (5) other natural or man-made factors affecting the continued existence of the species within the state.

(b) Not later than June 22, 1990, the commissioner shall adopt regulations, in accordance with the provisions of chapter 54, listing native wildlife and native plants that he has determined to be endangered or threatened species or species of special concern. Not later than June 22, 1991, the commissioner shall so adopt regulations to identify, where biologically feasible, essential habitats for endangered and threatened species.

(c) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 to establish criteria to be included in a petition pursuant to section 4-174 to add or remove a species from the list of endangered or threatened species or species of special concern or to add or remove an area identified as an essential habitat for such species.

§ 26-307. Review.

The commissioner shall review, at least every five years, the designation of species as endangered, threatened or of special concern, and areas identified as essential habitats to determine whether he should: (1) Add or remove any species from the list of endangered or threatened species or species of special concern; (2) change the designation from one category to another; (3) add or remove any area from the list of essential habitats for endangered or threatened species. The review of species that are listed as endangered by the United State Department of Interior shall be conducted, to the extent practicable, in conjunction with the periodic year review process of the Department of Interior pursuant to the Endangered Species Act.

§ 26-308. Treatment of species not listed as endangered or threatened as endangered or threatened species.

(a) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to treat a species not listed as endangered or threatened pursuant to section 26-306 as an endangered or threatened species if he finds that: (1) Such species so closely resembles a species listed as endangered or threatened that enforcement personnel would have



substantial difficulty in attempting to differentiate between it and the listed species; (2) the effect of such substantial difficulty is an additional threat to the endangered or threatened species; and (3) treatment of the unlisted species as an endangered or threatened species would substantially facilitate enforcement and further the policy state in section 26-303.

(b) The regulations may include a provision to allow a person to conduct an activity which affects a species that resembles an endangered or threatened species if the person can demonstrate to the commissioner that the activity does not affect the endangered or threatened species.

§ 26-309. State acquisition of essential habitat. Management.

(a) The commissioner may acquire for and on behalf of the state, essential habitat, or interests therein, for the conservation of endangered, threatened, or species of special concern by gift, devise, purchase, exchange, condemnation or any other method of acquiring real property or an interest therein.

(b) The commissioner may enter into agreements with federal agencies, or political subdivisions of this state or other states, or with individuals or private organizations for administration and management of any program established and utilized for the conservation of endangered and threatened species and for management of any area identified as essential habitat for such species pursuant to section 26-306.

§ 26-310. Actions by state agencies which affect endangered or threatened species or species of special concern or essential habitats of such species.

(a) Each state agency, in consultation with the commissioner, shall conserve endangered and threatened species and their essential habitats, and shall ensure that any action authorized, funded or performed by such agency does not threaten the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat designated as essential to such species, unless such agency has been granted an exemption as provided in subsection (c) of this section. In fulfilling the requirements of this section, each agency shall use the best scientific data available.

(b) Each state agency responsible for the primary recommendation or initiation of actions on land or in aquatic habitats which may significantly affect the environment, as defined in section 22a-1c, shall ensure that such actions are consistent with the provisions of sections 26-303 to 26-312, inclusive, and shall take all reasonable measures to mitigate any adverse impacts of such actions on endangered or threatened species or essential habitat. The Secretary of the Office of Policy and Management shall consider the consistency of such proposed actions with the provision of said sections 26-303 to 26-312, inclusive, in determining whether or not an environmental impact evaluation prepared pursuant to section 22a-1b satisfies the requirements of sections 22a-1a to 22a-1h, inclusive, and regulations adopted pursuant to said sections.

(c) If the Secretary of the Office of Policy and Management, in consultation with the commissioner, determines that a proposed action violates subsections (a) or (b) of this section and there are no feasible and prudent alternatives the state agency may apply to the commissioner for an exemption. The commissioner may grant an exemption after considering the following factors: (1) The agency did not make an irreversible or irretrievable commitment of



resources after initiation of consultation with the department that forecloses the opportunity for formulating and implementing feasible and prudent alternatives, (2) the benefits of the action clearly outweigh the benefits of alternative courses of action, consistent with conserving the species or its essential habitat, and such action is in the public interest, (3) the action is of regional or state-wide significance, and (4) the agency plans to take reasonable mitigation and enhancement measures necessary and appropriate to minimize the adverse impacts of the action upon the species or essential habitat, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement.

(d) If the Secretary of the Office of Policy and Management, in consultation with the commissioner, determines that a proposed action would not appreciably reduce the likelihood of the survival or recovery of an endangered or threatened species, but would result in the incidental taking of such species, the commissioner shall provide the state agency with a written statement that: (1) Specifies the impact of such incidental taking on the species; (2) specifies feasible and prudent measures and alternatives that shall be implemented as part of the proposed project in order to ensure that the action does not appreciably reduce the likelihood of the recovery of the species; and (3) sets forth terms and conditions including, but not limited to, reporting requirements to ensure compliance with this subsection. Any taking that is in compliance with the measures and alternatives specified pursuant to this subsection shall not be prohibited by sections 26-303 to 26-312, inclusive.

§ 26-311. Taking of endangered or threatened species. Construction of chapter.

(a) Except as otherwise provided in section 26-310, it is unlawful for (1) any person to willfully take any endangered or threatened species on or from public property, waters of the state or property of another without the written permission of the owner on whose property the species occurs; (2) any person, including the owner of the land on which an endangered or threatened species occurs, to willfully take an endangered or threatened species for the purpose of selling, offering for sale, transporting for commercial gain or exporting such specimen; (3) any state agency to destroy or adversely modify essential habitat designated pursuant to section 26-306, so as to reduce the viability of the habitat to support endangered or threatened species or so as to kill, injure, or appreciably reduce the likelihood of survival of the species.

(b) Nothing in sections 26-303 to 26-312, inclusive, or any regulation adopted pursuant to said sections shall prohibit a person from performing any legal activities on his own land that may result in the incidental taking of endangered or threatened animal and plant species or species of special concern.

(c) Nothing in sections 26-303 to 26-312, inclusive, or any regulations adopted pursuant to said sections shall prohibit any action authorized pursuant to an exemption or permit provided for by the federal Endangered Species Act or in any regulation adopted under said act, or permit any action prohibited by the Endangered Species Act or by any regulation adopted under said act.

(d) Nothing in sections 26-303 to 26-312, inclusive, or any regulations adopted pursuant to said sections shall prohibit transportation through this state of any endangered or threatened species in accordance with the terms of any permit issued under the laws of another state provided the person in possession of an endangered or threatened species can prove legal possession of the species.



(e) The commissioner may prohibit, in an emergency, the taking of any state species of special concern threatened with undue depletion from overutilization of the species for commercial, recreational, scientific, educational or private purposes.

§ 26-312. Violation. Order. Hearing.

If the commissioner or his duly authorized agent finds that any person is conducting any activity or maintaining a facility or condition which is in violation of section 26-311, the commissioner shall issue a written order by certified mail to such person to cease immediately such activity or to correct such facility or condition. Within ten days of the issuance of such order the commissioner shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The commissioner shall consider the facts presented at the hearing and within ten days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the commissioner affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to section 26-40c.

§ 26-313. Disclosure.

Notwithstanding the provisions of the Freedom of Information Act, as defined in section 1-200, the Commissioner of Energy and Environmental Protection may withhold from disclosure to any person maps and records that disclose the location of any essential habitat or that disclose the location of any threatened species, endangered species, or species of special concern, upon determination that disclosure of such information to such person would create an unacceptable risk of destruction of, or harm to, such habitat or species. Prior to disclosure of any maps or records to any person, the commissioner may impose any reasonable conditions including the condition that the person to whom the information is disclosed furnish the commissioner with security in an amount and kind sufficient to guarantee that such person shall not destroy or harm, or cause to be destroyed or harmed, any such habitat or species. Any person whose request for disclosure has been denied shall be afforded the opportunity for a hearing to establish (1) that the requested information should be disclosed because disclosure would not create an unacceptable risk of destruction of, or harm to, such habitat or species, and (2) the unreasonableness of any condition imposed, including the amount or kind of any security to be established. Any hearing or other proceeding pursuant to this section shall be held in accordance with the provisions of chapter 54.

§ 26-314. Natural Area Preserves Advisory Committee.

There is established a Natural Area Preserves Advisory Committee which shall consist of seven members. Three members shall be employees of the Department of Energy and Environmental Protection and shall serve at the pleasure of the Commissioner of Energy and Environmental Protection, one of whom the commissioner shall designate as chairman of the committee, and four members shall be appointed by the Governor from persons with an interest in the preservation of lands in natural condition for scientific and educational purposes. Members appointed by the Governor shall serve for four years. The Governor shall fill any vacancy among his appointees for the remainder of the unexpired term. The committee shall meet



semiannually and may meet more often upon the call of the chairman. The members of the committee shall receive no compensation for their services as such but may be reimbursed for necessary expenses in connection with the performance of their duties. Members shall be persons with experience or professional training in ecological, biological or natural sciences, or environmental education; or representatives of institutions with experience in natural area research, education or preservation. The committee shall meet semiannually and may meet more often upon the call of the chairman or the call of any four members, upon delivery of forty-eight hours written notice to each member. The commissioner shall provide technical staff and clerical support services to carry out the business of the committee. The Natural Area Preserves Advisory Committee shall advise the Commissioner of Energy and Environmental Protection relative to the administration of sections 23-5a to 23-5i, inclusive, and shall cooperate with the commissioner (1) in the establishment of standards for the acquisition, designation, maintenance and operation of natural area preserves within the system; (2) in making periodic state-wide surveys to determine the availability of that land which should be designated as a natural area preserve; (3) in recommending the acquisition of specific lands or interests in lands which are suitable for natural area preserves; (4) in preparing and disseminating literature and other materials to inform the public with respect to the natural area preserve program; (5) in consulting and cooperating with conservation and naturalist groups and organizations in the acquisition and maintenance of natural area preserves; (6) in recommending the acquisition of specific lands or interests in lands which are suitable for natural area preserves with funds available under the recreation and natural heritage trust program or other programs under which funds are available to the commissioner; (7) in the preparation of management plans for specific natural area preserves; and (8) in recommending the alienation or revocation of a natural area preserve for just cause.

§ 26-315. Elephant ivory.

If the Commissioner of Energy and Environmental Protection determines that trade in Connecticut of raw elephant ivory or products manufactured or derived from elephant ivory contributes to the extinction or endangerment of elephants, he shall adopt regulations in accordance with the provisions of chapter 54 to regulate such trade.

§ 26-316. Eelgrass beds.

The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with chapter 54, to protect and restore eelgrass, including the protection of existing eelgrass beds from degradation, the development of a restoration plan to restore eelgrass and the periodic monitoring of the effectiveness of such measures to protect and restore eelgrass.

