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1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Fish, Wildlife and Water Resources to which was
3 referred House Bill No. 552 entitled “An act relating to threatened and
4 endangered species” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 5401 is amended to read:

8 § 5401. DEFINITIONS

9 As used in this chapter:

10 (1) “Agency” means the Agency of Natural Resources.

11 (2) “Secretary” means the Secretary of Natural Resources.

12 (3) “Species” ~~includes all subspecies of~~ means wildlife or wild plants
13 and any subspecies or other group of wildlife or wild plants of the same
14 species, the members of which may interbreed when mature.

15 (4) “Wildlife” means any member of a nondomesticated species of the
16 animal kingdom, whether reared in captivity or not, including, without
17 limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean,
18 arthropod or other invertebrate, and also including any part, product, egg,
19 offspring, dead body, or part of the dead body of any such wildlife.

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1 (5) “Plant” means any member of the plant kingdom, including seeds,
2 roots, and other parts thereof. As used in this chapter, plants shall include
3 fungi.

4 (6) “Endangered species” means a species listed ~~on the state endangered~~
5 ~~species list~~ as endangered under this chapter or ~~determined to be an~~
6 ~~“endangered species”~~ under the federal Endangered Species Act.

7 (7) “Threatened species” means a species listed ~~on the State~~ as a
8 ~~threatened species list~~ under this chapter or determined to be a “threatened
9 species” under the federal Endangered Species Act.

10 (8) “Endangered Species Act” and “federal Endangered Species Act”
11 means the Endangered Species Act of 1973, Public Law 93-205, as amended.

12 (9) “Habitat” means the physical and biological environment in which a
13 particular species of plant or animal lives.

14 (10) “Conserve,” “conserving,” and “conservation” mean to use and the
15 use of all methods and procedures ~~both~~ for maintaining or increasing:

16 (A) the number of individuals within a population of a species;

17 (B) the number of populations of a species; and

18 (C) populations of wildlife or wild plants to the optimum carrying
19 capacity of the habitat, ~~and for maintaining those numbers.~~

20 (11) “Optimum carrying capacity” for a species means a population
21 level of that species which, in that habitat, can ~~indefinitely~~ sustainably coexist

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1 with healthy populations of all wildlife and wild plant species normally
2 present.

3 (12) “Methods” and “procedures” means all activities associated with
4 ~~scientific~~ natural resources management, including, ~~without limitation,~~
5 scientific research, census, law enforcement, habitat acquisition and
6 maintenance, propagation, live trapping, and transplanting. The terms also
7 include the periodic or continuous protection of species or populations, where
8 appropriate, and the regulated taking of individuals of the species or population
9 in extraordinary cases where population pressures within a habitat cannot be
10 otherwise relieved.

11 (13) “Possession” ~~of a member of a species means the state of~~
12 ~~possessing~~ means holding, controlling, exporting, importing, processing,
13 selling, offering to sell, delivering, carrying, transporting, or shipping by any
14 means a member of ~~that~~ a species.

15 (14) ~~“Taking,”~~ “Take” or “taking”:

16 (A) ~~with~~ With respect to wildlife ~~means “taking” as defined in~~
17 ~~section 4001 of this title, and~~ designated a threatened or endangered species,
18 means:

19 (i) pursuing, shooting, hunting, killing, capturing, trapping,
20 harming, snaring, and netting wildlife;

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1 (ii) an act that creates a risk of injury to wildlife, whether or not
2 the injury occurs, including harassing, wounding, or placing, setting, drawing,
3 or using any net or other device used to take animals; or

4 (iii) attempting to engage in or assisting another to engage in an
5 act set forth under subdivision (A)(i) or (ii) of this subdivision (14).

6 (B) ~~with~~ With respect to wild plants designated a threatened or
7 endangered species, means uprooting, transplanting, gathering seeds or fruit,
8 cutting, injuring, harming, or killing or any attempt to do the same or assisting
9 another who is doing or is attempting to do the same.

10 (15) “Accepted silvicultural practices” means the accepted silvicultural
11 practices defined by the Commissioner of Forests, Parks and Recreation,
12 including the Acceptable Management Practices for Maintaining Water
13 Quality on Logging Jobs in Vermont adopted by the Commissioner of Forests,
14 Parks and Recreation.

15 (16) “Critical habitat” for a threatened species or endangered species
16 means:

17 (A) a delineated location within the geographical area occupied by
18 the species that:

19 (i) has the physical or biological features that are identifiable,
20 concentrated, and decisive to the survival of a population of the species; and

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1 (ii) is necessary for the conservation or recovery of the
2 species; and

3 (iii) may require special management considerations or
4 protection; or

5 (B) a delineated location outside the geographical area occupied by a
6 species at the time it is listed under section 5402 of this title that:

7 (i)(I) was historically occupied by a species; or

8 (II) contains habitat that is hydrologically connected or directly
9 adjacent to occupied habitat; and

10 (ii) contains habitat that is identifiable, concentrated, and decisive
11 to the continued survival of a population of the species; and

12 (iii) is necessary for the conservation or recovery of the species.

13 (17) “Destroy or adversely impact” means, with respect to critical
14 habitat, a direct or indirect activity that negatively affects the value of critical
15 habitat for the survival, conservation, or recovery of a listed **threatened or**
16 **endangered** species.

17 (18) “Farming” shall have the same meaning as used in subdivision
18 6001(22) of this title.

19 (19) “Forestry operations” means activities related to the management of
20 forests, including a timber harvest; pruning; planting; reforestation; pest,
21 disease, and invasive species control; wildlife habitat management; and

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1 fertilization. “Forestry operation” includes the primary processing of forest
2 products of commercial value on a parcel where the timber harvest occurs.

3 (20) “Harming,” as used in the definition of “take” or “taking” under
4 subdivision (14) of this subsection, means:

5 (A) an act that kills or injures a threatened or endangered species; or

6 (B) the destruction or imperilment of habitat that kills or injures a
7 threatened or endangered species by significantly impairing continued survival
8 or essential behavioral patterns, including reproduction, feeding, and
9 sheltering.

10 Sec. 2. 10 V.S.A. § 5402 is amended to read:

11 § 5402. ENDANGERED AND THREATENED SPECIES LISTS

12 (a) The Secretary shall adopt by rule a ~~State-endangered~~ State endangered
13 species list and a ~~State-threatened~~ State threatened species list. The listing for
14 any species may apply to the whole State or to any part of the State and shall
15 identify the species by its most recently accepted genus and species names and,
16 if available, the common name.

17 (b) The Secretary shall determine a species to be endangered if it normally
18 occurs in the State and its continued existence as ~~wildlife or a wild plant in the~~
19 State a sustainable component of the State’s wildlife or wild plants is in
20 jeopardy.

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1 (c) The Secretary shall determine a species to be threatened if:

2 (1) it is a sustainable component of the State's wildlife or wild plants;

3 (2) it is reasonable to conclude based on available information that its

4 numbers are ~~significantly declining because of loss of habitat or human~~
5 ~~disturbance;~~ and

6 (3) unless protected, it will become an endangered species.

7 (d) In determining whether a species is ~~endangered or threatened or~~
8 endangered, the Secretary shall consider:

9 (1) the present or threatened destruction, degradation, fragmentation,
10 modification, or curtailment of the range or habitat of the species;

11 (2) any killing, harming, or over-utilization of the species for
12 commercial, sporting, scientific, educational, or other purposes;

13 (3) disease or predation affecting the species;

14 (4) the adequacy of existing regulation;

15 (5) actions relating to the species carried out or about to be carried out
16 by any governmental agency or any other person who may affect the
17 species; ~~and~~

18 (6) competition with other species, including nonnative invasive species;

19 (7) the decline in the population;

20 (8) cumulative impacts; and

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1 (9) other natural or ~~man-made~~ human-made factors affecting the
2 continued existence of the species.

3 (e) In determining whether a species is ~~endangered or threatened or~~
4 endangered or whether to delist a species, the Secretary shall:

5 (1) use the best scientific, commercial, and other data available;

6 (2) notify and consult with interested state or appropriate officials in
7 Canada, appropriate State and federal agencies, other states having a common
8 interest in the species, affected landowners, and any interested persons at least
9 30 days prior to commencement of rulemaking; and

10 (3) notify the ~~governor~~ appropriate officials and agencies of Quebec or
11 any state contiguous to Vermont in which the species affected is known to
12 occur.

13 Sec. 3. 10 V.S.A. § 5402a is added to read:

14 § 5402a. CRITICAL HABITAT; LISTING

15 (a) The Secretary may, after the consultation required under subsection
16 5408(e) of this section, adopt or amend by rule a critical habitat designation list
17 for threatened or endangered species. Critical habitat may be designated in any
18 part of the State. The Secretary shall not be required to designate critical
19 habitat for every State-listed threatened or endangered species. When the
20 Secretary designates critical habitat, the Secretary shall identify the species for

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1 which the designation is made, including its most recently accepted genus and
2 species names, and, if available, its common name.

3 (b) The Secretary shall designate only critical habitat that meets the
4 definition of “critical habitat” under this chapter. In determining whether and
5 where to designate critical habitat for a State-listed threatened or endangered
6 species, the Secretary shall, after consultation with and consideration of
7 recommendations of the Secretary of Agriculture, Food and Markets, the
8 Secretary of Transportation, and the Commissioner of Forests, Parks and
9 Recreation, consider the following:

10 (1) the current or historic use of the habitat by the listed species;

11 (2) the extent to which the habitat is decisive to the survival and
12 recovery of the listed species, at any stage of its life cycle;

13 (3) the space necessary for individual and population growth of the
14 listed species;

15 (4) food, water, air, light, minerals, or other nutritional or physiological
16 requirements of the listed species;

17 (5) cover or shelter for the listed species;

18 (6) sites for breeding, reproduction, rearing of offspring, germination, or
19 seed dispersal; migration corridors; and overwintering;

20 (7) the present or threatened destruction, degradation, fragmentation,
21 modification, or curtailment of the range or habitat of the listed species;

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1 (8) the adequacy of existing regulation;

2 (9) actions relating to the listed species carried out or about to be carried

3 out by any governmental agency or any other person who may affect the listed

4 species;

5 (10) cumulative impacts; and

6 (11) natural or human-made factors affecting the continued existence of

7 the listed species.

8 (c) In determining whether to designate critical habitat for a State-listed

9 threatened or endangered species, the Secretary shall:

10 (1) use the best scientific, commercial, and other data available;

11 (2) notify and consult with appropriate officials in Canada, appropriate

12 State and federal agencies, other states having a common interest in the

13 species, affected landowners, and any interested persons at least 30 days prior

14 to commencement of rulemaking; and

15 (3) notify the appropriate officials and agencies of Quebec or any state

16 contiguous to Vermont in which the species affected is known to occur.

17 (d) Prior to initiating rulemaking under this section to designate critical

18 habitat, the Secretary shall notify the owner of record of any land on which

19 critical habitat is proposed for designation.

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1 Sec. 4. 10 V.S.A. § 5403 is amended to read:

2 § 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

3 (a) Except as authorized under this chapter, a person shall not:

4 (1) take, possess, or transport wildlife or wild plants that are members of
5 ~~an endangered or a threatened~~ or endangered species; or

6 (2) destroy or adversely impact critical habitat.

7 (b) Any person who takes a threatened or endangered species shall report
8 the taking to the Secretary.

9 (c) The Secretary may, with advice of the Endangered Species Committee
10 and after the consultation required under subsection 5408(e) of this section,
11 adopt rules for the protection ~~and~~ conservation, or recovery of endangered and
12 threatened species.

13 ~~(e)(d)~~ The Secretary may bring ~~a civil~~ an environmental enforcement action
14 against any person who violates subsection (a) or (b) of this section or rules
15 adopted under this chapter in accordance with chapters 201 and 211 of this
16 title.

17 ~~(d)(e)~~ Instead of bringing ~~a civil~~ an environmental enforcement action for a
18 violation of this chapter or rules adopted under this chapter, the Secretary may
19 refer violations of this chapter to the Commissioner of Fish and Wildlife for
20 criminal enforcement.

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1 ~~(e)~~(f) A In a criminal enforcement action, a person who knowingly violates
2 a requirement of this chapter or a rule of the Secretary adopted under
3 subsection ~~(b)~~(c) of this section related to taking, possessing, transporting,
4 buying, or selling a threatened or endangered species shall be fined ~~not more~~
5 ~~than \$500.00~~ in accordance with section 4518 of this title, and the person shall
6 pay restitution under section 4514 of this title.

7 ~~(f)~~(g) Any person who violates subsection (a) or (b) of this section by
8 knowingly injuring a member of a threatened or endangered species or
9 knowingly destroying or adversely impacting critical habitat and who is
10 subject to criminal prosecution may be required by the court to pay
11 restitution for:

12 (1) actual costs and related expenses incurred in treating and caring for
13 the injured plant or animal to the person incurring these expenses, including
14 the costs of veterinarian services and Agency of Natural Resources staff
15 time; or

16 (2) reasonable mitigation and restoration costs such as: species
17 restoration plans; habitat protection; and enhancement, transplanting,
18 cultivation, and propagation ~~for plants.~~

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1 Sec. 5. 10 V.S.A. § 5404 is amended to read:

2 § 5404. ENDANGERED SPECIES COMMITTEE

3 (a) A ~~Committee~~ committee on endangered species is created to be known
4 as the “Endangered Species Committee,” and shall consist of nine members,
5 including the Secretary of Agriculture, Food and Markets, the Commissioner
6 of Fish and Wildlife, the Commissioner of Forests, Parks and Recreation, and
7 six members appointed by the Governor from the public at large. Of the six
8 public members, two shall be actively engaged in agricultural or silvicultural
9 activities, two shall be knowledgeable concerning flora, and two shall be
10 knowledgeable concerning fauna. Members appointed by the Governor shall
11 be entitled to reimbursement for expenses incurred in the attendance of
12 meetings, as approved by the Chair. The Chair of the Committee shall be
13 elected from among and by the members each year. Members who are not
14 employees of the State shall serve terms of three years, except that the
15 Governor may make appointments for a lesser term in order to prevent more
16 than two terms from expiring in any year.

17 (b) The Endangered Species Committee shall advise the Secretary on all
18 matters relating to endangered and threatened species, including whether to
19 alter the lists of endangered and threatened species ~~and~~, how to protect those
20 species, and whether and where to designate critical habitat.

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1 (c) The Agency of Natural Resources shall provide the Endangered Species
2 Committee with necessary staff services.

3 Sec. 6. 10 V.S.A. § 5405 is amended to read:

4 § 5405. CONSERVATION PROGRAMS

5 The Secretary, with the advice of the Endangered Species Committee, may
6 establish conservation programs and establish recovery plans for the
7 conservation or recovery of threatened or endangered species of wildlife or
8 plants or for the conservation or recovery of critical habitat. The programs
9 may include the purchase of land or aquatic habitat and the formation of
10 contracts for the purpose of management of wildlife or wild plant refuge areas
11 or for other purposes.

12 Sec. 7. 10 V.S.A. § 5406 is amended to read:

13 § 5406. COOPERATION BY OTHER AGENCIES

14 All agencies of this State shall review programs administered by them
15 which may relate to this chapter and shall, in consultation with the Secretary,
16 utilize their authorities only in a manner which does not jeopardize the
17 threatened or endangered species, critical habitat, or the outcomes of
18 conservation or recovery programs established by this chapter or by the
19 Secretary under ~~its~~ his or her authority.

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1 Sec. 8. 10 V.S.A. § 5407 is amended to read:

2 § 5407. ~~ENFORCEMENT~~ AUTHORITY TO SEIZE THREATENED OR
3 ENDANGERED SPECIES

4 In addition to other methods of enforcement authorized by law, the
5 Secretary may direct under this section that wildlife or wild plants ~~which~~ that
6 were seized because of violation of this chapter be rehabilitated, released,
7 replanted, or transferred to a zoological, botanical, educational or scientific
8 institution, and that the costs of the transfer and staff time related to a violation
9 may be charged to the violator. The Secretary, with the advice of the
10 Endangered Species Committee, may adopt rules for the implementation of
11 this section.

12 Sec. 9. 10 V.S.A. § 5408 is amended to read:

13 § 5408. ~~LIMITATIONS~~ AUTHORIZED TAKINGS; INCIDENTAL
14 TAKINGS; DESTRUCTION OF CRITICAL HABITAT

15 (a) Authorized taking. Notwithstanding any provision of this chapter, after
16 obtaining the advice of the Endangered Species Committee, the Secretary may
17 permit, under such terms and conditions as the Secretary may prescribe by
18 rule, the taking of a threatened or endangered species, the destruction or
19 adverse impact of critical habitat, or any act otherwise prohibited by this
20 chapter if done for any of the following purposes:

21 (1) scientific purposes;

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- 1 (2) to enhance the propagation or survival of a threatened or endangered
2 species; ~~economic hardship~~;
- 3 (3) zoological exhibition;
- 4 (4) educational purposes;
- 5 (5) noncommercial cultural or ceremonial purposes; or
- 6 (6) special purposes consistent with the purposes of the federal
7 Endangered Species Act.

8 (b) Incidental taking. After obtaining the advice of the Endangered Species
9 Committee, the Secretary may permit, under such terms and conditions as the
10 Secretary may prescribe by rule, the incidental taking of a threatened or
11 endangered species or the destruction or adverse impact of critical habitat if:

- 12 (1) the taking is necessary to conduct an otherwise lawful activity;
- 13 (2) the taking is attendant or secondary to, and not the purposes of, the
14 lawful activity;
- 15 (3) the impact of the permitted incidental take is minimized; and
- 16 (4) the incidental taking will not impair the conservation or recovery of
17 any endangered species or threatened species.

18 (c) Transport through State. Nothing in this chapter shall prevent a person
19 who holds a proper permit from the federal government or any other state from
20 transporting a member of ~~an endangered or a~~ threatened or endangered species

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1 from a point outside this State ~~to another point within or without this~~ through
2 the State.

3 ~~(e)~~(d) Possession. Nothing in this chapter shall prevent a person from
4 possessing in this State wildlife or wild plants which are not determined to be
5 “endangered” or “threatened” under the federal Endangered Species Act where
6 the possessor is able to produce substantial evidence that the wildlife or wild
7 plant was first taken or obtained in a place without violating the law of that
8 place, provided that an importation permit may be required under section 4714
9 of this title or the rules of the Department of Fish and Wildlife.

10 ~~(d)~~(e) Interference with agricultural or silvicultural practices. No rule
11 adopted under this chapter shall cause undue interference with ~~normal~~
12 ~~agricultural or farming,~~ forestry operations, or accepted silvicultural practices.
13 This section shall not be construed to exempt any person from the provisions
14 of the ~~federal Endangered Species Act~~ requirements of this chapter. The
15 Secretary shall not adopt rules that affect farming, forestry operations, or
16 accepted silvicultural practices without first consulting the Secretary of
17 Agriculture, Food and Markets and the Commissioner of Forests, Parks and
18 Recreation.

19 (f) Consistency with State law. Nothing in this chapter shall be interpreted
20 to limit or amend the definitions and applications of necessary habitat in
21 chapter 151 of this title or in 30 V.S.A. chapter 5.

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1 ~~(e)~~(g) Effect on federal law. Nothing in this section permits a person to
2 violate any provision of federal law concerning federally protected threatened
3 or endangered species.

4 (h) Permit application. An applicant for a permit under this section shall
5 submit an application to the Secretary that includes the following information:

6 (1) a description of the activities that could lead to a taking of a listed
7 threatened or endangered species or the destruction or adverse impact of
8 critical habitat;

9 (2) the steps that the applicant has or will take to avoid, minimize, and
10 mitigate the impact to the relevant threatened or endangered species or critical
11 habitat;

12 (3) a plan for ensuring that funding is available to conduct any required
13 monitoring and mitigation, if applicable;

14 (4) a summary of the alternative actions to the taking or destruction of
15 critical habitat that the applicant considered and the reasons that these
16 alternatives were not selected, if applicable;

17 (5) the name or names and obligations and responsibilities of the person
18 or persons that will be involved in the proposed taking or destruction of critical
19 habitat; and

20 (6) any additional information that the Secretary may require.

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1 ~~(f)~~(i) Permit fees.

2 (1) Fees to be charged to a person applying to take a threatened or
3 endangered species or destroy or adversely impact critical habitat under this
4 section shall be:

5 (A) ~~To~~ to take for scientific purposes, to enhance the propagation or
6 survival of the species, noncommercial cultural or ceremonial purposes, or for
7 educational purposes or special purposes consistent with the federal
8 Endangered Species Act, \$50.00;

9 (B) ~~To~~ to take for a zoological or botanical exhibition or ~~to lessen an~~
10 ~~economic hardship~~, \$250.00 for each listed ~~animal or plant~~ wildlife or wild
11 plant taken up to a maximum of \$25,000.00 or, if the Secretary determines that
12 it is in the best interest of the species, the parties may agree to mitigation in
13 lieu of a monetary fee; and

14 (C) for an incidental taking, \$250.00 for each listed wildlife or wild
15 plant taken up to a maximum of \$25,000.00.

16 (2) The Secretary may require the implementation of mitigation
17 strategies, and may collect mitigation funds, in addition to the permit fees, in
18 order to mitigate the impacts of a taking, the adverse impact on critical habitat,
19 or destruction of critical habitat. Mitigation may include:

20 (A) a requirement to rectify the taking or adverse impact or to reduce
21 the adverse impact over time;

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1 (B) a requirement to manage or restore land within the area of the
2 proposed activity or in an area outside the proposed area as habitat for the
3 threatened or endangered species; or

4 (C) compensation, including payment of a fee into the Threatened
5 and Endangered Species Fund for the uses of that Fund, provided that any
6 payment is commensurate to the taking or adverse impact proposed.

7 (3) Fees ~~or~~ and mitigation payments collected under this subsection and
8 interest on fees and mitigation payments shall be deposited in the Threatened
9 and Endangered Species Fund within the Fish and Wildlife Fund, which Fund
10 is hereby created and shall be used solely for expenditures of the Department
11 of Fish and Wildlife related to threatened and endangered species.

12 Expenditures may be made for monitoring, restoration, conservation, recovery,
13 and the acquisition of property interests and other purposes consistent with this
14 chapter. Where practical, the fees collected for takings shall be devoted to the
15 conservation or recovery of the taken species or its habitat. Interest accrued on
16 the Fund shall be credited to the Fund.

17 (g)(j) Permit term. A permit issued under this section shall be valid for the
18 period of time specified in the permit, not to exceed five years. A permit
19 issued under this section may be renewed upon application to the Secretary.

20 (k) Public notice. The Secretary shall establish rules for public notice of
21 draft permit decisions based on incidental take and for initial and amended

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1 general permits. The rules shall provide for public notice, no fewer than
2 30 days of public comment, and the opportunity to request a public
3 informational hearing. The rules shall also provide for posting permit
4 applications, permit decisions, and the initial or amended general permits on
5 the website of the Agency of Natural Resources, as well as for allowing
6 persons to request notification of permit decisions. The rules may set
7 application requirements for general permits that deviate from subsection (h)
8 of this section and establish best management practices for different types of
9 general permits.

10 (1) General permits.

11 (1) The Secretary may issue general permits for activities that will not
12 affect the continued survival or recovery of a **threatened or endangered** species.

13 (2) A general permit issued under this chapter shall contain those terms
14 and conditions necessary to ensure compliance with the provisions of this
15 statute.

16 (3) These terms and conditions may include the implementation of best
17 management practices and the adoption of specific mitigation measures and
18 required surveying, monitoring, and reporting.

19 (4) In determining whether an activity warrants a general permit, the
20 Secretary shall consider only those cases where:

21 ~~(A) an imminent risk to human health and safety exists;~~

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1 (B) a proposed action enhances the overall long-term survival of the
2 species; or

3 (C) **best management practices** have been developed and applied to
4 minimize taking to the greatest extent possible.

5 (5) On or before September 1, 2017, the Secretary shall issue a general
6 permit for **vegetation management and operational and maintenance activities**
7 conducted by electric utility projects, telecommunication projects, and other
8 similar projects. Until the general permit has been issued, no critical habitat
9 designation for wild plants shall be made in utility corridors.

10 (6) Prior to issuing a general permit under this subsection, the Secretary
11 shall:

12 (A) **post a draft of the general permit on the Agency website;**

13 (B) **provide public notice of at least 30 days; and**

14 (C) **provide for written comments or a public hearing, or both.**

15 (7) For applications for coverage under the terms of an issued general
16 permit, the applicant shall provide notice on a form provided by the Secretary.
17 The Secretary **shall post notice of the application on the Agency website** and
18 shall provide an opportunity for written comment, regarding whether the
19 application complies with the terms and conditions of the general permit, for
20 ten days following receipt of the application.

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1 (8) The Secretary may require any applicant for coverage under a
2 general permit to submit additional information that the Secretary considers
3 necessary and may refuse to approve coverage under the terms of a general
4 permit until the information is furnished and evaluated.

5 (9) The Secretary may require any applicant for coverage under a
6 general permit to seek an individual permit under this section if the applicant
7 does not qualify for coverage.

8 (10) The Secretary may require a person operating under a general
9 permit issued under this section to obtain an individual incidental take permit
10 under this section if the person proposes to impact or destroy adversely critical
11 habitat designated after issuance of the general permit.

12 Sec. 10. 10 V.S.A. § 5410 is amended to read:

13 § 5410. LOCATION CONFIDENTIAL

14 All information regarding the location of threatened or endangered species
15 sites shall be kept confidential in perpetuity except that the Secretary shall
16 disclose this information to the owner of land upon which the species has been
17 located, or to a potential buyer who has a bona fide contract to buy the land
18 and applies to the Secretary for disclosure of threatened or endangered species
19 information, and to qualified individuals or organizations, public agencies and
20 nonprofit organizations for scientific research or for preservation and planning
21 purposes when the Secretary determines that the preservation of the species is

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1 not further endangered by the disclosure. The Secretary shall also disclose the
2 locations of critical habitat designations to members of the public during the
3 rulemaking process for designation of critical habitat, but only if the Secretary
4 determines that the preservation of the threatened or endangered species is not
5 further endangered by the disclosure.

6 Sec. 11. STATUTORY REVISION

7 The Office of Legislative Council, in its statutory revision capacity, is
8 directed to renumber the subdivisions of 10 V.S.A. § 5401 in numerical order
9 and to correct any cross references in statute to 10 V.S.A. § 5410 to reflect the
10 renumbered subdivisions.

11 Sec. 12. EFFECTIVE DATE

12 This act shall take effect on July 1, 2016.

13

14

15 (Committee vote: _____)

16

17

Representative _____

18

FOR THE COMMITTEE