

H.552

An act relating to threatened and endangered species

It is hereby enacted by the General Assembly of the State of Vermont:

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

§ 5401. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) “Optimum carrying capacity” for a species means a population level of that species which, in that habitat, can ~~indefinitely~~ sustainably coexist with healthy populations of all wildlife and wild plant species normally present.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) “Forestry operations” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

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

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

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

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

§ 5402. ENDANGERED AND THREATENED SPECIES LISTS

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

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

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

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

(2) it is reasonable to conclude based on available information that its numbers are significantly declining because of loss of habitat or human disturbance; and

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

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

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

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

(3) disease or predation affecting the species;

(4) the adequacy of existing regulation;

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

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

(7) the decline in the population;

(8) cumulative impacts; and

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

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

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

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

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

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

§ 5402a. CRITICAL HABITAT; LISTING

(a) The Secretary may, after the consultation required under subsection 5408(e) of this section, adopt or amend by rule a critical habitat designation list for threatened or endangered species. Critical habitat may be designated in any part of the State. The Secretary shall not be required to designate critical habitat for every State-listed threatened or endangered species. When the Secretary designates critical habitat, the Secretary shall identify the species for which the designation is made, including its most recently accepted genus and species names, and, if available, its common name.

(b) The Secretary shall designate only critical habitat that meets the definition of “critical habitat” under this chapter. In determining whether and where to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall, after consultation with and consideration of



recommendations of the Secretary of Agriculture, Food and Markets, the Secretary of Transportation, and the Commissioner of Forests, Parks and Recreation, consider the following:

- (1) the current or historic use of the habitat by the listed species;
- (2) the extent to which the habitat is decisive to the survival and recovery of the listed species, at any stage of its life cycle;
- (3) the space necessary for individual and population growth of the listed species;
- (4) food, water, air, light, minerals, or other nutritional or physiological requirements of the listed species;
- (5) cover or shelter for the listed species;
- (6) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; migration corridors; and overwintering;
- (7) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the listed species;
- (8) the adequacy of existing regulation;
- (9) actions relating to the listed species carried out or about to be carried out by any governmental agency or any other person who may affect the listed species;
- (10) cumulative impacts; and

(11) natural or human-made factors affecting the continued existence of the listed species.

(c) In determining whether to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall:

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

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

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

(d) Prior to initiating rulemaking under this section to designate critical habitat, the Secretary shall notify the owner of record of any land on which critical habitat is proposed for designation.

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

§ 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

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

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

(2) destroy or adversely impact critical habitat.

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

(c) The Secretary may, with advice of the Endangered Species Committee and after the consultation required under subsection 5408(e) of this section, adopt rules for the protection ~~and~~ conservation, or recovery of endangered and threatened species. The rules may establish application requirements for an individual permit or general permits issued under this section, including requirements that differ from the requirements of subsection 5408(h) of this title.

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

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

~~(e)~~(f) ~~A~~ In a criminal enforcement action, a person who knowingly violates a requirement of this chapter or a rule of the Secretary adopted under subsection ~~(b)~~(c) of this section related to taking, possessing, transporting, buying, or selling a threatened or endangered species shall be fined not more

~~than \$500.00~~ in accordance with section 4518 of this title, and the person shall pay restitution under section 4514 of this title.

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

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

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

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

§ 5404. ENDANGERED SPECIES COMMITTEE

(a) A ~~Committee~~ committee on endangered species is created to be known as the “Endangered Species Committee,” and shall consist of nine members, including the Secretary of Agriculture, Food and Markets, the Commissioner of Fish and Wildlife, the Commissioner of Forests, Parks and Recreation, and six members appointed by the Governor from the public at large. Of the six

public members, two shall be actively engaged in agricultural or silvicultural activities, two shall be knowledgeable concerning flora, and two shall be knowledgeable concerning fauna. Members appointed by the Governor shall be entitled to reimbursement for expenses incurred in the attendance of meetings, as approved by the Chair. The Chair of the Committee shall be elected from among and by the members each year. Members who are not employees of the State shall serve terms of three years, except that the Governor may make appointments for a lesser term in order to prevent more than two terms from expiring in any year.

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

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

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

§ 5405. CONSERVATION PROGRAMS

The Secretary, with the advice of the Endangered Species Committee, may establish conservation programs and establish recovery plans for the conservation or recovery of threatened or endangered species of wildlife or plants or for the conservation or recovery of critical habitat. The programs

may include the purchase of land or aquatic habitat and the formation of contracts for the purpose of management of wildlife or wild plant refuge areas or for other purposes.

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

§ 5406. COOPERATION BY OTHER AGENCIES

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

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

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

In addition to other methods of enforcement authorized by law, the Secretary may direct under this section that wildlife or wild plants ~~which~~ that were seized because of violation of this chapter be rehabilitated, released, replanted, or transferred to a zoological, botanical, educational or scientific institution, and that the costs of the transfer and staff time related to a violation may be charged to the violator. The Secretary, with the advice of the

Endangered Species Committee, may adopt rules for the implementation of this section.

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

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

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

(1) scientific purposes;

(2) to enhance the propagation or survival of a threatened or endangered species; economic hardship;

(3) zoological exhibition;

(4) educational purposes;

(5) noncommercial cultural or ceremonial purposes; or

(6) special purposes consistent with the purposes of the federal

Endangered Species Act.

(b) Incidental taking. After obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary require as necessary to carry out the purposes of this chapter, the incidental taking of a threatened or endangered species or the destruction or adverse impact of critical habitat if:

(1) the taking is necessary to conduct an otherwise lawful activity;

(2) the taking is attendant or secondary to, and not the purposes of, the lawful activity;

(3) the impact of the permitted incidental take is minimized; and

(4) the incidental taking will not impair the conservation or recovery of any endangered species or threatened species.

(c) Transport through State. Nothing in this chapter shall prevent a person who holds a proper permit from the federal government or any other state from transporting a member of ~~an endangered or a threatened~~ endangered species from a point outside this State ~~to another point within or without this~~ through the State.

~~(e)~~(d) Possession. Nothing in this chapter shall prevent a person from possessing in this State wildlife or wild plants which are not determined to be “endangered” or “threatened” under the federal Endangered Species Act where the possessor is able to produce substantial evidence that the wildlife or wild plant was first taken or obtained in a place without violating the law of that



place, provided that an importation permit may be required under section 4714 of this title or the rules of the Department of Fish and Wildlife.

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

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

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

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

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

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

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

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

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

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

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

(1) Fees to be charged to a person applying to take a threatened or endangered species under this section shall be:

(A) ~~To~~ take for scientific purposes, to enhance the propagation or survival of the species, noncommercial cultural or ceremonial purposes, or for

educational purposes or special purposes consistent with the federal  
Endangered Species Act, \$50.00;

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

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

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

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

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

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

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

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

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

(k) Public notice. Prior to issuing a permit for an authorized or incidental taking and prior to the issuance or amendment of a general permit under this section, the Secretary shall provide for: public notice of no fewer than 30 days; opportunity for written comment; and opportunity to request a public informational hearing. The Secretary shall post permit applications, permit decisions, and the initial or amended general permits on the website of the Agency of Natural Resources. The Secretary also shall provide notice to

interested persons who request notice of permit applications, permit decisions, and proposed general permits or proposed amendments to general permits.

(1) General permits.

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

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

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

(4) The Secretary may issue a general permit to take a threatened or endangered species or destroy or adversely impact critical habitat only if an activity or class of activities satisfies one or more of the following criteria:

(A) the taking of a threatened or endangered species or the destruction or adverse impact of critical habitat is necessary to address an imminent risk to human health;

(B) a proposed taking of a threatened or endangered species or the destruction or adverse impact of critical habitat would enhance the overall long-term survival of the species; or

(C) the Secretary has approved best management practices that are designed, when applied, to minimize to the greatest extent possible the taking of a threatened or endangered species or the destruction or adverse impact of critical habitat.

(5) On or before September 1, 2017, the Secretary shall issue a general permit for vegetation management and operational and maintenance activities conducted by a utility. Until the general permit has been issued, no critical habitat designation for wild plants shall be made in utility right of way. As used in this subdivision (5), "utility" means an electric company, telecommunication company, pipeline operator, or railroad company.

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

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

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

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

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

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

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

(10) The Secretary may require a person operating under a general permit issued under this section to obtain an individual permit under this section if the person proposes to destroy or adversely impact critical habitat that was designated under section 5402a of this title after issuance of the general permit, unless existing best management practices approved under the general permit adequately protect the critical habitat or have been amended to do so prior to the critical habitat designation pursuant to section 5402a of this title.

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

§ 5410. LOCATION CONFIDENTIAL

(a) ~~All information~~ The Secretary shall not disclose information regarding the specific location of threatened or endangered species sites ~~shall be kept confidential in perpetuity~~ except that the Secretary shall disclose ~~this~~ information regarding the location of the threatened or endangered species to:

- (1) the owner of land upon which the species ~~has been~~ is located, ~~or to;~~
- (2) a potential buyer of land upon which the species is located who has a bona fide contract to buy the land and applies to the Secretary for disclosure of threatened or endangered species information, ~~and to; or~~
- (3) qualified individuals or organizations, public agencies and nonprofit organizations for scientific research or for preservation and planning purposes when the Secretary determines that the preservation of the species is not further endangered by the disclosure.

(b) When the Secretary issues a permit under this chapter to take a threatened or endangered species or destroy or adversely impact critical habitat and when the Secretary designates critical habitat by rule under section 5402a of this title, the Secretary shall disclose only the municipality and general location where the threatened or endangered species or designated critical habitat is located. When the Secretary designates critical habitat under section 5402a of this title, the Secretary shall notify the municipality in which the critical habitat is located and shall disclose the general location of the designated critical habitat.

#### Sec. 11. STATUTORY REVISION

The Office of Legislative Council, in its statutory revision capacity, is directed to renumber the subdivisions of 10 V.S.A. § 5401 in numerical order



and to correct any cross references in statute to 10 V.S.A. § 5410 to reflect the renumbered subdivisions.

Sec. 12. FEE RECOMMENDATION; PERMIT TO DESTROY OR  
ADVERSELY IMPACT CRITICAL HABITAT

The consolidated Executive Branch fee report and request to be submitted on or before the third Tuesday of January 2018 pursuant to 32 V.S.A. § 605 shall include a recommendation from the Agency of Natural Resources of a fee for a permit under 10 V.S.A. § 5408 to destroy or adversely impact critical habitat of a State-listed threatened or endangered species. The recommendation shall include whether the owner of property where critical habitat is designated under 10 V.S.A. § 5402a should be required to pay a fee for a permit to destroy or adversely impact critical habitat on his or her property.

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2016.