

H552

Page 2 lines 15-16, line 20 and page 3 lines 1-2. In the definitions of Endangered Species and Threatened Species.

Use of the term viable was questioned. "The term generally refers to species whose continued existence as a **viable component** of the State's wild fauna or flora is in jeopardy." Note that this should be underlined as it is an addition to the statute.

Definition of Viable: capable of surviving or living successfully, especially under particular environmental conditions.

The concept is intended to describe an established species that can continue to sustainably coexist with other native species in the state. It has to be established and not newly arrived, and it needs to be able to continue to survive in a sustainable way.

Here is one possible rewrite:

The term generally refers to species that are established in our state and whose continued existence as a [viable-delete] sustainable component of the State's wild fauna or flora is in jeopardy.

Page 5 Line 7, the use of the term **concentrated** in the definition of critical habitat is taken from the definition of habitat in Act 250.

10 VSA sec. 6001 (12) (12) "Necessary wildlife habitat" means concentrated habitat which is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life including breeding and migratory periods.

This is well understood concept. Cases involving the definition of necessary wildlife include bear scarred beech and deer wintering areas.

Page 6 line 19, delete ~~a viable component of the State's wild fauna or flora~~ – it is redundant.

Page 8 line 6 – add Canada and before "other states"

Page 9 (b) **REPLACE**

(b) In determining whether and where to designate critical habitat for a 1 State-endangered or -threatened species, the Secretary shall consider physical 2 and biological features that are decisive to the survival of the species, 3 necessary to the conservation or recovery of the given species, and special 4 management considerations and strategies for the protection and restoration of 5 the species; including the following:

WITH

(b) The Secretary shall only designate critical habitat that meets the definition of critical habitat in this Chapter. The Secretary shall consider the following:

Page 9 lines 13 – 15 and page 10 lines 1-3.

Delete subparagraph (4) and (8)

Page 10, line 15 – add Canada and before “other states”

Page 11, line 7 – replace “impacting” with “altering”

Page 12, lines 1 – 6. The Agency proposal was as follows:

(f) The Commissioner of Fish and Wildlife shall fine a person who violates a rule of the Secretary adopted under subsection (c) of this section in accordance with sections 4514 and 4518 of this title. ~~shall be fined not more than \$500.00.~~

Page 12, line 13 – add habitat restoration before “and”

Page 16, line 16 – add conservation and before “recovery”

Page 17, lines 16-18 – ANR is OK with deleting (f) as we believe it is unnecessary.

Page 20, line 16 – replace (g) with (h) – unless (f) is deleted

Page 20, line 19 – replace continued survival with conservation.

Page 20, line 18-21 and page 21, line 1-9 – See GENERAL PERMIT SECTION

(l) General permits. The Secretary may issue general permits for activities that will not affect the ~~continued survival~~ conservation or recovery of a species. A general permit issued under this chapter shall contain those terms and conditions necessary to ensure compliance with the provisions of this statute. 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. In determining whether an activity warrants a general permit, the Secretary shall consider only those cases where:

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

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

(C) best management practices or guidelines, or both, have been developed and applied to minimize take to the greatest extent possible.

ADD

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

Page 21, line 12. Revert to original language. Line 18 before “and” add – to members of the public during the rulemaking process for the designation of critical habitat,