AN ACT

Providing a process for the designation of certain species.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Endangered Species Coordination Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Acceptable data." Current, best available scientific and commercial, empirical data as evidenced in supporting documentation, statistics, reports, studies or research. As it--
pertains to wild trout stream designation, such data that is replicable and testable: **EMPIRICAL, REPLICABLE AND TESTABLE DATA** as evidenced in supporting documentation, statistics, reports, studies or research.

"Action." Any of the following activity:

1. Promulgation of regulations.
2. Designations or listing of species.
3. Enforcement of rules and regulations.

"Acts." Any of the following:

3. 30 Pa.C.S. (relating to fish).
4. 34 Pa.C.S. (relating to game).

"AUTHORIZED PERSON." The term includes:

1. Persons, including any natural person, partnership, association, corporation or other legal entity, including associated consultants, scientists and planners, involved in commercial activities involving potential land disturbances or other activity for which a permit is required by federal or state law and which may impact listed species or their critical habitats, as defined by the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. § 1531 et seq.) or this act.
2. Persons with a bona fide interest involved in conservation planning or involved in resource management as determined by the Department of Conservation and Natural Resources.

"Centralized database." The database of listed species and
critical habitat maintained in accordance with this act. THE DATABASE OF LISTED SPECIES AND CRITICAL HABITAT MAINTAINED IN ACCORDANCE WITH THIS ACT AND OTHER DESIGNATED SPECIES OR INFORMATION.

"Commonwealth agency." Any of the following:

(1) The Department of Conservation and Natural Resources of the Commonwealth.

(2) The Pennsylvania Fish and Boat Commission.

(3) The Pennsylvania Game Commission.

"Critical habitat." The specific areas within the geographic area occupied by a listed species designated in accordance with the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. § 1531 et seq.).

"Department." The Department of Conservation and Natural Resources of the Commonwealth.

"Listed species." Species of fish, wildlife or plants designated under the acts as "endangered," "Pennsylvania endangered," "threatened" or "Pennsylvania threatened" and included in the centralized database.

"Persons." The term includes:

(1) Persons, including any natural person, partnership, association, corporation or other legal entity, including associated consultants, scientists and planners, involved in commercial activities involving potential land disturbances or other activity for which a permit is required by Federal or State law and which may impact listed species or their critical habitats, as defined by the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. § 1531 et seq.) or this act.

(2) Persons with a bona fide interest involved in
conservation planning or involved in resource management as
determined by the Department of Conservation and Natural
Resources.

"Wild trout stream." A wilderness trout stream, a Class A
class trout stream or any other stream or stream segment
designated by the Pennsylvania Fish and Boat Commission as a
wild trout stream.

Section 3. Coordination of designation.

No Commonwealth agency may take action to designate or
consider fish, wildlife or plants as threatened or endangered
unless the fish, wildlife or plants are designated under the
1531 et seq.) or pursuant to this act.

Section 4. Designation process.

(a) Applicable law.--Any action by a Commonwealth agency to
designate fish, wildlife or plants as threatened or endangered
or to designate a stream as a wild trout stream shall be subject
to the requirements of the act of July 31, 1968 (P.L.769,
No.240) referred to as the Commonwealth Documents Law, and the
act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
Review Act. NOTHING UNDER THIS SUBSECTION SHALL BE CONSTRUED TO
REQUIRE THE PENNSYLVANIA FISH AND BOAT COMMISSION OR THE
PENNSYLVANIA GAME COMMISSION TO COMPLY WITH THE REGULATORY
REVIEW ACT WITH RESPECT TO ANY RULES OR REGULATIONS OTHER THAN
THOSE RELATING TO THREATENED OR ENDANGERED SPECIES OR
DESIGNATION OF WILD TROUT STREAMS.

(b) Detailed reasons and summary of data and methodology.--
The Commonwealth agency shall provide detailed reasons and a
summary of the acceptable data and methodology upon which the
proposed designation is based, as well as the activities that
may be affected by such designation, to the Independent
Regulatory Review Commission and to the standing committees of
the Senate and the House of Representatives with jurisdiction
over the Commonwealth agency for purposes of this act.

(c) Inclusion in centralized database.--Upon final
promulgation of a regulation designating a fish, wildlife or
plant species as threatened or endangered, that species shall be
included in the centralized database.

(d) Removal. Any species designated as threatened or
endangered pursuant to 30 Pa.C.S. (relating to fish) or 34
Pa.C.S. (relating to game) prior to the effective date of this
section shall be removed from the centralized database after a
period of two years unless the Commonwealth agency redesignates
the species as threatened or endangered in accordance with the
provisions of this act.

Section 5. Designation determination and data.

(a) General rule.--All Commonwealth agency actions to
designate fish, wildlife or plants as Pennsylvania threatened or
Pennsylvania endangered species shall be promulgated as
regulations in accordance with this act, solely on the basis of
acceptable data.

(b) Conditions for designation.--

(1) Any designation of a Pennsylvania endangered species
shall be made only when the species is in danger of
extinction throughout all or a significant portion of its
range WITHIN THIS COMMONWEALTH.

(2) Any designation of a Pennsylvania threatened species
shall be made only when the species is likely to become a
Pennsylvania endangered species throughout all or a
significant portion of its range within the foreseeable
(c) Wild trout streams.--Any Commonwealth agency action to
designate a stream or stream segment as a wild trout stream
shall be promulgated as a regulation based solely on acceptable
data. The designation of a stream or stream segment as a wild
tROUT stream shall not be effective until the regulation is
promulgated as final.

Section 6. Permits and approvals.

When NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF reviewing applicationS FOR PERMITS, APPROVALS OR OTHER AUTHORIZATIONS OR TAKING ACTIONS, OTHER THAN DESIGNATING SPECIES, State and local government agencies shall consider impacts only to listed species and their critical habitats included in the centralized database. Permits, approvals, authorizations or regulations shall not require persons to conduct field surveys or other activities to determine or evaluate the presence of species or their habitats, unless acceptable data exist indicating the presence of a listed species in the area. IF FIELD SURVEYS OR OTHER ACTIVITIES TO DETERMINE OR EVALUATE THE PRESENCE OF LISTED SPECIES OR LISTED SPECIES' HABITATS ARE CONDUCTED, THE COMMONWEALTH AGENCY WITH JURISDICTIONAL AUTHORITY FOR PROTECTION OF THE SPECIES SHALL, WITHIN 30 DAYS OF RECEIVING SURVEY RESULTS, PROVIDE EITHER CLEARANCE FOR THE PROJECT, OR DETAILED AVOIDANCE MEASURES, DETAILED MINIMIZATION MEASURES OR DETAILED MITIGATION MEASURES TO THE APPLICANT. A REQUIREMENT OF AN APPLICANT TO PERFORM A SURVEY MUST BE BASED ON ACCEPTABLE DATA INDICATING THE LIKELY PRESENCE OF LISTED SPECIES IN THE AREA AFFECTED BY THE PROJECT.

Section 7. Centralized database.

The department shall develop, maintain and manage the
operation of the centralized database. Each Commonwealth agency shall provide the department with all information identified in section 8.

Section 8. Access to data.

(a) General rule.--The department shall provide AUTHORIZED persons access to data regarding the location of listed species or other designated species, including:

(1) Geographic Information System spatial data identifying specific areas in which each listed species or other designated species is known to be present.

(2) Geographic Information System spatial data identifying critical habitat areas where listed species occur or sensitive habitat of other designated species.

(3) Geographic Information System spatial data identifying buffer areas for listed species or other designated species, along with a description of the acceptable data, rationale and methodology used by a Commonwealth agency to establish the extent of the buffer areas.

(4) The names of all political subdivisions within which the listed or other designated species, their habitats and buffer areas are located.

(b) List of potential avoidance and mitigation measures.-- The department shall also provide AUTHORIZED persons a list of potential avoidance and mitigation measures, seasonal considerations or other best practices associated with each of the listed species or other designated species and habitats.

(c) Public dissemination.--

(1) Notwithstanding any provision of law to the

(C) PUBLIC DISSEMINATION.--NOTWITHSTANDING ANY PROVISION OF 20130HB1576PN2647 - 7 -
LAW TO THE contrary, the department shall provide the information described in subsection (a), including records identifying the location of endangered or threatened plant or animal species not already known to the general public, to AUTHORIZED persons who request it.

(2) Persons receiving the information may only disclose the information to other persons with prior written authorization from the department.

(d) Use of information.--Information obtained under subsection (a) shall be used solely for:

(1) conservation, development planning, natural resources management;

(2) compliance with statutory and regulatory requirements for the protection of listed species applicable to permits, approvals or other authorizations; or

(3) voluntary measures to mitigate impacts to other than listed species.

(e) Civil penalty.--Any person intentionally violating the provisions of subsection (c) or (d) is subject to a civil penalty of not less than $250 nor more than $5,000.

Section 9. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

(E) CIVIL PENALTY.--THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN $1,000 NOR MORE THAN $10,000 ON ANY PERSON WHO INTENTIONALLY VIOLATES THE PROVISIONS OF SUBSECTION (C) OR (D).

SECTION 9. USE OF FUNDS.

A COMMONWEALTH AGENCY THAT RECEIVES FUNDS UNDER THE PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT (50 STAT. 917, 16 U.S.C. 669-8).
ET SEQ.) OR THE DINGELL-JOHNSON SPORT FISH RESTORATION ACT (64 STAT. 681, 16 U.S.C. 777 ET SEQ.), IS PROHIBITED FROM TRANSFERRING TO ANOTHER STATE AGENCY REVENUES GENERATED THROUGH THE SALE OF HUNTING OR FISHING LICENSES FOR THE ADMINISTRATION OF THIS ACT.

Section 10. Effective date.

This act shall take effect in 90 days.