

REFERENCE TITLE: bald eagle; endangered species act

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2231

Introduced by
Representatives Ableser, Campbell CH, Patterson: Fleming, Heinz

AN ACT

AMENDING TITLE 17, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; RELATING TO
THREATENED AND ENDANGERED WILDLIFE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 17, Arizona Revised Statutes, is amended by adding
3 chapter 7, to read:

4 CHAPTER 7

5 ENDANGERED AND THREATENED SPECIES

6 ARTICLE 1. GENERAL PROVISIONS

7 17-801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ENDANGERED SPECIES":

10 (a) MEANS ANY SPECIES OF WILDLIFE WHOSE PROSPECTS OF SURVIVAL OR
11 RECRUITMENT IN THIS STATE ARE IN JEOPARDY DUE TO ANY OF THE FOLLOWING
12 FACTORS:

13 (i) THE PRESENT OR THREATENED DESTRUCTION, MODIFICATION OR CURTAILMENT
14 OF ITS HABITAT.

15 (ii) ITS OVERUSE FOR SCIENTIFIC, COMMERCIAL OR SPORTING PURPOSES.

16 (iii) THE EFFECT OF DISEASE OR PREDATION.

17 (iv) OTHER NATURAL OR MAN-MADE FACTORS AFFECTING ITS PROSPECTS OF
18 SURVIVAL OR RECRUITMENT IN THIS STATE.

19 (v) ANY COMBINATION OF THESE FACTORS.

20 (b) INCLUDES NATIVE SPECIES OF WILDLIFE INCLUDED BY THE COMMISSION
21 PURSUANT TO SECTION 17-827 BY REFERENCE TO THE UNITED STATES LIST OF
22 ENDANGERED NATIVE AND FOREIGN FISH AND WILDLIFE PURSUANT TO SECTION 4 OF THE
23 ENDANGERED SPECIES ACT OF 1973 (16 UNITED STATES CODE SECTION 1533).

24 (c) DOES NOT INCLUDE:

25 (i) ANY SPECIES COVERED BY 16 UNITED STATES CODE SECTIONS 1331 THROUGH
26 1340.

27 (ii) ANY SPECIES OF THE CLASS INSECTA DETERMINED BY THE DIRECTOR TO
28 CONSTITUTE A PEST WHOSE PROTECTION UNDER THIS CHAPTER WOULD PRESENT AN
29 OVERWHELMING AND OVERRIDING RISK TO HUMANS.

30 2. "INVESTIGATION" MEANS A PROCESS UNDERTAKEN PURSUANT TO SECTION
31 17-822 TO DETERMINE WHETHER A SPECIES IS THREATENED OR ENDANGERED.

32 3. "LAND OR AQUATIC HABITAT INTERESTS" MEANS INTERESTS IN REAL
33 PROPERTY OR WATER RIGHTS CONSISTING OF FEE SIMPLE TITLE, EASEMENTS IN
34 PERPETUITY, TIME CERTAIN EASEMENTS, LONG-TERM LEASES AND SHORT-TERM LEASES.

35 4. "MANAGEMENT" MEANS THE COLLECTION AND APPLICATION OF BIOLOGICAL
36 INFORMATION FOR THE PURPOSES OF ESTABLISHING AND MAINTAINING A CONGRUOUS
37 RELATIONSHIP BETWEEN INDIVIDUALS WITHIN SPECIES AND POPULATIONS OF WILDLIFE
38 AND THE CARRYING CAPACITY OF THEIR HABITAT. MANAGEMENT INCLUDES THE ENTIRE
39 RANGE OF ACTIVITIES THAT CONSTITUTES A FULL SCIENTIFIC RESOURCE PROGRAM OF
40 RESEARCH, CENSUS, LAW ENFORCEMENT, PROPAGATION, ACQUISITION OR MAINTENANCE OF
41 LAND OR AQUATIC HABITAT INTERESTS APPROPRIATE FOR RECOVERY OF THE SPECIES,
42 IMPROVEMENT AND MAINTENANCE, EDUCATION AND RELATED ACTIVITIES OR PROTECTION
43 AND REGULATED TAKING.

1 5. "RECOVERY PLAN" MEANS A DESIGNATED PROGRAM OR METHODOLOGY
2 REASONABLY EXPECTED TO LEAD TO RESTORATION AND SELF MAINTENANCE OF A SPECIES
3 AND ITS HABITAT.

4 6. "SPECIES" MEANS ANY SPECIES OR SUBSPECIES.

5 7. "SUBSTANTIAL PUBLIC INTEREST" MEANS A NONFRIVOLOUS CLAIM INDICATED
6 BY A BROAD-BASED EXPRESSION OF PUBLIC CONCERN.

7 8. "TAKE" OR "TAKING" MEANS TO HARASS, HUNT, CAPTURE, PREVENT
8 REPRODUCTION OR KILL WILDLIFE OR ATTEMPT TO HARASS, HUNT, CAPTURE OR KILL
9 WILDLIFE.

10 9. "THREATENED SPECIES" MEANS ANY SPECIES THAT IS LIKELY TO BECOME AN
11 ENDANGERED SPECIES IN THE FORESEEABLE FUTURE THROUGHOUT ALL OR A SIGNIFICANT
12 PART OF ITS RANGE IN THIS STATE. THREATENED SPECIES INCLUDE NATIVE SPECIES
13 OF WILDLIFE INCLUDED BY THE COMMISSION PURSUANT TO SECTION 17-827 BY
14 REFERENCE TO THE UNITED STATES LIST OF ENDANGERED NATIVE AND FOREIGN FISH AND
15 WILDLIFE PURSUANT TO SECTION 4 OF THE ENDANGERED SPECIES ACT OF 1973 (16
16 UNITED STATES CODE SECTION 1533).

17 10. "WILDLIFE" MEANS ANY LIVING OR DEAD NONDOMESTIC MAMMAL, BIRD,
18 REPTILE, AMPHIBIAN, FISH, MOLLUSK OR CRUSTACEAN OR ANY PART, EGG OR OFFSPRING
19 OF A NONDOMESTIC MAMMAL, BIRD, REPTILE, AMPHIBIAN, FISH, MOLLUSK OR
20 CRUSTACEAN.

21 17-802. Statement of policy

22 IT IS THE POLICY OF THIS STATE THAT:

23 1. SPECIES OF WILDLIFE THAT ARE NATIVE TO THIS STATE AND THAT ARE
24 FOUND TO BE THREATENED OR ENDANGERED SHALL BE MANAGED TO MAINTAIN AND, TO THE
25 EXTENT POSSIBLE, ENHANCE THEIR NUMBERS WITHIN THE CARRYING CAPACITY OF THE
26 HABITAT, INCLUDING AIDING IN THE PROTECTION OF THE HABITAT.

27 2. THE DEPARTMENT SHALL ASSIST IN THE MANAGEMENT OF SPECIES OF
28 WILDLIFE THAT ARE CONSIDERED TO BE ENDANGERED ELSEWHERE BY PROHIBITING THE
29 TAKING, POSSESSION, TRANSPORTATION, EXPORTATION, PROCESSING, SALE OR OFFERING
30 FOR SALE OR SHIPMENT IN THIS STATE OF SPECIES OF WILDLIFE LISTED ON THE
31 UNITED STATES LISTS OF ENDANGERED FISH AND WILDLIFE, UNLESS THOSE ACTIONS
32 WILL ASSIST IN PRESERVING OR PROPAGATING THE SPECIES.

33 3. THE LEGISLATURE SHALL ANNUALLY APPROPRIATE ADEQUATE FUNDING TO THE
34 DEPARTMENT FROM THE STATE GENERAL FUND, OR FROM OTHER SOURCES SEPARATE FROM
35 ANY FUND ESTABLISHED BY CHAPTER 2 OF THIS TITLE, FOR THE MANAGEMENT OF
36 THREATENED OR ENDANGERED SPECIES.

37 4. BECAUSE THE MANAGEMENT AND RECOVERY OF THREATENED AND ENDANGERED
38 SPECIES ARE THE RESPONSIBILITY OF AND A BENEFIT TO ALL OF SOCIETY:

39 (a) THE COST OF MANAGEMENT AND RECOVERY IS THE RESPONSIBILITY OF ALL
40 SECTORS OF SOCIETY.

41 (b) THOSE COSTS SHALL BE MINIMIZED TO THE EXTENT PRACTICABLE.

42 (c) THOSE COSTS SHALL BE BORNE BY FEDERAL, STATE AND LOCAL GOVERNMENTS
43 WITH CONTRIBUTIONS FROM THE PRIVATE SECTOR.

ARTICLE 2. LISTING ENDANGERED AND THREATENED SPECIES

17-821. Endangered and threatened species: list: unlawful activities; exception

A. ON THE BASIS OF INVESTIGATIONS CONCERNING WILDLIFE AND OTHER AVAILABLE SCIENTIFIC AND COMMERCIAL DATA, AND AFTER CONSULTATION WITH WILDLIFE AGENCIES IN OTHER STATES, APPROPRIATE FEDERAL AGENCIES, LOCAL AND TRIBAL GOVERNMENTS AND OTHER INTERESTED PERSONS AND ORGANIZATIONS, THE COMMISSION SHALL DEVELOP A LIST OF SPECIES OF WILDLIFE NATIVE TO THIS STATE THAT ARE DETERMINED TO BE THREATENED OR ENDANGERED IN THIS STATE, GIVING THEIR COMMON AND SCIENTIFIC NAMES BY SPECIES AND SUBSPECIES.

B. THE DIRECTOR SHALL REVIEW THE STATE LIST OF THREATENED AND ENDANGERED SPECIES AND RECOMMEND APPROPRIATE ACTION BY THE COMMISSION AS PROVIDED BY THIS ARTICLE. THE COMMISSION SHALL ADOPT BY RULE PROCEDURES FOR COMMISSION ACTIONS ON THE DIRECTOR'S RECOMMENDATIONS.

C. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, IT IS UNLAWFUL FOR ANY PERSON TO TAKE, POSSESS, TRANSPORT, SHIP, EXPORT, PROCESS, SELL OR OFFER FOR SALE ANY SPECIES OF WILDLIFE APPEARING ON THE LIST OF WILDLIFE NATIVE TO THIS STATE AND DETERMINED PURSUANT TO THIS ARTICLE TO BE ENDANGERED IN THIS STATE.

D. SUBSECTION C DOES NOT APPLY TO:

1. WILDLIFE TRANSPORTED INTO THIS STATE FROM ANOTHER STATE, OR FROM A POINT OUTSIDE THE TERRITORIAL LIMITS OF THE UNITED STATES, AND DESTINED FOR A POINT BEYOND THIS STATE, IF THE WILDLIFE IS TRANSPORTED ACROSS THIS STATE IN COMPLIANCE WITH THE TERMS OF A FEDERAL PERMIT OR PERMIT ISSUED UNDER THE LAWS OR REGULATIONS OF ANOTHER STATE OR IS OTHERWISE IN COMPLIANCE WITH THE LAWS OF ANOTHER STATE.

2. A TAKING OF WILDLIFE BY A NATIVE AMERICAN FOR RELIGIOUS PURPOSES, UNLESS IT MATERIALLY AND NEGATIVELY AFFECTS AN ENDANGERED SPECIES OR THREATENED SPECIES.

E. THE ARIZONA BALD EAGLE (*HALIAEETUS LEUCOCEPHALUS*) SHALL REMAIN LISTED AS AN ENDANGERED SPECIES IN THIS STATE THROUGH DECEMBER 31, 2016. IN 2016 THE DIRECTOR SHALL CONDUCT AN INVESTIGATION PURSUANT TO THIS ARTICLE TO DETERMINE WHETHER TO CONTINUE TO LIST THE SONORAN BALD EAGLE OR RECOMMEND DELISTING.

17-822. Investigations and review of species

A. BEGINNING IN 2010 THE DIRECTOR SHALL CONDUCT A REVIEW ONCE EVERY TWO YEARS OF ALL SPECIES OF WILDLIFE LISTED AS ENDANGERED OR THREATENED IN THIS STATE.

B. THE DIRECTOR MAY CONDUCT INVESTIGATIONS AT ANY TIME OF OTHER NATIVE SPECIES OF WILDLIFE THAT ARE SUSPECTED OF BEING THREATENED OR ENDANGERED IN ORDER TO DEVELOP:

1. INFORMATION RELATING TO POPULATION, DISTRIBUTION, HABITAT NEEDS, LIMITING FACTORS AND OTHER BIOLOGICAL AND ECOLOGICAL DATA TO SUPPORT RECOMMENDATIONS FOR LISTING OR NOT LISTING A SPECIES.

1 2. MANAGEMENT MEASURES AND REQUIREMENTS NECESSARY FOR THE SPECIES'
2 SURVIVAL.

3 C. WITHIN A REASONABLE TIME THE DIRECTOR SHALL CONDUCT AN
4 INVESTIGATION TO SUPPORT LISTING OR DELISTING A SPECIES BASED ON NEW EVIDENCE
5 OR, WITH THE CONSENT OF THE COMMISSION, BASED ON SUBSTANTIAL PUBLIC INTEREST.

6 D. ON COMPLETING ANY INVESTIGATION, THE DIRECTOR SHALL MAKE WRITTEN
7 RECOMMENDATIONS TO THE COMMISSION TO LIST OR NOT LIST ANY UNLISTED SPECIES OR
8 TO DELIST ANY LISTED SPECIES INVESTIGATED. IN CONDUCTING ANY INVESTIGATION
9 FOR A NEW LISTING OR DELISTING, THE DIRECTOR SHALL COMPLY WITH THE PROCEDURES
10 PRESCRIBED PURSUANT TO THIS ARTICLE.

11 17-823. Investigations and research; procedures

12 A. THE COMMISSION SHALL:

13 1. ESTABLISH BY RULE A PROCESS TO CONDUCT INVESTIGATIONS FOR THE
14 PURPOSES OF SECTION 17-822.

15 2. AT THE REQUEST OF THE DIRECTOR, APPOINT AN APPROPRIATE ODD-NUMBERED
16 PEER REVIEW PANEL OF SCIENTISTS CONSISTING OF AT LEAST THREE BUT NOT MORE
17 THAN SEVEN MEMBERS. EACH MEMBER MUST POSSESS EXPERTISE RELEVANT TO THE
18 PROPOSED INVESTIGATION. AT LEAST ONE MEMBER MUST BE A WILDLIFE BIOLOGIST.
19 THE PEER REVIEW PANEL SHALL:

20 (a) REVIEW AND COMMENT ON ANY PROPOSED RESEARCH DESIGN, INCLUDING:

21 (i) THE SCIENTIFIC METHODOLOGY FOR COLLECTING AND ANALYZING DATA BASED
22 ON COMMONLY ACCEPTED SCIENTIFIC PEER REVIEW STANDARDS.

23 (ii) ADDITIONAL FIELD RESEARCH NECESSARY AS PART OF THE INVESTIGATION.

24 (b) SUBMIT ITS COMMENTS ACCORDING TO A SCHEDULE DETERMINED BY THE
25 DIRECTOR.

26 B. THE DIRECTOR SHALL:

27 1. ESTABLISH A PUBLIC REPOSITORY FILE IN WHICH COPIES OF ALL WRITTEN
28 DATA, COMMENTS AND INFORMATION FILED WITH THE DIRECTOR PERTAINING TO THE
29 INVESTIGATION OR POTENTIAL RECOVERY PLAN, INCLUDING PEER REVIEW COMMENTS,
30 SHALL BE MAINTAINED AND USED PURSUANT TO SECTION 17-824.

31 2. MAIL NOTICE OF THE INITIATION OF THE INVESTIGATION TO:

32 (a) FEDERAL AND STATE AGENCIES AND LOCAL AND TRIBAL GOVERNMENTS THAT
33 ARE OR MAY BE AFFECTED BY THE RESULTS OF THE INVESTIGATION.

34 (b) INDIVIDUALS AND ORGANIZATIONS THAT HAVE REQUESTED NOTIFICATION OF
35 DEPARTMENT ACTIONS REGARDING THREATENED OR ENDANGERED SPECIES.

36 3. NOTIFY THE GENERAL PUBLIC OF THE INITIATION OF THE INVESTIGATION BY
37 INFORMATION RELEASES TO NEWS MEDIA IN THE AFFECTED AREA OF THIS STATE.

38 4. INDICATE, IN ALL NOTICES AND INFORMATION RELEASES, WHERE AND UNTIL
39 WHAT DATE INFORMATION MAY BE SUBMITTED FOR INCLUSION IN THE PUBLIC REPOSITORY
40 FILE.

41 5. ACCEPT DATA, COMMENTS AND INFORMATION ON:

42 (a) THE BIOLOGICAL OR ECOLOGICAL STATUS OF THE SPECIES FOR USE IN THE
43 INVESTIGATION AND IN DEVELOPING THE POTENTIAL RECOVERY PLAN.

44 (b) THE POTENTIAL ECONOMIC OR SOCIAL IMPACTS OR OPPORTUNITIES OF A
45 CHANGE IN THE LEGAL STATUS OF THE SPECIES FOR INCLUSION IN THE RECOVERY PLAN.

1 17-824. Public repository file

2 A. THE DIRECTOR SHALL FILE ALL WRITTEN DATA, COMMENTS AND INFORMATION
3 FURNISHED PURSUANT TO SECTION 17-823 IN A PUBLIC REPOSITORY FILE AND SHALL
4 PRESERVE THE FILE FOR USE IN CONNECTION WITH THE LISTING PROCESS AND
5 DEVELOPMENT OF ANY RECOVERY PLAN.

6 B. THE DIRECTOR SHALL INCLUDE IN THE PUBLIC REPOSITORY FILE ALL
7 RECORDS INDICATING CONTACT BY THE DIRECTOR, RESEARCHERS, EMPLOYEES AND
8 CONTRACTORS WITH LANDOWNERS AND PUBLIC AND PRIVATE RESOURCE MANAGERS AFFECTED
9 BY THE POTENTIAL ACTION.

10 C. INFORMATION FROM THE PUBLIC REPOSITORY FILE RELATING TO SOCIAL AND
11 ECONOMIC IMPACTS:

12 1. SHALL BE CONSIDERED ONLY IN THE DEVELOPMENT OF ANY RECOVERY PLAN
13 FOR THE SPECIES.

14 2. SHALL NOT BE CONSIDERED BY THE DIRECTOR IN MAKING ANY
15 RECOMMENDATION, OR BY THE COMMISSION IN MAKING ITS DECISION, WHETHER TO LIST,
16 DELIST, NOT LIST, CONTINUE TO LIST, UPGRADE OR DOWNGRADE A SPECIES.

17 17-825. Recommendation, hearing and decision on listing
18 endangered or threatened species; criteria

19 A. ON RECEIVING ALL FINAL REPORTS OF REVIEWS OR INVESTIGATIONS, THE
20 DIRECTOR SHALL MAKE RECOMMENDATIONS TO THE COMMISSION TO LIST, NOT LIST OR
21 DELIST THE SPECIES BASED ON CRITERIA LISTED IN SUBSECTION D OF THIS SECTION.

22 B. THE COMMISSION SHALL:

23 1. SET A TIME AND PLACE FOR ONE OR MORE PUBLIC HEARINGS ON THE
24 RECOMMENDED ACTION. ALL HEARINGS ON THE RECOMMENDED ACTION MUST BE HELD
25 WITHIN SIX MONTHS AFTER THE DATE OF THE DIRECTOR'S RECOMMENDATION. HEARINGS
26 MUST BE HELD AT A LOCATION WITHIN ANY QUADRANT OF THIS STATE AFFECTED BY THE
27 RECOMMENDED ACTIONS IF THE DIRECTOR DETERMINES THAT THERE IS SUBSTANTIAL
28 PUBLIC INTEREST INDICATED IN HOLDING A HEARING IN THAT QUADRANT.

29 2. PROVIDE PUBLIC NOTICE OF THE HEARINGS AS FOLLOWS:

30 (a) IN THE SAME MANNER AND TO THE SAME PERSONS AS PRESCRIBED BY
31 SECTION 17-823, SUBSECTION B.

32 (b) AT LEAST NINETY DAYS BEFORE THE DATE OF THE HEARING:

33 (i) POST NOTICE OF THE HEARING ON THE DEPARTMENT'S OFFICIAL WEBSITE.

34 (ii) PUBLISH LEGAL NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
35 AFFECTED AREA.

36 C. THE PUBLIC NOTICE SHALL:

37 1. INCLUDE THE DATE, TIME AND LOCATION OF ALL HEARINGS ON THE MATTER.

38 2. INCLUDE A STATEMENT OF THE RECOMMENDED ACTION.

39 3. INCLUDE THE LOCATION AND AVAILABILITY OF THE PUBLIC REPOSITORY
40 FILE.

41 4. INDICATE THE PLACE AND DEADLINE FOR FILING WRITTEN COMMENTS AND
42 TESTIMONY TO BE INCLUDED IN THE HEARING RECORD.

43 5. INDICATE THAT VIEWS, DATA AND COMMENTS PERTAINING TO THE FINAL
44 REPORT MAY BE PRESENTED ORALLY OR IN WRITING AT THE HEARING.

1 6. SPECIFY THAT NOTICE OF INTENT TO PRESENT TECHNICAL AND SCIENTIFIC
2 TESTIMONY AND A WRITTEN COPY OF THE TESTIMONY TO BE PRESENTED MUST BE
3 SUBMITTED TO THE COMMISSION AT LEAST THIRTY DAYS BEFORE THE INITIAL HEARING.

4 7. SPECIFY THAT THE PUBLIC RECORD WILL REMAIN OPEN FOR COMMENTS FOR
5 THIRTY DAYS AFTER THE DATE OF THE FINAL HEARING.

6 D. THE COMMISSION SHALL MAKE ITS DECISIONS AND TAKE ACTION BASED ON
7 RELEVANT AND RELIABLE EVIDENCE TO LIST, NOT LIST OR DELIST A SPECIES AT ITS
8 NEXT REGULARLY SCHEDULED MEETING WITHIN THIRTY DAYS AFTER THE CLOSE OF THE
9 HEARING RECORD. THE COMMISSION SHALL:

10 1. LIST OR MAINTAIN A SPECIES AS ENDANGERED AND SHALL NOT DELIST A
11 SPECIES IF IT FINDS THAT THE SPECIES' PROSPECTS FOR SURVIVAL OR RECRUITMENT
12 IN THIS STATE ARE IN JEOPARDY BASED ON THE BIOLOGICAL AND ECOLOGICAL EVIDENCE
13 IN THE PUBLIC REPOSITORY FILE AND BASED ON BIOLOGICAL AND ECOLOGICAL EVIDENCE
14 RECEIVED IN THE PUBLIC HEARINGS.

15 2. LIST OR MAINTAIN A SPECIES AS THREATENED AND SHALL NOT DELIST A
16 SPECIES IF IT FINDS THAT THE SPECIES' PROSPECTS FOR SURVIVAL OR RECRUITMENT
17 IN THIS STATE ARE LIKELY WITHIN THE FORESEEABLE FUTURE TO BE IN JEOPARDY
18 BASED ON THE BIOLOGICAL AND ECOLOGICAL EVIDENCE IN THE PUBLIC REPOSITORY FILE
19 AND BASED ON BIOLOGICAL AND ECOLOGICAL EVIDENCE RECEIVED IN THE PUBLIC
20 HEARINGS.

21 17-826. Temporary emergency listing of endangered species

22 A. IF THE DIRECTOR FINDS THAT THERE IS AN EMERGENCY POSING A
23 SIGNIFICANT RISK TO THE WELL-BEING OF ANY SPECIES AND THAT RISK IS LIKELY TO
24 JEOPARDIZE THE CONTINUED SURVIVAL OR RECRUITMENT OF THE SPECIES IN THIS
25 STATE, THE DIRECTOR SHALL RECOMMEND TO THE COMMISSION THAT THE SPECIES BE
26 LISTED AS ENDANGERED.

27 B. THE COMMISSION SHALL ACT IMMEDIATELY ON THE DIRECTOR'S
28 RECOMMENDATION AND SHALL EITHER LIST OR NOT LIST THE SPECIES BASED ON THE
29 EVIDENCE SUPPORTING THE RECOMMENDATION IF IT FINDS THAT THE CONTINUED
30 SURVIVAL OF THE SPECIES IS IN JEOPARDY.

31 C. IF THE COMMISSION LISTS THE SPECIES AS ENDANGERED, IT SHALL WAIVE
32 THE REQUIREMENTS OF SECTIONS 17-822, 17-823, 17-824 AND 17-825.

33 D. IF THE COMMISSION LISTS A SPECIES AS ENDANGERED PURSUANT TO THIS
34 SECTION, IT SHALL:

35 1. PROVIDE NOTICE OF THE ACTION IN THE SAME MANNER AND TO THE SAME
36 PERSONS AS PRESCRIBED BY SECTION 17-823, SUBSECTION B.

37 2. POST NOTICE ON THE DEPARTMENT'S OFFICIAL WEBSITE.

38 3. PUBLISH LEGAL NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
39 AFFECTED AREA.

40 E. THE EMERGENCY LISTING TERMINATES THREE YEARS AFTER THE DATE OF THE
41 FINDING UNLESS, DURING THE THREE YEAR PERIOD, THE COMMISSION COMPLETES THE
42 PROCEDURES FOR LISTING PURSUANT TO SECTIONS 17-822, 17-823, 17-824 AND 17-825
43 OR CONTINUING TO LIST PURSUANT TO COMMISSION RULES FOR THE BIENNIAL REVIEW.

1 17-827. Listing endangered and threatened wildlife by reference

2 A. THE DIRECTOR SHALL INCLUDE BY REFERENCE IN THE LIST OF ENDANGERED
3 OR THREATENED WILDLIFE NATIVE SPECIES APPEARING ON THE UNITED STATES LISTS OF
4 ENDANGERED AND THREATENED NATIVE AND FOREIGN FISH AND WILDLIFE PURSUANT TO
5 SECTION 4 OF THE ENDANGERED SPECIES ACT OF 1973 (16 UNITED STATES CODE
6 SECTION 1533), IF THE COMMISSION ADOPTS ALL OR PART OF THOSE FEDERAL LISTS.

7 B. SPECIES LISTED AS THREATENED OR ENDANGERED ON THE STATE LIST
8 THROUGH ADOPTION OF THE UNITED STATES LIST PURSUANT TO THIS SECTION ARE NOT
9 SUBJECT AT THE TIME OF ADOPTION TO THE LISTING PROCEDURES ESTABLISHED IN
10 SECTIONS 17-822, 17-823, 17-824 AND 17-825.

11 ARTICLE 3. RECOVERY AND MANAGEMENT

12 17-851. Recovery plans

13 A. TO THE EXTENT PRACTICABLE, THE DIRECTOR SHALL DEVELOP A RECOVERY
14 PLAN PURSUANT TO THIS SECTION FOR ANY SPECIES LISTED AS THREATENED OR
15 ENDANGERED. IF INDICATED, THE DIRECTOR SHALL CONDUCT A SOCIAL AND ECONOMIC
16 ANALYSIS AND, IF ADVERSE IMPACTS ARE FOUND, DEVELOP A SOCIAL OR ECONOMIC
17 MITIGATION PLAN.

18 B. TO THE EXTENT PRACTICABLE, THE DIRECTOR SHALL DEVELOP RECOVERY
19 PLANS THAT INCLUDE SEVERAL THREATENED OR ENDANGERED SPECIES THAT USE SIMILAR
20 HABITATS OR SHARE A COMMON THREAT, OR BOTH. A MULTIPLE-SPECIES RECOVERY PLAN
21 SHALL BE DESIGNED TO ACCOMPLISH THE RECOVERY OF THE SHARED HABITAT OR REDUCE
22 A COMMON THREAT, OR BOTH.

23 C. AS THE INITIAL ACTION IN DEVELOPING A RECOVERY PLAN, WITHIN ONE
24 YEAR AFTER LISTING, THE DIRECTOR SHALL SCHEDULE A PUBLIC INFORMATION MEETING
25 IN EACH OF THE QUADRANTS OF THE STATE DETERMINED BY THE DIRECTOR TO BE
26 AFFECTED BY THE PROPOSED RECOVERY PLAN. THESE MEETINGS SHALL BE CONDUCTED TO
27 PROVIDE A REASONABLE OPPORTUNITY FOR INDIVIDUALS AND PRIVATE AND PUBLIC
28 ENTITIES TO PARTICIPATE AND COMMENT ABOUT THE DEVELOPMENT OF A RECOVERY PLAN
29 FOR ONE OR MORE SPECIES AND ANY ADVERSE SOCIAL OR ECONOMIC IMPACTS THAT MAY
30 RESULT FROM IMPLEMENTING THE RECOVERY PLAN. AT THESE MEETINGS THE DIRECTOR
31 SHALL PRESENT:

- 32 1. BACKGROUND INFORMATION ABOUT THE BASIS OF THE LISTING.
33 2. AN EXPLANATION OF THE PROCESS TO DEVELOP A RECOVERY PLAN.
34 3. THE PROBABLE CONTENT IN GENERAL TERMS, IF KNOWN, OF THE RECOVERY
35 PLAN.
36 4. IF NEEDED, THE PROCESS TO DEVELOP A SOCIAL AND ECONOMIC MITIGATION
37 PLAN.

38 D. ON COMPLETING THE PUBLIC INFORMATION MEETING OR MEETINGS UNDER
39 SUBSECTION C, THE DIRECTOR SHALL:

- 40 1. CONSULT AND COOPERATE WITH OTHER STATES OR COUNTRIES IF
41 APPROPRIATE.
42 2. SOLICIT INTEREST FROM REPRESENTATIVES OF AFFECTED LOCAL
43 GOVERNMENTS, TRIBAL GOVERNMENTS, LANDOWNERS, STATE AND FEDERAL AGENCIES AND
44 OTHER INTERESTED INDIVIDUALS AND ORGANIZATIONS TO SERVE ON AN ADVISORY
45 COMMITTEE.

1 3. APPOINT TO THE ADVISORY COMMITTEE ALL OF THOSE WHO ARE WILLING TO
2 PARTICIPATE IN DEVELOPING THE RECOVERY PLAN. IF NECESSARY, THE DIRECTOR MAY
3 APPOINT FROM THE MEMBERSHIP OF THE ADVISORY COMMITTEE A WORKING GROUP
4 REFLECTING THE DIVERSITY OF THE ADVISORY COMMITTEE.

5 E. WITH THE ASSISTANCE OF THE ADVISORY COMMITTEE, THE DIRECTOR SHALL
6 DEVELOP A DRAFT RECOVERY PLAN TO ACHIEVE THE FOLLOWING OBJECTIVES:

7 1. RESTORATION AND MAINTENANCE OF A VIABLE POPULATION OF THE
8 THREATENED OR ENDANGERED SPECIES AND ITS HABITAT REASONABLY EXPECTED TO LEAD
9 TO THE DELISTING, RECOVERY AND LONG-TERM SURVIVAL OF THE SPECIES. FOR THE
10 PURPOSES OF THIS PARAGRAPH, "VIABLE POPULATION" MEANS AN ECOLOGICALLY
11 FUNCTIONING AND SUSTAINABLE NUMBER OF A SPECIES OR SUBSPECIES.

12 2. AVOIDANCE OR MITIGATION OF ADVERSE SOCIAL OR ECONOMIC IMPACTS.

13 3. IDENTIFICATION OF SOCIAL OR ECONOMIC BENEFITS AND OPPORTUNITIES.

14 4. USE OF VOLUNTEER RESOURCES AND EXISTING ECONOMIC RECOVERY AND
15 ASSISTANCE PROGRAMS AND FUNDING AVAILABLE FROM PUBLIC AND PRIVATE SOURCES TO
16 IMPLEMENT THE PLAN.

17 F. THE DIRECTOR SHALL MAIL THE DRAFT RECOVERY PLAN TO:

18 1. FEDERAL AND STATE AGENCIES AND LOCAL AND TRIBAL GOVERNMENTS THAT
19 ARE OR MAY BE AFFECTED BY THE RECOVERY PLAN.

20 2. INDIVIDUALS AND ORGANIZATIONS THAT HAVE REQUESTED NOTIFICATION OF
21 DEPARTMENT ACTIONS REGARDING THREATENED OR ENDANGERED SPECIES.

22 G. AFTER MAILING THE DRAFT RECOVERY PLAN PURSUANT TO SUBSECTION F, THE
23 DIRECTOR SHALL TAKE NO FURTHER ACTION FOR THIRTY CALENDAR DAYS TO ALLOW THE
24 SUBMISSION OF WRITTEN COMMENTS ON THE DRAFT PLAN TO THE DIRECTOR.

25 H. THE FINAL RECOVERY PLAN SHALL BE PRESENTED TO THE COMMISSION FOR
26 ITS CONSIDERATION WITHIN TWO YEARS AFTER THE DATE THE SPECIES WAS LISTED. IF
27 THE COMMISSION DETERMINES THAT THE PROPOSED PLAN WILL ACHIEVE THE OBJECTIVES
28 SET FORTH IN SUBSECTION E, IT SHALL APPROVE THE RECOVERY PLAN OR APPROVE WITH
29 CONDITIONS. AFTER APPROVAL OF THE PLAN, THE DIRECTOR SHALL:

30 1. SEEK COOPERATION FROM OTHER STATES AND COUNTRIES, IF APPROPRIATE,
31 AND LANDOWNERS, STATE AND FEDERAL AGENCIES AND LOCAL AND TRIBAL GOVERNMENTS
32 FOR IMPLEMENTATION OF THE PLAN.

33 2. IF APPROPRIATE, SUBMIT THE PLAN TO THE UNITED STATES SECRETARY OF
34 THE INTERIOR FOR APPROVAL PURSUANT TO THE ENDANGERED SPECIES ACT OF 1973.

35 17-852. Endangered species management programs

36 A. THE DIRECTOR SHALL ESTABLISH PROGRAMS AS AUTHORIZED AND CONSIDERED
37 NECESSARY BY THE COMMISSION FOR THE MANAGEMENT OF ENDANGERED SPECIES,
38 INCLUDING PROGRAMS FOR:

39 1. RESEARCH.

40 2. THE DESIGNATION OF THE BOUNDARIES CRITICAL HABITAT, IF PRUDENT
41 AFTER CONSIDERING ECONOMIC AND OTHER IMPACTS.

42 3. THE ACQUISITION OF LAND OR AQUATIC HABITAT INTERESTS PURSUANT TO
43 SECTION 17-853.

1 B. IN CARRYING OUT PROGRAMS PURSUANT TO THIS SECTION, THE DIRECTOR
2 MAY:

3 1. ENTER INTO AGREEMENTS WITH FEDERAL AGENCIES, POLITICAL SUBDIVISIONS
4 OF THIS STATE OR PRIVATE INDIVIDUALS FOR THE ADMINISTRATION AND MANAGEMENT OF
5 ANY PROGRAM ESTABLISHED UNDER THIS SECTION OR USED TO MANAGE ENDANGERED
6 SPECIES.

7 2. AUTHORIZE BY PERMIT THE TAKING, POSSESSION, TRANSPORTATION,
8 EXPORTATION OR SHIPMENT OF SPECIES OR SUBSPECIES THAT THE COMMISSION
9 CONSIDERS TO BE IN NEED OF MANAGEMENT PURSUANT TO THIS SECTION FOR
10 SCIENTIFIC, ZOOLOGICAL OR EDUCATIONAL PURPOSES, FOR PROPAGATION IN CAPTIVITY
11 OR TO PROTECT PRIVATE PROPERTY.

12 C. ENDANGERED SPECIES MAY BE REMOVED, CAPTURED, HELD OR DESTROYED IF
13 NECESSARY TO ALLEVIATE OR PREVENT DAMAGE TO PROPERTY OR TO PROTECT HUMAN
14 HEALTH. SUCH REMOVAL, CAPTURE, POSSESSION OR DESTRUCTION MAY BE CARRIED OUT
15 ONLY BY PERMIT AS AUTHORIZED BY THE DIRECTOR, UNLESS OTHERWISE PROVIDED BY
16 LAW. ENDANGERED SPECIES MAY BE REMOVED, CAPTURED, HELD OR DESTROYED WITHOUT
17 PERMIT BY ANY PERSON IN EMERGENCIES INVOLVING AN IMMEDIATE THREAT TO HUMAN
18 LIFE OR PRIVATE PROPERTY.

19 17-853. Acquiring interests in land or water habitat

20 A. THE DIRECTOR MAY ACQUIRE LAND OR AQUATIC HABITAT INTERESTS TO
21 CONSERVE, MANAGE, RESTORE, PROPAGATE AND PROTECT THREATENED OR ENDANGERED
22 SPECIES.

23 B. THE DIRECTOR SHALL CONDUCT STUDIES TO DETERMINE THE STATUS AND
24 REQUIREMENTS FOR SURVIVAL OF THREATENED OR ENDANGERED SPECIES.

25 17-854. Violation; classification

26 A. A PERSON WHO FAILS TO ACQUIRE A PERMIT REQUIRED BY SECTION 17-852,
27 SUBSECTION B OR C, OR WHO VIOLATES THE TERMS OF THE PERMIT, IS GUILTY OF A
28 CLASS 1 MISDEMEANOR.

29 B. A PERSON WHO VIOLATES SECTION 17-821, SUBSECTION C, OR ANY RULES
30 ADOPTED PURSUANT TO SECTION 17-821, IS GUILTY OF A CLASS 6 FELONY.

31 17-855. Enforcement

32 A. GAME RANGERS, WILDLIFE MANAGERS AND OTHER PEACE OFFICERS SHALL
33 ENFORCE THIS CHAPTER AND SHALL:

34 1. SEIZE ANY WILDLIFE HELD IN VIOLATION OF THIS CHAPTER.

35 2. ARREST ANY PERSON WHO VIOLATES THIS CHAPTER.

36 3. OPEN, ENTER AND EXAMINE ANY CAMP, VEHICLE, SHELTER OR CONTAINER
37 THAT MAY HOLD WILDLIFE IN VIOLATION OF THIS CHAPTER.

38 B. AT THE DIRECTION OF THE DIRECTOR, GAME RANGERS OR WILDLIFE MANAGERS
39 MAY ESTABLISH CHECKING STATIONS AT POINTS ALONG ANY HIGHWAY, AS DEFINED IN
40 SECTION 28-101, AS NEEDED TO ENFORCE THIS CHAPTER.