

**32-960. Same; threatened or endangered species.** (a) The secretary shall determine whether any species of wildlife indigenous to the state is a threatened species or an endangered species in this state because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) the overutilization of such species for commercial, sporting, scientific, educational or other purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) the presence of other natural or man-made factors affecting its continued existence within this state.

(b)(1) The secretary shall make the determinations required by subsection (a) on the basis of the best scientific, commercial and other data available to the secretary and after consultation, as appropriate, with federal agencies, other interested state agencies and interested persons and organizations.

(2) In determining whether any species of wildlife is a threatened species or an endangered species in this state, the secretary shall take into consideration those actions, if any, being carried out or about to be carried out by the federal government, by other states, by other agencies of this state or political subdivisions thereof, or by nongovernmental persons or organizations which may affect the species under consideration.

(3) Species of wildlife which occur in this state and which have been determined to be threatened species or endangered species pursuant to Pub. L. No. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, shall receive full consideration by the secretary to determine whether each such species is a threatened or an endangered species in this state.

(c)(1) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations pursuant to K.S.A. 32-963, and amendments thereto, which contain a list of all species of wildlife indigenous to this state which have been determined to be endangered species pursuant to this section and a list of all such species which have been determined to be threatened species pursuant to this section. Each list shall refer to the species contained therein by their scientific and common names, if any, and shall specify with respect to each such species the portion of the range of such species within this state in which it is threatened or endangered.

(2) The secretary may not add a species to nor remove a species from any such list unless the secretary has first:

- (A) Published a public notice of such proposed action;
- (B) notified the governor of any state which shares a common border with this state and in which the subject species is known to occur that such action is being proposed; and

(C)(i) in cases where the secretary determines that an emergency situation exists, published a public notice that such an emergency situation exists, together with a summary of facts that support such determination; or (ii) in all other cases, conducted public informational meetings to coincide with the scientific review outside the agency which will recommend action with regard to the addition of the species to or removal of the species from the list. All documents within the control and custody of the secretary that pertain to adding the species to or removing the species from the list shall be made available to the public in a local repository, such as a public library, courthouse or regional office of the department. The secretary shall also mail a notice of the proposed addition of the species to or removal of the species from the list to federal and state agencies and local and tribal governments that are or may be affected by results of the review and to all individuals and organizations that have requested notification of department action regarding the administration of this act. The secretary shall also issue news releases to publicize the proposed addition of the species to or removal of the species from the list.

(3) Upon the petition of an interested person, the secretary shall conduct a review of any listed or unlisted species of wildlife proposed to be removed from or added to either of the lists adopted pursuant to this subsection (c), but only if the secretary makes a determination and publishes a public notice that such person has presented substantial evidence which warrants such a review. Once the secretary has made a determination that a review is warranted, the process described in subsection (c)(2), including the conducting of a public information meeting, shall apply.

(d) Every five years the secretary shall conduct a review of the species listed pursuant to this act (except for those species listed pursuant to the federal endangered species act of 1973, as amended) and shall submit any proposed changes in the listings to the following for consideration: (1) Federal and state agencies and local and tribal governments that are or may be affected by results of the change; and (2) all individuals and organizations that have requested notification of departmental action regarding administration of this act. After at least 90 days for comment by the agencies, governments, individuals and organizations to which the proposed changes are submitted, the secretary shall submit to the commission proposed rules and regulations making any changes that the secretary determines should be made in the listings.

**History:** L. 1975, ch. 221, § 4; L. 1989, ch. 118, § 91; L. 1997, ch. 113, § 2; May 1.