

- (2) OVERUTILIZATION FOR COMMERCIAL, SPORTING, SCIENTIFIC, EDUCATIONAL, OR OTHER PURPOSES;
- (3) DISEASE OR PREDATION;
- (4) THE INADEQUACY OF EXISTING REGULATORY MECHANISMS; OR
- (5) OTHER NATURAL OR MANMADE FACTORS AFFECTING ITS CONTINUED EXISTENCE WITHIN THE STATE.

(C) THE SECRETARY SHALL MAKE DETERMINATIONS REQUIRED BY SUBSECTION (B) ON THE BASIS OF THE BEST SCIENTIFIC, COMMERCIAL, AND OTHER DATA AVAILABLE TO AND AFTER CONSULTATION, AS APPROPRIATE, WITH FEDERAL AGENCIES, OTHER INTERESTED STATE AGENCIES, OTHER STATES HAVING A COMMON INTEREST IN THE SPECIES, AND INTERESTED PERSONS AND ORGANIZATIONS. IN DETERMINING WHETHER ANY SPECIES OF WILDLIFE OR PLANT IS AN ENDANGERED SPECIES OR A THREATENED SPECIES, THE SECRETARY SHALL TAKE INTO CONSIDERATION ANY ACTIONS BEING CARRIED OUT OR ABOUT TO BE CARRIED OUT BY THE FEDERAL GOVERNMENT, OTHER STATES, OTHER AGENCIES OF THIS STATE, OR POLITICAL SUBDIVISIONS, OR BY ANY OTHER PERSON WHICH MAY AFFECT THE SPECIES UNDER CONSIDERATION.

(D) EXCEPT WITH RESPECT TO SPECIES OF WILDLIFE OR PLANTS DETERMINED TO BE ENDANGERED OR THREATENED SPECIES UNDER THE PROVISIONS OF SUBSECTION (A), THE SECRETARY MAY NOT ADD A SPECIES TO NOR REMOVE A SPECIES FROM ANY LIST PUBLISHED UNLESS HE FIRST:

- (1) PUBLISHES A PUBLIC NOTICE OF THE PROPOSED ACTION;

- (2) FURNISHES NOTICE OF THE PROPOSED ACTION TO THE GOVERNOR OF ANY STATE SHARING A COMMON BORDER WITH THIS STATE AND IN WHICH THE SUBJECT SPECIES IS KNOWN TO EXIST; AND

- (3) ALLOWS AT LEAST 30 DAYS FOLLOWING PUBLICATION FOR COMMENT FROM THE PUBLIC AND OTHER INTERESTED PARTIES.

(E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (D), IF THE DEPARTMENT DETERMINES THAT AN EMERGENCY SITUATION EXISTS INVOLVING THE CONTINUED EXISTENCE OF THE SPECIES AS A VIABLE COMPONENT OF THE STATE'S WILDLIFE OR PLANTS, IT MAY ADD THE SPECIES TO THE LISTS IF IT PUBLISHES A PUBLIC NOTICE THAT AN EMERGENCY SITUATION EXISTS TOGETHER WITH A SUMMARY OF FACTS WHICH SUPPORT THIS DETERMINATION.

(F) THE SECRETARY SHALL ADOPT RULES AND