

# NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

## Act 451 of 1994

### PART 365

#### ENDANGERED SPECIES PROTECTION

##### **324.36501 Definitions.**

Sec. 36501. As used in this part:

(a) "Endangered species" means any species of fish, plant life, or wildlife that is in danger of extinction throughout all or a significant part of its range, other than a species of insecta determined by the department or the secretary of the United States department of the interior to constitute a pest whose protection under this part would present an overwhelming and overriding risk to humans.

(b) "Fish or wildlife" means any member of the animal kingdom, including any mammal, fish, amphibian, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring, or the dead body or parts thereof. Fish or wildlife includes migratory birds, nonmigratory birds, or endangered birds for which protection is afforded by treaty or other international agreement.

(c) "Import" means to bring into, introduce into, or attempt to bring into or introduce into any place subject to the jurisdiction of this state.

(d) "Plant or plant life" means any member of the plant kingdom, including seeds, roots, and other parts of a member of the plant kingdom.

(e) "Species" includes any subspecies of fish, plant life, or wildlife and any other group of fish, plants, or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed or cross-pollinate when mature.

(f) "Take" means, in reference to fish and wildlife, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct.

(g) "Take" means, in reference to plants, to collect, pick, cut, dig up, or destroy in any manner.

(h) "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

##### **324.36502 Duties of department.**

Sec. 36502. The department shall perform those acts necessary for the conservation, protection, restoration, and propagation of endangered and threatened species of fish, wildlife, and plants in cooperation with the federal government, pursuant to the endangered species act of 1973, Public Law 93-205, 87 Stat. 884, and with rules promulgated by the secretary of the interior under that act.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

##### **324.36503 Investigations; determinations; rule; review.**

Sec. 36503. (1) The department shall conduct investigations on fish, plants, and wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of these determinations and other available scientific and commercial data, which may include consultation with scientists and others who may have specialized knowledge, learning, or experience, the department shall promulgate a rule listing those species of fish, plants, and wildlife that are determined to be endangered or threatened within the state, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The department shall conduct a review of the state list of endangered and threatened species within not more than 2 years after its effective date and every 2 years thereafter, and may amend the list by appropriate additions or deletions pursuant to Act No. 306 of the Public Acts of 1969.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**Administrative rules:** R 299.1021 et seq. of the Michigan Administrative Code.

### **324.36504 Programs; cooperative agreements.**

Sec. 36504. (1) The department may establish programs, including acquisition of land or aquatic habitat, as are considered necessary for the management of endangered or threatened species.

(2) In implementing the programs authorized by this section, the department may enter into cooperative agreements with federal and state agencies, political subdivisions of the state, or with private persons for the administration and management of any area or program established under this section or for investigation as outlined in section 36503.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.36505 Prohibitions; exceptions.**

Sec. 36505. (1) Except as otherwise provided in this part, a person shall not take, possess, transport, import, export, process, sell, offer for sale, buy, or offer to buy, and a common or contract carrier shall not transport or receive for shipment, any species of fish, plants, or wildlife appearing on the following lists:

(a) The list of fish, plants, and wildlife indigenous to the state determined to be endangered or threatened within the state pursuant to section 36503 or subsection (3).

(b) The United States list of endangered or threatened native fish and wildlife.

(c) The United States list of endangered or threatened plants.

(d) The United States list of endangered or threatened foreign fish and wildlife.

(2) A species of fish, plant, or wildlife appearing on any of the lists delineated in subsection (1) which enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, possessed, and sold in accordance with the terms of a federal permit issued pursuant to section 10 of the endangered species act of 1973, 16 USC 1539, or an applicable permit issued under the laws of another state.

(3) The department may, by rule, treat any species as an endangered species or threatened species even though it is not listed pursuant to section 36503, if it finds any of the following:

(a) The species so closely resembles in appearance, at the point in question, a species which is listed pursuant to section 36503 that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species.

(b) The effect of the substantial difficulty in differentiating between a listed and an unlisted species is an additional threat to an endangered or threatened species.

(c) The treatment of an unlisted species will substantially facilitate the enforcement and further the intent of this part.

(4) The department may permit the taking, possession, purchase, sale, transportation, exportation, or shipment of species of fish, plants, or wildlife which appear on the state list of endangered or threatened species compiled pursuant to section 36503 and subsection (3) for scientific, zoological, or educational purposes, for propagation in captivity of such fish, plants, or wildlife to ensure their survival.

(5) Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered or threatened species found on the state list compiled pursuant to section 36503 and subsection (3) may be removed, captured, or destroyed, but only as authorized by a permit issued by the department pursuant to part 13. Carnivorous animals found on the state list may be removed, captured, or destroyed by any person in emergency situations involving an immediate threat to human life, but the removal, capture, or destruction shall be reported to the department within 24 hours of the act.

(6) This section does not prohibit any of the following:

(a) The importation of a trophy under a permit issued pursuant to section 10 of the endangered species act of 1973, 16 USC 1539, which is not for resale and which was lawfully taken in a manner permitted by the laws of the state, territory, or country where the trophy was caught, taken, or killed.

(b) The taking of a threatened species when the department has determined that the abundance of the species in the state justifies a controlled harvest not in violation of federal law.

(c) Subject to any permits that may be required by the department, the possession, transfer, transportation, importation, or exportation or the transport or receipt for shipment by a common or contract carrier of a raptor or the captive-bred progeny of a raptor, a raptor egg, or raptor semen acquired in accordance with applicable state and federal laws and regulations which allow raptors, raptor eggs, or raptor semen to be used in falconry or in the captive propagation of raptors for use in falconry.

(d) Subject to any permits that may be required by the department, the selling, offering for sale, buying, or offering to buy a raptor that was captive-bred or semen from a raptor that was captive-bred in accordance with

applicable state and federal laws and regulations which allow raptors or raptor semen to be used in falconry or in captive propagation of raptors for use in falconry.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1998, Act 470, Imd. Eff. Jan. 4, 1999;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

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### **324.36506 Enforcement of part and rules.**

Sec. 36506. A law enforcement officer, police officer, sheriff's deputy, or conservation officer shall enforce this part and the rules promulgated under this part.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

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### **324.36507 Violation; penalty.**

Sec. 36507. A person who violates this part or who fails to procure any permit required under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000.00 or less than \$100.00, or both.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1996, Act 128, Imd. Eff. Mar. 13, 1996.

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