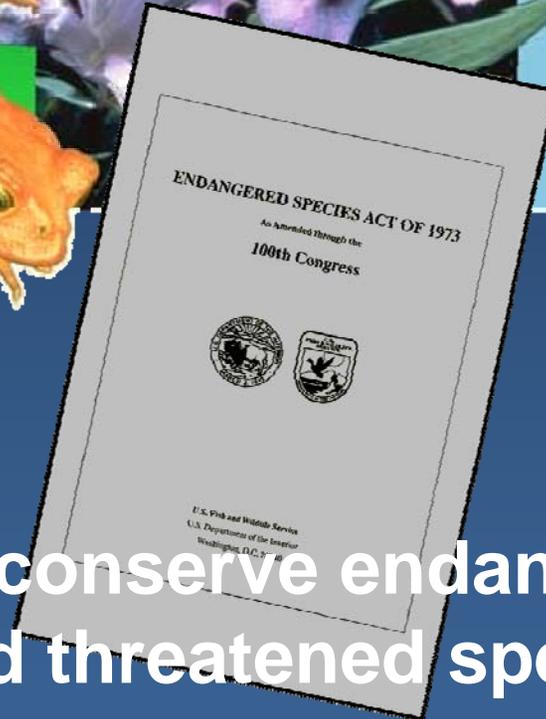
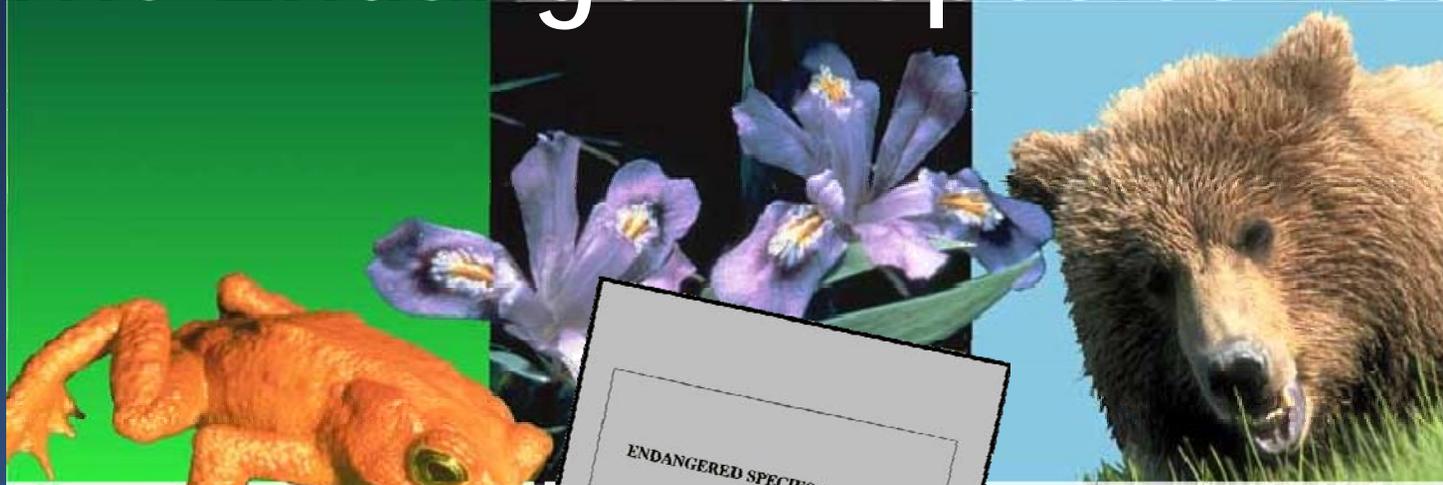


The Endangered Species Act



... to conserve endangered
and threatened species
and the ecosystems on which they depend

Key Definitions

Endangered Any species in danger of extinction throughout all or a significant portion of its range

Threatened Any species likely to become endangered in the foreseeable future

Critical Habitat Specific geographic areas with physical and biological features essential to the conservation of a listed species



Key Definitions

Take means: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in these activities. Harm includes habitat destruction that kills or injures listed species.



These signs, posted on nest trees of endangered red-cockaded woodpeckers, help prevent taking.

Prohibited Acts

- Take of endangered wildlife is prohibited unless permitted or exempted
- Take of threatened wildlife is generally prohibited by regulations under the authority of §4(d)
- Unless prohibited under State law, endangered plants are not subject to the take prohibitions
- Import/export and interstate commerce is generally prohibited for endangered species

Permits

We issue permits under §10(a)(1)(A) for scientific purposes

We issue *incidental take permits* under section §10(a)(1)(B) provided the permit applicant develops an approved Habitat Conservation Plan and the take is “incidental”

FWS must conduct appropriate NEPA analysis

HCPs typically take 1-2 years to complete

Incidental Take Permits

The take must not reduce appreciably the likelihood of survival and recovery of the species

Take must be minimized and mitigated to the maximum extent practicable

Applicant must have adequate funding to carry out the conservation plan

Applicant must implement measures prescribed as necessary or appropriate for the purposes of the plan

Exemption of Take Through Section 7

§7(a)(2) — Federal agencies must ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat.

If any aspect of an agency action **may affect** an endangered or threatened species or designated critical habitat, the agency must consult with the Fish and Wildlife Service or the National Marine Fisheries Service.

Exemption of Take Through Section 7

If the action *is not* likely to jeopardize the continued existence of species or adversely modify critical habitat, we provide an **incidental take statement** estimating amount of take that may occur incidental to the action and terms and conditions to minimize that take.

Incidental take authorized through the §7 process is exempt from the statutory or regulatory prohibitions on take

Exemption of Take Through Section 7

If the action *is* likely to jeopardize the continued existence of species or adversely modify critical habitat, the agency or applicant may request an exemption under §7(h)

If an exemption is granted, any take caused by the action is exempt from the take prohibitions

The exemption process is an administrative process that takes about 150 days to complete and the final decision may be judicially reviewed

Penalties and Enforcement

- §11 provides for civil or criminal penalties for ESA violations
- §11 also provides for citizens' lawsuits to to enforce the ESA.

HCPs and Windpower Projects

- The HCP Process works very well for site-specific development activities
- Development of species-specific “best management practices” may be one way to streamline the HCP process for windpower projects
- Use of §7 has been limited as most windpower projects do not require Federal authorization
- Several Windpower HCPs are under development in the northeast and the southwest



Endangered Species Program, August 2002