



Permits for Native Species

under the Endangered Species Act

Section 10 of the Endangered Species Act (ESA) is designed to regulate a wide range of activities that affect endangered and threatened plants and animals and the habitats upon which they depend. Unless specifically allowed by permit, the ESA prohibits activities that affect listed species and their habitats. The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) may issue permits for purposes consistent with the conservation of the species.

What activities are prohibited?

The ESA makes it unlawful to import or export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; take (includes harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect any wildlife within the United States); take on the high seas; possess, ship, deliver, carry, transport, sell, or receive unlawfully taken wildlife; remove and reduce to possession any plant from areas under Federal jurisdiction; maliciously damage or destroy an endangered plant on areas under Federal jurisdiction; and remove, cut, dig up, or damage or destroy any endangered plant in knowing violation of any State law or regulation or in the course of a violation of a State criminal trespass law.* These prohibitions apply to live or dead animals or plants, their progeny (seeds in the case of plants), and parts or products derived from them.

Some activities that might otherwise be prohibited are exempt; see the next page. Other activities are allowed in accordance with permit provisions.

What kinds of activities can permits authorize?

The activities authorized by permits differ depending on whether the species is listed as endangered or threatened. An endangered species is in danger of extinction throughout all or a significant portion of its range. A threatened species is likely to become endangered in the foreseeable future.

*It is unlawful to attempt to commit any of these offenses.



The Oregon Parks and Recreation Department has a habitat conservation plan to support the recovery of the western snowy plover by controlling invasive beach grass; managing predators such as crows, ravens, foxes, coyotes, and raccoons; and shifting activities such as dog-exercising and kite-flying away from the birds and their nests, eggs, and chicks. The Department has a 25-year incidental take permit for occasions when recreation inadvertently harms the threatened species. Western snowy plover photo by David S. Pitkin; habitat photo by Kathleen Castelein, Oregon Biodiversity Information Center.

For endangered species, permits may be issued for scientific research, enhancement of propagation or survival, and taking that is incidental to an otherwise lawful activity.

For threatened species, in addition to the above activities, permits also may be issued for zoological, horticultural, or botanical exhibition; educational use; and special purposes consistent with the ESA.

A person registered with the FWS may obtain a *captive-bred wildlife permit* to buy and sell within the United States live, non-native endangered or threatened animals that were captive born in the United States for enhancement of species propagation, provided the other person in the transaction is registered for the same species. A separate permit is needed to import or export such species. Captive-bred wildlife permits are not issued to keep or breed endangered or threatened

animals as pets. Using protected species as pets is not consistent with the purposes of the ESA, which is aimed at conservation of the species and recovery of wild populations.

What are the different types of permits?

The FWS Endangered Species program, located in each of our Regional offices, issues permits for native endangered and threatened species, except for import or export permits, which are issued by the Division of Management Authority. NMFS also issues permits involving certain aquatic species, as outlined below. Permits issued by the Endangered Species program are of three basic types: incidental take permits, enhancement of survival permits, and recovery and interstate commerce permits.

Incidental take permits

Incidental take permits are required when non-Federal activities will result in take of threatened or endangered



With staff from the Oregon Department of Fish and Wildlife and the U. S. Fish and Wildlife Service who helped him create ponds for the Oregon chub, Dave Budeau celebrates the release of the fish on his property. Mr. Budeau is enrolled in a Safe Harbor Agreement designed to contribute to the recovery of the species. These agreements assure landowners that they will not be required to undertake management activities beyond those specified. Photos by Kim Garner, USFWS

species. A habitat conservation plan or “HCP” must accompany an application for an incidental take permit. The habitat conservation plan associated with the permit ensures that the effects of the authorized incidental take are adequately minimized and mitigated.

Enhancement of survival permits

These permits are issued to non-Federal landowners participating in Safe Harbor Agreements or Candidate Conservation Agreements with Assurances. These agreements encourage landowners to take actions to benefit species while also providing assurances that they will not be subject to additional regulatory restrictions as a result of their conservation actions.

Recovery and interstate commerce permits

Recovery and interstate commerce permits are issued to allow for take as part of activities intended to foster the recovery of listed species. A typical use of a recovery permit is to allow for scientific

research on a listed species in order to understand better the species’ long-term survival needs. Interstate commerce permits also allow transport and sale of listed species across State lines (e.g., for recovery purposes such as a breeding program).

What situations are exempt from the prohibitions of the ESA?

Pre-ESA

Species held in captivity or in a controlled environment on (a) December 28, 1973, or (b) the date of publication in the *Federal Register* for final species listing, whichever is later, are exempt from prohibitions of the ESA, provided such holding or any subsequent holding or use of the specimen was not in the course of a commercial activity (any activity that is intended for profit or gain). An affidavit and supporting material documenting pre-ESA status must accompany the shipment of listed species. A pre-ESA exemption does not apply to wildlife, including parts and products, offered for sale. Any endangered or threatened

specimens born in captivity from pre-ESA parents is fully protected and is not considered pre-ESA.

Antiques

Antiques, including scrimshaw, may be imported into the United States if accompanied by documentation that shows the article is at least 100 years old and has not been repaired or modified with any part of an endangered or threatened species since December 28, 1973. Such antiques must enter through a U.S. Customs Service port. If the antique contains a species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the shipment must be accompanied by a Pre-Convention Certificate.

Special Rules

For a species that is listed as threatened or as an experimental population, special rules may allow otherwise prohibited activities. Some foreign species that have special rules include several primates,

Applying for a permit requires a completed application form, any necessary supporting materials (such as a Habitat Conservation Plan), and an application fee.

the African elephant, Nile crocodile, and leopard. Some native species that have special rules include the Utah prairie dog, Louisiana black bear, greenback cutthroat trout, and six sea turtle species.

Intrastate Commerce

Commercial activities that take place entirely in one State and involve legally acquired endangered or threatened species are not prohibited by the ESA. However, many States have their own laws which regulate activities involving protected species. Contact the appropriate State agency before undertaking activities involving endangered or threatened wildlife and plants.

Offer for Sale

Endangered and threatened species may be advertised for sale provided the advertisement states that no sale may be consummated until an interstate commerce permit has been obtained from the FWS.

Loans and Gifts

Lawfully taken and held endangered and threatened species may be shipped interstate as a *bona fide* gift or loan if there is no barter, credit, other form of compensation, or intent to profit or gain. A standard breeding loan, where no money or other consideration changes hands but some offspring are returned to the lender of a breeding animal, is not considered a commercial activity and, thus, is not prohibited by

the ESA and does not require a permit. Documentation of such an activity should accompany shipment.

Hybrids

Hybrids are offspring of animals or plants whose parents are different species or subspecies and, in the case of the ESA, at least one parent is a listed species. Hybrid offspring of animals bred or propagated in captivity are not protected by the ESA. It is recommended that breeding records be maintained to show parentage and hybrid status. CITES and laws such as the Migratory Bird Treaty Act (MBTA) consider hybrids protected.

Raptors

Prohibitions under the ESA do not apply to any endangered or threatened raptors legally held in captivity since November 10, 1978, or to any progeny, provided that they are possessed and banded under the terms of an MBTA permit and are identified in the earliest annual report required by permit. The bald eagle is protected by the MBTA and the Bald and Golden Eagle Protection Act (BGEPA).

Seeds from Artificially Propagated Threatened Plants

No permits are required for activities involving seeds from artificially propagated specimens of threatened plants. However, seeds must be

accompanied by a label stating that they are of cultivated origin.

What other offices issue permits for endangered or threatened species?

The FWS Division of Management Authority, located in our headquarters office, issues permits for foreign endangered and threatened species, and for import/export of native and foreign species. It is also responsible for issuing captive breeding permits and permits allowing the use of live specimens of listed species for conservation education.

NMFS has jurisdiction for whales, seals, and sea lions. NMFS also has jurisdiction for sea turtles in the water; the FWS has jurisdiction on land. Jurisdiction varies between NMFS and the FWS for anadromous fish such as salmon, trout, steelhead, and sturgeon. The FWS has jurisdiction for listed marine mammals such as the West Indian manatee and southern sea otter, as well as all sea birds. To see whether a species is under the jurisdiction of NMFS, go to the Office of Protected Resources Web page. <http://www.nmfs.noaa.gov/pr/species/esa/>

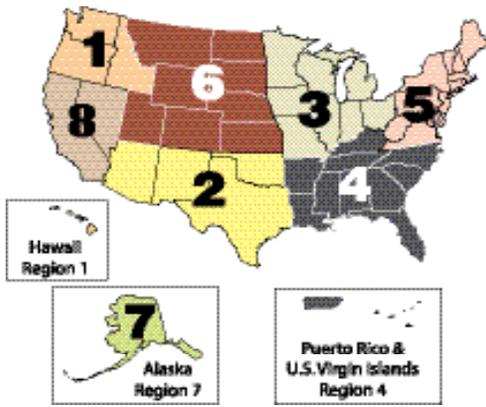
What other laws apply?

Depending on the species involved, other requirements may apply under the Convention on International Trade in Endangered Species of Wild Fauna and

Biologists, students, and volunteers from the Maine Department of Inland Fisheries, University of Maine, and U. S. Fish and Wildlife Service monitor Canada lynx kittens in the wild, under an enhancement of survival permit for the threatened species. The team weighed and measured the kittens, registered them via ear tags and radio-frequency identification chips, and took DNA samples. Photo by James Weliver; USFWS



U.S. Fish & Wildlife Service Native Endangered & Threatened Species Permit Contacts



FWS Pacific Region (1): HI, ID, OR, WA, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Pacific Trust Territories

U.S. Fish and Wildlife Service
Endangered Species Permit Office
911 NE 11th Avenue
Portland, Oregon 97232-4181

<http://www.fws.gov/pacific/ecoservices/endangered/index.html>
Phone: 503/231-6131
email: permitsR1ES@fws.gov
Fax: 503/231-6243

FWS Southwest Region (2): AZ, NM, OK, TX

U.S. Fish and Wildlife Service
Endangered Species Permit Office
500 Gold Avenue S.W. (street address)
P.O. Box 1306 (mailing address)
Albuquerque, New Mexico 87103-1306

<http://www.fws.gov/southwest/es/EndangeredSpecies/>
Phone: 505/248-6920
email: permitsR2ES@fws.gov
Fax: 505/248-6788

Flora http://www.fws.gov/international/DMA_DSA/CITES/pdf/cpc.pdf, the Migratory Bird Treaty Act <http://www.fws.gov/migratorybirds/mbpermits.html>, the Bald and Golden Eagle Protection Act <http://www.fws.gov/pacific/lawenforcement/eaglelaws/eaglelaws.html>, the Wild Bird Conservation Act, the Marine Mammal Protection Act, the Lacey Act, and State, tribal, or local law.

How do I apply for a permit?

Applications and instructions for native endangered and threatened species permits can be found on our Permits website at: <http://www.fws.gov/endangered/permits/index.html>,

FWS Midwest Region (3): IA, IL, IN, MI, MN, MO, OH, WI

U.S. Fish and Wildlife Service
Endangered Species Permit Office
5600 American Boulevard West, Suite 990
Bloomington, Minnesota 55437-1458

<http://www.fws.gov/midwest/Endangered/>
Phone: 612/713-5343
email: permitsR3ES@fws.gov
Fax: 612/713-5292

FWS Southeast Region (4): AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, Puerto Rico, U.S. Virgin Islands

U.S. Fish and Wildlife Service
Endangered Species Permit Office
1875 Century Center Boulevard
Atlanta, Georgia 30345

<http://www.fws.gov/southeast/es/#>
Phone: 404/679-7097
email: permitsR4ES@fws.gov
Fax: 404/679-7081

FWS Northeast Region (5): CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV

U.S. Fish and Wildlife Service
Endangered Species Permit Office
300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

<http://www.fws.gov/northeast/endangered/>
Phone: 413/253-8212
email: permitsR5ES@fws.gov
Fax: 413/253-8482

or by contacting your closest Regional Endangered Species office.

A fee is required to apply for a permit, and to amend an existing permit. Please see the instructions in each permit application form for further information. Applicants should allow at least 90 days for processing the completed application.

What about other types of permits?

For information on ESA permits issued by NMFS, go to: <http://www.nmfs.noaa.gov/pr/permits/>.

The FWS Division of Management

FWS Mountain-Prairie Region (6): CO, KS, MT, NE, ND, SD, UT, WY

U.S. Fish and Wildlife Service
Endangered Species Permit Office
134 Union Boulevard, Suite 650
Lakewood, Colorado 80228

<http://www.fws.gov/mountain-prairie/endspp/>
Phone: 303/236-4224
email: permitsR6ES@fws.gov
Fax: 303/236-0027

FWS Alaska Region (7): AK

U.S. Fish and Wildlife Service
Endangered Species Permit Office
1011 E. Tudor Rd.
Anchorage, Alaska 99503-6199

<http://alaska.fws.gov/fisheries/endangered/index.htm>
Phone: 907/786-3323
email: permitsR7ES@fws.gov
Fax: 907/786-3350

FWS Pacific Southwest Region (8): CA, NV, Klamath Basin in Oregon

U.S. Fish and Wildlife Service
Endangered Species Permit Office
2800 Cottage Way, Suite W-2606
Sacramento, California 95825-1846

<http://www.fws.gov/cno/es/recovery.html>
Phone: 916/414-6464
email: permitsR8ES@fws.gov
Fax: 916/414-6486

Authority issues import/export permits for native species and all permits for foreign species. Visit the Web site at: http://www.fws.gov/international/DMA_DSA/DMA_Who_We_Are.html.

For information on other types of FWS permits, visit our main permit Web site at <http://www.fws.gov/permits/>.

U. S. Fish and Wildlife Service Ecological Services Program

5275 Leesburg Pike
Falls Church, VA 22041-3803
703-358-2171

<http://www.fws.gov/endangered/>
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