



U.S Fish and Wildlife Service – Black-Footed Ferret 10(j) Rule

The U.S. Fish and Wildlife Service (Service) is proposing to designate all of the State of Wyoming as a special area for the re-establishment of black-footed ferret populations under section 10(j) of the Endangered Species Act (ESA). This designation provides the greatest flexibility to manage black-footed ferrets while addressing landowner concerns regarding ESA regulations. The goal of this proposed action is to help facilitate new reintroductions of this endangered species.

❖ Why is the Fish and Wildlife Service considering this proposed rule now?

Because of its commitment to endangered species recovery, for several years the Wyoming Game and Fish Department has expressed interest in a statewide 10(j) rule for the black-footed ferret. The Service shares this commitment. However, before we could begin development of a 10(j) rule we needed to document that there were no wild ferrets remaining in the state other than those that have been previously reintroduced. The Wyoming Game and Fish Department provided the Service with the information and data necessary to make this determination, which allowed the Service to move forward with development of a statewide 10(j) rule for black-footed ferrets in Wyoming.

❖ Why is the Wyoming Game and Fish Department interested in a statewide 10(j) rule for the ferret?

Wyoming is both a leader in black-footed ferret recovery and a friend to private landowners in the state. Establishment of a statewide 10(j) population would provide regulatory relief for landowners should a ferret occur on their lands, while allowing the state to continue its efforts to advance ferret recovery. The Wyoming Game and Fish Department led the initial efforts to recover the species immediately after the discovery of the last wild population and subsequently led one of the most successful ferret reintroductions to date: the Shirley Basin 10(j) population.

❖ How does the 10(j) rule address landowner concerns about ferrets occurring on their lands?

Under a Section 10(j) designation as “nonessential, experimental,” both the take prohibitions and consultation requirements of the ESA are relaxed, easing regulatory burden associated with endangered species. This designation would apply to all ferrets within Wyoming, with the exception of animals found on lands managed by the National Park Service or U.S. Fish and Wildlife Service.

❖ What is incidental take, and how would the 10(j) rule change Endangered Species Act regulations?

Under the proposed statewide 10(j) rule for ferrets in Wyoming, there would be no prohibition for incidental take of ferrets under the ESA. Incidental take is mortality, injury, harm or harassment of a species that is listed as threatened or endangered under the ESA that occurs unintentionally as a result of otherwise lawful activities. For example, if while moving cattle from one pasture to another a black-footed ferret is injured or killed, the loss or injury of that animal would be considered incidental to an otherwise lawful activity and not a violation of the ESA under this proposal.

❖ **Who will decide when and where a future ferret reintroduction is going to occur in Wyoming?**

Participation in future recovery actions for the black-footed ferret by private landowners will continue to be entirely voluntary. The Wyoming Game and Fish Department has volunteered to lead any effort related to future ferret reintroductions in the state. An interagency stakeholder group has been established to ensure communication across affected agencies. Implementation of the 10(j) rule will ensure the concerns of private landowners, and landowners adjacent to reintroduction areas, are addressed comprehensively.

❖ **Will landowners, local agencies or governments be involved in decisions to reintroduce ferrets?**

Yes. The Service and the Wyoming Game and Fish Department recognize that local involvement is important to landowners, stakeholder groups and local governments. Consequently, both agencies will coordinate to ensure local communities are fully engaged in any future black-footed ferret reintroduction efforts.

❖ **If a statewide 10(j) rule for the ferret is implemented in Wyoming, will it be removed in the future?**

The Service considers any 10(j) rule as an agreement between the Service, the affected state and federal agencies and people with an interest in affected lands. These 10(j) rules are one of the most effective tools to recover endangered species while protecting the interests of private landowners. Because we believe this tool is essential for advancing and maintaining the recovery of the black-footed ferret, it is the Service's intent to maintain the 10(j) rule into the future.

❖ **What is the relationship of the 10(j) rule to the recently implemented ferret Safe Harbor Agreement?**

Safe Harbor Agreements are typically developed on a case-by-case basis for specific properties where a landowner is interested in reintroducing a listed species. The Safe Harbor Agreement and the proposed 10(j) rule are entirely compatible. While there is a range-wide Safe Harbor Agreement for the ferret in place, there are currently no ferrets in Wyoming on Safe Harbor lands. The Wyoming Game and Fish Department and the Service have agreed that the 10(j) rule would serve as the foundation for any future black-footed ferret recovery actions in Wyoming. However, landowners who choose to participate in black-footed ferret recovery would still have the option to participate in the Safe Harbor Agreement, should they choose to do so. These conservation actions are complementary.

❖ **If I have additional questions regarding the Endangered Species Act and ferrets, who can I contact?**

If you have questions about participating in black-footed ferret recovery in Wyoming, contact Zack Walker, Nongame Supervisor for the Wyoming Game and Fish Department (zack.walker@wyo.gov).

For questions related to the development of the 10(j) rule for ferrets in Wyoming, contact Lynn Gemlo, Listing Coordinator for the Service's Wyoming Ecological Services Field Office (lynn_gemlo@fws.gov).

For questions related to the recently-implemented rangewide Safe Harbor Agreement for black-footed ferrets, please contact John Hughes, Wildlife Biologist at the Service's Black-footed Ferret Conservation Center (john_hughes@fws.gov).

Information about black-footed ferret recovery efforts can be found at www.blackfootedferret.org.