

**FISH AND WILDLIFE SERVICE
POPULATION MANAGEMENT**

Population Management **Part 730 Endangered Species Internal Management**
Chapter 1 Responsibilities and Delegations of Authority for Native Endangered and Threatened Species 730 FW 1

1.1 What is the purpose of this chapter? This chapter:

- A.** Expands the scope of delegated signature authority, describes the responsibilities, and provides guidelines for U.S. Fish and Wildlife Service (Service) employees issuing and administering permits under sections 10(a)(1)(A) and (B) of the [Endangered Species Act \(ESA\)](#) for interstate commerce, scientific purposes, enhancement of propagation or survival, and incidental take of native listed species.
- B.** Provides detailed procedures and associated roles and responsibilities that employees must follow when issuing and administering such permits. See “Procedures, Roles, and Responsibilities Associated with Native Endangered and Threatened Species Permits and Delegation of Permit Signature Authority” ([Procedures](#)).

1.2 What are sections 10(a)(1)(A) and (B) of the ESA about?

- A.** Section 10(a)(1)(A) of the ESA authorizes the Secretary to permit acts otherwise prohibited under section 9 for scientific purposes or to enhance the propagation or survival of a listed species. We issue enhancement of survival permits to non-Federal landowners participating in Safe Harbor Agreements (SHA) and Candidate Conservation Agreements with Assurances (CCAA) for native species. We issue recovery and interstate commerce permits to allow for take as part of activities intended to foster the recovery of listed species.
- B.** Section 10(a)(1)(B) of the ESA authorizes the Secretary to permit the taking of listed species if it is incidental to, and not the purpose of, otherwise lawful activities. We issue incidental take permits to non-Federal applicants when they complete an acceptable Habitat Conservation Plan (HCP).

1.3 What are the outcomes of this chapter? Regional Directors, at their discretion, may delegate all or a portion of their native species ESA permit issuance, renewal, amendment, or transfer authority to Ecological Services (ES) Field Office Supervisor(s) for certain permit types. This delegation of authority may occur at any time, or may be retained at the Regional Office staff level. If the Regional Director delegates ESA permit authority to the ES Field Office Supervisor(s), the ES Field Office Supervisor(s) becomes fully responsible for assuming the corresponding permit program duties formerly performed by the Regional Office. This applies only to the following permit types:

- A.** Incidental take permits associated with HCPs or enhancement of survival permits associated with SHAs and CCAAs that:
 - (1)** Are low-effect and eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) (see [516 DM 8.5C\(1\)](#)), or
 - (2)** Have a Finding of No Significant Impact (FONSI) supported by an Environmental Assessment (EA) under NEPA; and
- B.** Permits for scientific purposes, such as scientific research and surveys (what we call in this chapter “recovery permits”) that are noncontroversial and are eligible for programmatic categorical exclusion under NEPA (see [516 DM 8.5C\(1\)](#)).

1.4 What is the scope of this chapter? This chapter:

- A.** Applies only to permits under sections 10(a)(1)(A) and (B) of the ESA for interstate commerce, scientific purposes, enhancement of propagation or survival, and incidental take of native listed species.
- B.** Does not cover permits for the import and export of native species under the ESA. The Service’s International Affairs Program, Division of Management Authority, retains full authority for all import and export

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permits under the ESA.

1.5 What are the authorities for this chapter?

A. ESA, as amended ([16 U.S.C. 1531, et seq.](#)).

B. General Provisions and Permit Procedures for Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants, and Endangered and Threatened Wildlife and Plants ([50 CFR Parts 10, 13, and 17](#)).

1.6 Who is responsible for the native species permit program under ESA?

A. The Director is responsible for ensuring there is adequate policy in place to achieve the goals of the ES program.

B. The Assistant Director – Ecological Services through the **Chief, Division of Environmental Review** or **Chief, Division of Restoration and Recovery** is responsible for:

(1) Overseeing Servicewide conduct and administration of the ESA permit program for native endangered, threatened, and candidate species, and

(2) Preparing this and other policy to ensure the permit program is managed efficiently and effectively.

C. Regional Directors:

(1) May issue, renew, amend, transfer, deny, suspend, or revoke all ESA permits for native species in accordance with [50 CFR Parts 13 and 17](#).

(2) May delegate all or portions of this ESA permit authority to the Assistant Regional Director – Ecological Services.

(3) At their discretion, may delegate, amend, or terminate all or portions of the ESA permit signature authority to ES Field Office Supervisors for permit issuance, renewals, amendments, or transfers for the permit types described [in sections 1.3A and B](#) (provided that the Field Office adequately fulfills the roles and responsibilities in our *Procedures* document).

(4) May **not** delegate signature authority below the Assistant Regional Director – Ecological Services for:

(a) Incidental take permits associated with HCPs, and enhancement of survival permits associated with SHAs and CCAAs that:

(i) Are not low-effect or eligible for categorical exclusion under NEPA,

(ii) Do not have a FONSI supported by an EA under NEPA, or

(iii) Are the subject of an Environmental Impact Statement and a Record of Decision under NEPA;

(b) All interstate commerce permits, and recovery permits that are not eligible for categorical exclusion under NEPA or are considered controversial (including, but not limited to, any action involving a permit denial, suspension, or revocation and all objections, requests for reconsideration, and appeals of such actions); and

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(c) Any action involving a denial, suspension, or revocation (and all objections, requests for reconsideration, and appeals of such actions), regardless of whether the Regional Office or the Field Office signed the permit.

(5) Take final administrative actions on all ESA permit denials, suspensions, or revocations (and all objections, requests for reconsideration, and appeals of such actions for native species) submitted in accordance with [50 CFR 13](#).

D. Assistant Regional Directors – Ecological Services may further delegate their signature authority to issue, renew, amend, transfer, deny, suspend, or revoke permits, including recovery subpermits issued under the Regional Director's blanket permit, to the Regional Chief – Endangered Species as described above.

E. Regional Chiefs – Endangered Species may not further delegate their signature authority to issue, renew, amend, transfer, deny, suspend, or revoke permits.

F. ES Field Office Supervisors may not further delegate their signature authority to issue, renew, amend, transfer, deny, suspend, or revoke permits.

1.7 What happens if the Regional Director delegates permit signature authority to the ES Field Office Supervisor?

A. The Regional Director must provide written notification of the delegation to the following Service staff/offices:

(1) All Regional Directors;

(2) All Assistant Regional Directors – Ecological Services;

(3) The Assistant Directors for Ecological Services, Migratory Birds, and International Affairs, and the Chief – Office of Law Enforcement; and

(4) The Division of Policy and Directives Management's *Federal Register* Liaison.

B. They must also develop and implement Regionwide guidance to:

(1) Address the shift in roles, responsibilities, and expectations for internal coordination involving other Field and Regional Offices; and

(2) Ensure that the Region's application of regulations, policy, and guidance for these programs is consistent with national policy, the Service's other permit programs, and the [Procedures](#) document.

1.8 What is involved in issuing and administering native endangered and threatened species permits?

For all native endangered and threatened species permits, the Assistant Director – Ecological Services and Regional Directors (and, when they have the delegated authority, Assistant Regional Directors – Ecological Services, Regional Chiefs – Endangered Species, and ES Field Office Supervisors) must:

A. Provide advice to potential permit applicants on application requirements and permit issuance criteria.

B. Receive and process permit applications in accordance with [50 CFR 13 and 17](#). Ensure that we collect and deposit application processing fees as required in [261 FW 1](#) and [263 FW 2](#) (the Regional Office retains authority for this task).

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C. Publish in the *Federal Register* a notice of:

- (1) Receipt of each endangered and threatened wildlife species permit application for issuance, significant amendment, or renewal of a permit for incidental take associated with an HCP, and for enhancement of survival permits associated with SHAs and CCAAs, for public review and comment.
- (2) Receipt of each endangered wildlife species recovery and interstate commerce permit application (which may include requests for a significant permit amendment or permit renewal), for public review and comment.
- (3) Any emergency waivers of the public comment period for an endangered species recovery permit application within 10 days following the issuance of a permit.
- (4) All enhancement of survival permits issued that are associated with SHAs and CCAAs (publish at least annually).
- (5) All recovery permits issued (publish at least annually).

D. Ensure that the activities the permit covers are in compliance with applicable laws, including, but not limited to, those in Table 1-1.

Table 1-1: Ensure permit compliance with the following applicable laws	
<ul style="list-style-type: none">• Section 7 of the ESA• NEPA• Bald and Golden Eagle Protection Act• Migratory Bird Treaty Act	<ul style="list-style-type: none">• Convention on International Trade in Endangered Species• Marine Mammal Protection Act• Paperwork Reduction Act• Privacy Act• National Historic Preservation Act

E. Ensure that the administrative record clearly explains and documents the evaluation and decision on the permit application.

F. Only issue a permit after ensuring that:

- (1) The associated documents are statutorily complete and the applicant is eligible using the criteria in [50 CFR 13.21\(c\)](#), and
- (2) The permit meets the criteria found in section 10(d) of the ESA and in appropriate portions of [50 CFR 13 and 17](#).

G. For subpermits, ensure the Regional blanket permit reflects to whom the Regional Director has delegated the authority. The Assistant Regional Director – Ecological Services may further delegate the authority for recovery subpermits to the Regional Chief – Endangered Species, but the Regional Chief may not further delegate this authority. For recovery subpermits issued under the blanket permit, ensure that the permits:

- (1) Are issued only for activities that are noncontroversial, are eligible for categorical exclusion under NEPA, and are clearly identified in a Service document or a program directive as necessary for species recovery or to satisfy information needs for NEPA compliance on Service projects,
- (2) Include conditions so the holder may not designate individuals as additional subpermittees who are not in the subpermit, and

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(3) Are monitored to ensure the subpermittee complies with the terms and conditions of the subpermit.

H. Ensure all denials, suspensions, revocations, objections, reconsiderations, and appeals are processed in accordance with the procedures in [50 CFR 13](#). (The Regional Office retains authority for this task.)

I. Use the Service Permit Issuance and Tracking System (SPITS) to issue permits and to record information on permits, denials, suspensions, and revocations (and objections, requests for reconsideration, and appeals of such actions). (The Regional Office retains authority for this task.)

J. Ensure that the lead Regional or Field Office retains primary responsibility for assembling and maintaining administrative records for each permit, including surname pages.

K. Ensure that delegated permit authority is implemented in accordance with ESA handbooks or related guidance documents representing Service policy on HCPs, SHAs, CCAAs, and recovery permits.

1.9 Are there additional assurances that Regional Directors must make for certain types of permits?

Yes, permits related to certain activities require that Regional Directors and their staff make additional assurances.

A. For those permits related to research, they must ensure that research and methods authorized under recovery permits will result in valuable information for conservation of the affected species in the wild, or that the activity will enhance the propagation or survival of the affected species in:

(1) Its native ecosystem,

(2) Captivity when the ultimate effect is intended and likely to be enhancement of propagation or survival of the species in its native ecosystem, or

(3) Captivity when enhancement of propagation or survival of the species in its native ecosystem is not currently feasible, but the research adheres to our policy on captive propagation ([65 FR 56916, September 20, 2000](#)).

B. For threatened species where the permit is related to public display or is part of an educational program, they must ensure that the permit holder will present animals and plants to the general public in a way that will contribute to public appreciation and understanding of the conservation needs of the affected threatened species and its role in the ecosystem.

C. For recovery permits and permits associated with an HCP, SHA, or CCAA, they must ensure that the pertinent information is recorded in the Environmental Conservation Online System (ECOS) national database, when the module becomes available.

D. For a 10(a)(1)(A) or (B) permit with “no surprises” assurances associated with a HCP, SHA, or a CCAA, if staff identify a finding of unforeseen circumstances, they must alert the Regional Director (through the Assistant Regional Director – Ecological Services) as early as possible so the Regional Director can have at least 10 days to review it to ensure it’s allowable before the findings document is finalized.

/sgd/ Stephen Guertin
DEPUTY DIRECTOR

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