



**Procedures, Roles, and Responsibilities Associated  
with Native Endangered and Threatened Species  
Permits and Delegation of Permit Signature  
Authority**

**Ecological Services Program  
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## **Procedures, Roles, and Responsibilities Associated with Native Endangered and Threatened Species Permits and Delegation of Permit Signature Authority**

This document describes the required procedures and associated responsibilities for issuing and administering U.S. Fish and Wildlife Service (Service) 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.

Service Manual Chapter 730 FW 1 expands the authority for Regional Directors, at their discretion, to delegate all or a portion of native species ESA permit issuance, renewal, amendment, or transfer authority to Ecological Services (ES) Field Office Supervisor(s) for the following permit types:

- Incidental take permits associated with Habitat Conservation Plans (HCPs) or enhancement of survival permits associated with Safe Harbor Agreements (SHAs) and Candidate Conservation Agreements with Assurances (CCAAs) that: (a) are low-effect and eligible for a categorical exclusion under the National Environmental Policy Act (NEPA), or (b) have a Finding of No Significant Impact (FONSI) supported by an Environmental Assessment (EA) under NEPA; and
- Permits for scientific purposes, such as scientific research and surveys (what we call in this document "recovery permits") that are noncontroversial and are eligible for categorical exclusion under NEPA.

The following describes the duties, processes, and roles for issuing and administering these types of permits, and identifies the responsible Service office. The Regional or Field Office may perform certain responsibilities and tasks depending on how the Regional Director delegates the authority.

### **Ecological Services Field Office Roles and Responsibilities**

Following is a list of roles/responsibilities/duties associated with issuing and administering permits. If a Regional Director delegates permit signature authority to an ES Field Office Supervisor(s) for the permit types listed above, that Field Office Supervisor(s) becomes fully responsible for assuming these duties. The Regional Director has discretion about whether to delegate all or part of these duties to the ES Field Office Supervisor or retain them at the Regional Office. Each Region should develop procedural guidance specific to their situation.

#### **Review the Permit Application**

- Assist applicants in developing a complete permit application package.
- Review the permit application for completeness and adequacy. For applications to renew, reissue, or amend an existing valid permit, ask the permittee to provide any previously required reports that are missing in the permit file.
- Ensure that the applicant is eligible for a permit using the criteria in 50 CFR 13.21.
- Review the completed permit application and determine whether or not it meets these criteria:
  - (a) is associated with an HCP, SHA, or CCAA that is low-effect and eligible for a categorical exclusion under NEPA or has a FONSI supported by an EA under NEPA; or
  - (b) is considered a noncontroversial recovery permit.
- Identify any potential for setting precedents and ensure there is a solid rationale for the determination in the administrative record.
- Coordinate with other affected Regional and ES Field Offices on review of permit applications and draft permits, particularly where the requested species or activities cross Regional boundaries.
- After determining that an application for an HCP, SHA, or CCAA-related permit is complete and is likely to be the subject of a low-effect categorical exclusion or FONSI action, or is a noncontroversial recovery permit that is eligible for programmatic categorical exclusion under NEPA per 516 DM 8.5C(1), send an email or memorandum from the ES Field Office Supervisor to the Regional Office Endangered Species Chief certifying that the permit application is complete and explaining that the Field Office intends to process the application and issue the permit decision. For permit applications that do not meet the criteria, the ES Field Office Supervisor should send an email or memorandum to the Regional Office Endangered Species Chief that explains that although the permit application is complete, the Regional Office must make the permit determination and issue the permit.

- Because the public will continue to submit ESA permit applications to the Regional Office, if an application is sent to the Field Office, the Field Office must promptly notify the Regional Office. The Field Office must keep a copy of the application fee submittal for the permit record, and send the original permit application fee to the Regional Office for processing within 1 week of receiving the application. The Regional Office processes any permit application fees and enters the application into the Service Permit Issuance and Tracking System (SPITS) national database. (Field Offices have read-only access to SPITS.)
- Enter permit application information into the Environmental Conservation Online System (ECOS) database, when the module becomes available.

Prepare and Publish the Public Comment Federal Register Notice

- Prepare a Federal Register Notice of Availability (FR NOA) for complete permit applications for new permits, significant permit amendments, and permit renewals in accordance with [Part 202](#) of the Service Manual. The only exception is that you do not need to prepare an FR NOA for recovery permit applications that address only threatened species. If you are a first-time notice writer/preparer, or you have not been involved with notices in the recent past, please contact the FR Liaison in the Division of Policy and Directives Management (PDM) in Headquarters as you begin to prepare a notice. Information sources for writing FR documents include:
  - PDM's Federal Register Web site (<http://www.fws.gov/pdm/regs.html>), which includes a fact sheet with detailed information about preparing FR notices.
  - Service Manual [in 202 FW 1 through 4](#) (<http://www.fws.gov/policy/manuals/part.cfm?series=200&seriestitle=ADMINISTRATION>)
  - 1998 Federal Register Document Drafting Handbook (<http://www.archives.gov/federal-register/write/handbook/>)
- Obtain the Regional Solicitor's surname on all FR NOAs, as appropriate. You do not need a Regional Solicitor surname for FR NOAs for low-effect HCPs and recovery permit applications addressing endangered species.
- Complete the Department of the Interior clearance process for FR NOAs in direct coordination with the Headquarters PDM Office.
  - Email the draft NOA before signature to the PDM FR Liaison, along with pertinent required accompanying documents for clearance. PDM will review the draft NOA before signature and SOL surname, and check accompanying documents for formatting.
  - Obtain ES Field Office Supervisor signature on the FR NOA.
  - Upload the FR NOA and the necessary accompanying documents into the Service's Document Tracking System (DTS). Route the DTS record to ABHC-PDM.
  - Send courtesy copies of the documents to the appropriate Regional Endangered Species Chief(s).
  - The PDM FR Liaison enters the notice into the Departmental Clearance Log and notifies the designated contact when the Department has cleared the FR NOA for publication.
  - After PDM notifies you that the FR NOA has been cleared at the appropriate level, PDM must check the contents of the package that will go to the OFR. Email the following to PDM's FR Liaison:
    - (a) a scanned PDF of one of the three NOA hard copies you will send to the OFR,
    - (b) the electronic MS Word file of the NOA you will send on a CD to OFR, and
    - (c) the cover letter to OFR.
  - When PDM approves the documents, submit the NOA package to the OFR in accordance with PDM instructions (consult the FR Liaison, and see <http://www.fws.gov/pdm/regs.html>).
- PDM will notify the designated contact by email about the FR NOA filing and publication dates. The contact should notify other affected ES Field and Regional Office staff, as appropriate.
- On the date that the FR NOA goes "on file" for public inspection, check the OFR's Public Inspection Web site (<http://www.ofr.gov/inspection.aspx>) to ensure the notice is posted correctly.
- On the FR NOA's publication date, find the published notice on the OFR's main Web site (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>), and file a copy of the published notice in the permit application administrative record.
- If public comment is waived under 50 CFR 17.22 due to an emergency situation for endangered wildlife, prepare and submit the appropriate FR waiver notice for Departmental clearance and OFR publication within 10 days following issuance of the permit.
- Respond to public requests for copies of permit-related documents. The permit application file, permit documents, and the administrative record are protected under the Privacy Act. Comply with the

requirements of the Privacy Act for the secure storage and release of information in the permit files, including encrypting emails with permit information. Releasable documents include:

- General statistical permit information (such as how many permits were issued during a given time period),
- The published FR NOA, and
- The permit application materials, if you remove all of the personally identifiable information.
- Review public comments and prepare responses. Determine the need for Regional Solicitor review of comment responses.

**Finalize The Permit Decision**

- Field Offices may request activation of a SPITS account with read-only access. New users must complete required SPITS training. The Field Office and Regional Office must coordinate to ensure accuracy of SPITS data.
- Ensure compliance with all applicable laws, including those in Table 1-1 of 730 FW 1.
- Coordinate as needed with Regional Office staff to determine the appropriate NEPA compliance level and the need for Regional Office review of NEPA documents.
- Coordinate with the Regional Cultural Resources staff, if applicable, when there are circumstances related to complying with the National Historic Preservation Act.
- Request Regional Solicitor review of permit applications and any associated decision and legal documents (e.g., conservation easements, title reports, deed restrictions, etc.), if applicable, and revise as appropriate. The ES Field Office must request Solicitor review via memorandum through the Regional Office Endangered Species Chief and the Regional Director to the Regional Solicitor.
- Coordinate with the Regional Office to develop and finalize permit terms and conditions, as appropriate. When permit applications affect multiple offices, coordinate the review with all affected Regional and Field Offices and, if applicable, other Regions. Ensure requested activities are addressed. Attach the terms and conditions document to the permit using the “Further conditions of authorization are contained in the attached SPECIAL TERMS AND CONDITIONS” format.
- Complete internal consultation under section 7 of the ESA on the proposed permit action.
- Ensure that all permits issued meet the issuance criteria in the table below.

<b>Table E-1: Ensure all permits issued meet the issuance criteria in...</b>	
Section 10(d) of the ESA	50 CFR 17.72 (threatened plants)
50 CFR 13 (general Service permit regulations)	50 CFR 21.22 (migratory birds, banding and marking)
50 CFR 17.22 (endangered wildlife)	50 CFR 21.23 (migratory birds, scientific collecting)
50 CFR 17.32 (threatened wildlife)	50 CFR 21.27 (migratory birds, special purpose)
50 CFR 17.52 (similarity of appearance)	50 CFR 22 (bald and golden eagles).
50 CFR 17.62 (endangered plants)	

- Prepare a decision document for all decisions related to issuance, renewal, transfer, amendment, denial, suspension, and revocation. Identify any potential for setting precedents and ensure there is a solid rationale for the determination in the administrative record.
  - If the decision is to issue, renew, amend, or transfer a permit, then send a copy of the final permit decision document and supporting information to the Regional Office for processing in SPITS. Make sure the ES Field Office Supervisor signs the SPITS-generated copy of the final permit.
  - If the decision is to deny, suspend, or revoke a permit, or have the Regional Office issue a Regional Director’s recovery subpermit to the ES Field Office Supervisor for the requested activity, then send the draft permit decision document and supporting information to the Regional Office for final processing and signature.
- Convert the signed original hard copy of the final permit and all attachments (e.g., permit terms and conditions, “General Conditions” for wildlife and/or plants, Agreement, NEPA, and other related decision documents) into electronic files. Send electronic copies to the appropriate parties (e.g., other Service offices, such as Field/Regional Offices/Law Enforcement, Federal or State agency offices, etc.). Provide hard copies as requested.

- Copy and mail the signed original hard copy of the final permit and all attachments to the permittee, including copies of the appropriate regulations in 50 CFR. Provide copies of decision documents, if requested.
- Send an electronic copy of the permit decision documents to the Regional Office, Regional Endangered Species Chief.
- Enter the final permit information into the ECOS national database, when the module becomes available. Upload electronic copies of the signed final permit and all attachments into ECOS. For HCPs, SHAs, or CCAAs, upload copies of the Agreement, NEPA, and other related decision documents into ECOS.
- Organize the administrative record for the permit decision. File a copy of the signed final permit in the administrative record. Maintain the administrative record in accordance with requirements. Staff must receive training to ensure the adequacy of administrative records.
- Use SPITS to track due dates and receipt dates of reports required under the permit, as applicable.
  - Request overdue reports from the permittee.
  - Notify the Regional Office of the date a report is received, scan the report into electronic format, and send a copy to the Regional Office for uploading into SPITS.
  - Review reports and file them in the administrative record for the permit.
- Document any cases of noncompliance. Notify the Regional Office and take appropriate action.
- After the permit expires, archive the administrative record.

### **Regional Office Ecological Services Roles and Responsibilities**

Where the Regional Director has not delegated ESA permit signature authority to ES Field Office Supervisors, the Regional Office is responsible for administering the ESA permit program using the same procedures as described above for ES Field Offices. The Regional Office issues, renews, and amends the following permit types:

- Incidental take permits associated with HCPs,
- Enhancement of survival permits associated with SHAs and with CCAAs,
- Recovery permits,
- Interstate commerce permits, and
- All subpermits to other Service employees under the Regional Director's blanket permit.

In addition to the procedures above, the Regional Office is responsible for:

- Taking final administrative action on all permit denials, suspensions, or revocations (and all objections, requests for reconsideration, and appeals of such actions) regardless of whether the Regional or Field Office signed the permit.
- Performing periodic audits of ESA permits issued by ES Field Offices and the corresponding SPITS records and ECOS data to ensure consistency with Regional and national policy and guidance.
- Collecting permit applications from the public and from ES Field Offices in a timely manner (ES Field Offices retain a copy for their records).
- Promptly processing any permit application fees and entering the application information into SPITS.
- Entering the permit information into the SPITS national database, printing a SPITS-generated copy of the final permit, and either signing the permit at the Regional Office or sending it to the ES Field Office Supervisor for signature.
- Coordinating with all Service permit programs and ensuring ESA permits are issued and printed via SPITS. Facsimiles of permits printed or reproduced outside of SPITS are not valid Service permits.
- Uploading the electronic copies of the signed final permit and all attachments into SPITS.
- Regional Office ES SPITS Coordinators must:
  - Ensure the Region's SPITS data is complete and accurate, including the list of Issuing Officers who have been delegated permit signature authority.
  - Coordinate with the ES Headquarters Office on national permit/SPITS policy, guidance, and support, and send relevant information from Headquarters to ES Field Offices.
  - Ensure Regional staff apply for appropriate levels of SPITS access and maintain SPITS access only for current staff in coordination with the ES Headquarters Office.

- If an ES Field Office requests read-only access to SPITS, coordinate with the ES Headquarters Office SPITS Administrator to request they set up the SPITS access. Notify the Regional and Field Office when Field Office access is activated.
- Ensure that new SPITS users complete training when their account is activated.
- Developing FR notices that summarize permits the Region issues using data pulled from SPITS, at least annually. Send the notice to the OFR as described above.

#### **Headquarters Ecological Services Office Roles and Responsibilities**

- HQ SPITS Administrator must:
  - Update and maintain the SPITS database, including the Issuing Officer look-up table, based on information the Regional Offices provide.
  - If an ES Field Office requests read-only access to SPITS, the Administrator sets up SPITS access and notifies the Regional and Field Office when access is activated.
  - Provide SPITS training for new users, as requested.
- The HQ Ecological Services Office must develop and maintain ESA handbooks representing national policy and guidance on HCPs, SHAs, CCAAs, and Recovery and Interstate Commerce Permits.