



Permits for Native Species

Under the Endangered Species Act

Section 10 of the Endangered Species Act (Act) is designed to regulate a wide range of activities affecting plants and animals designated as endangered or threatened, and the habitats upon which they depend. With some exceptions, the Act prohibits activities affecting these protected species unless authorized by a permit from the U.S. Fish and Wildlife Service (Service) or the National Marine Fisheries Service (NMFS).

What activities are prohibited?

The Act 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 equally 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 have been exempted from these prohibitions; others are allowed under special circumstances provided those conducting the activities have acquired and adhere to the provisions of permits issued by the Service or NMFS.

What kinds of activities can permits authorize?

The activities authorized by permits differ depending on whether the species affected



An incidental take permit allows for development and the incidental take of listed species that may result from the otherwise lawful activities. To offset any such take, the developer agrees to follow conservation measures set forth in a habitat conservation plan. USFWS photo

is listed as endangered or threatened. An “*endangered species*” is any animal or plant that is in danger of extinction. A “*threatened species*” is any animal or plant that is likely to become endangered in the near future.

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

For threatened species, permits also may be issued for zoological, horticultural, or botanical exhibition; educational use; and special purposes consistent with the Act.

A person registered with the Service may obtain a *captive-bred wildlife permit* to buy and sell within the United States live, non-native endangered or threatened

animals which were captive born in the United States for enhancement of species propagation, provided the other person 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 Act, which is aimed at conservation of the species and recovery of wild populations.

What are the different types of permits?

The Service’s 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 species. A habitat conservation plan or “HCP” must accompany an application for an incidental take permit. The habitat conservation plan associated with the permit is to ensure there is adequate minimizing and mitigating of the effects of the authorized incidental take.

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.

What situations are exempt from the prohibitions of the Act?

Pre-Act

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 listing, whichever is later, are exempt from prohibitions of the Act, 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-Act status must accompany the shipment of listed species. A pre-Act exemption does not apply to wildlife, including parts and products, offered for sale. Any endangered or threatened specimens born in captivity from pre-Act parents are fully protected and are not considered pre-Act.



Conducting scientific research involving endangered or threatened species (such as monitoring sea turtle behavior through tagging, above) requires an endangered species or threatened species recovery permit. USFWS photo

Antiques

Antiques, including scrimshaw, can 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

If a species is listed as threatened or as an experimental population, special rules designated to cover unique situations may allow otherwise prohibited activities. Some foreign species covered by special rules include several primates, African elephant, Nile crocodile, and leopard. Some native species covered by special rules include American alligator, Utah prairie dog, Louisiana black bear, desert tortoise, and greenback cutthroat trout.

Intrastate Commerce

Commercial activities involving legally acquired endangered or threatened species that take place entirely within one

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

State by residents are not prohibited by the Act. 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 a permit has been obtained from the Service.

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

Hybrids

Hybrids are offspring of animals or plants where each parent is from a different species/subspecies and where at

least one parent is listed under the Act. Hybrid offspring of animals bred or propagated in captivity are not protected by the Act. It is recommended that breeding records be maintained to show parentage and hybrid status. Other laws such as the Migratory Bird Treaty Act (MBTA) and CITES consider hybrids protected.

Raptors

Prohibitions under the Act do not apply to any endangered or threatened raptors (except the bald eagle) legally held in captivity since November 10, 1978, or to any progeny provided they are possessed and banded under the terms of a MBTA permit and are identified in the earliest annual report required by permit. The bald eagle is also protected by 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 Service's 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 for permits allowing the use of live specimens of listed species for conservation education.

The National Marine Fisheries Service has jurisdiction over certain listed aquatic species, including marine species such as whales and seals. NMFS also has jurisdiction for sea turtles while in the water; the Service has jurisdiction for sea turtles while on land. Jurisdiction varies between NMFS and the Service for anadromous fish species such as salmon, trout, steelhead, and sturgeon. The Service has jurisdiction over certain listed marine species such as the West Indian manatee, southern sea otter, and all sea birds. To see if a species is under NMFS jurisdiction, go to their Office of Protected Resources web page at http://www.nmfs.noaa.gov/prot_res/prot_res.html.

What other laws apply?

Depending on the species involved, other requirements may need to be met under CITES, the MBTA, the BGEPA, the Wild Bird Conservation Act, the Marine Mammal Protection Act, and the Lacey Act.

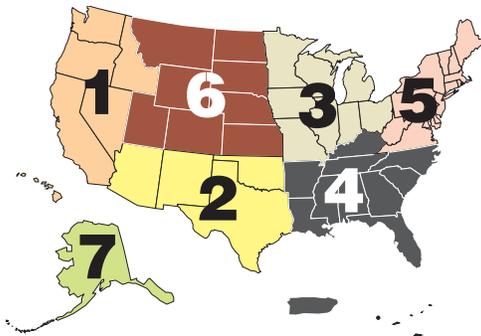
Partnerships with private landowners via Safe Harbor Agreements and Candidate Conservation Agreements with Assurances under an enhancement of survival permit. USFWS photo



Where Do I Apply for a Permit?

Applications and instructions for native endangered and threatened species permits may be obtained from the Endangered Species programs in our regional offices. An application processing fee of \$25 is required, and applicants should allow at least 90 days for processing the application.

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



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

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

Web: <http://pacific.fws.gov/ecoservices/>
Phone: 503/231-2063
email: permitsR1ES@fws.gov
Fax: 503/231-6243

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

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

Web: <http://ifw2es.fws.gov/endangeredspecies>
Phone: 505/248-6649
email: permitsR2ES@fws.gov
Fax: 505/248-6788

For information on Endangered Species Act permits issued by the National Marine Fisheries Service, visit their permit web page at http://www.nmfs.noaa.gov/prot_res/overview/permits.html.

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

U.S. Fish and Wildlife Service
Endangered Species Permit Office
B.H. Whipple Federal Building
One Federal Drive
Fort Snelling, Minnesota 55111-4056

Web: <http://midwest.fws.gov/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, PR, SC, TN, U.S. Virgin Islands

U.S. Fish and Wildlife Service
Endangered Species Permit Office
1875 Century Blvd., Suite 200
Atlanta, Georgia 30345

Web: <http://southeast.fws.gov/es/>
Phone: 404/679-4176
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, MA 01035-9589

Web: <http://northeast.fws.gov/ecologicalservices/>
Phone: 413/253-8628
email: permitsR5ES@fws.gov
Fax: 413/253-8482

For information on foreign endangered and threatened species permits, issued by the Division of Management Authority, visit their web site at <http://international.fws.gov>, or contact them at the address below.

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

U.S. Fish and Wildlife Service
Endangered Species Permit Office
Denver Federal Center
P.O. Box 25486
Denver, Colorado 80225-0489

Web: <http://mountain-prairie.fws.gov/endspp/>
Phone: 303/236-7400
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

Web: <http://alaska.fws.gov/es/te.cfm>
Phone: 907/786-3868
email: permitsR7ES@fws.gov
Fax: 907/786-3350

For all import/export permits or for foreign endangered and threatened species permits:

U.S. Fish and Wildlife Service,
Division of Management Authority,
4401 N. Fairfax Drive, Room 700,
Arlington, VA 22203

Web: <http://international.fws.gov/permmits/permits.html>
Phone: 703/358-2104 or 800/358-2104
Fax: 703/358-2281

**U.S. Fish & Wildlife Service
Endangered Species Program**

<http://endangered.fws.gov>

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