

ESA Overview Module 6 – Section 10, Exceptions

Exceptions – Conclusion (slide 30-35)

Welcome back! I hope you found the exercises challenging and helpful. You've just completed your introduction to Section 10 of the Endangered Species Act.

Our objective for this module ...

was to recognize when an action might be excepted, under the requirements of Section 10 of the Endangered Species Act. We discussed its purpose and intent. We identified different types of permits. And we reviewed experimental populations.

Recall that Section 10 authorizes activities that would otherwise be prohibited under Section 9. Section 10(a)(1)(A) permits cover research and recovery, interstate commerce, and enhancement of propagation or survival through safe harbor agreements and candidate conservation agreements, with assurances. Such permits may provide added “peace of mind” to non-Federal entities.

Section 10(a)(1)(B) permits, or incidental take permits, allow non-Federal entities to take listed species during otherwise lawful activities. They're issued with completed or approved habitat conservation plans. Such plans may provide added protection for listed plants that don't ordinarily receive the protection of the Endangered Species Act on non-Federal lands.

Experimental populations are created under a special 10(j) rule that allow listed species to be reestablished in former range to enhance recovery.

An **essential** experimental population is treated as threatened. **Non-essential** populations are important for recovery, but regulatory restrictions are relaxed and critical habitat cannot be designated. A **non-essential experimental** population is treated as threatened if the population occurs within a national wildlife refuge or national park. A non-essential experimental population outside of a refuge or park is treated as a proposed species.

Remember: exceptions allow a variety of actions to occur – including development – even when listed species are present. Working with landowners and local communities to conserve species – even if the protection is only temporary – may provide valuable data on habitat use, species needs and behavior, and life history.

Experimental populations – including non-essential populations – can further recovery efforts. They promote the release of species that might otherwise not occur because of public concern or opposition.

Issuing permits for take during development, and relaxing regulations for non-essential populations, may seem like a contradiction. But we use these different types of permits and experimental populations to increase our knowledge ... and to increase populations. Recovery remains the ultimate goal.

Our next module focuses on penalties and enforcement of the Endangered Species Act under Section 11. Go to the next module to find out what happens when the ESA is disregarded.