

## ESA Overview Module 6 – Section 10, Exceptions

### Exceptions – Experimental Populations (slides 24 – 29)

#### Experimental Populations

From permits, we're going to talk about a second way that listed species can be helped in their recovery – the use of experimental populations.

Section 10(j) of the Endangered Species Act describes an experimental population as “any population authorized by the Secretary for release ... but only when ... the population is wholly separate geographically from non-experimental populations of the same species.”

Section 10(j)(2)(A) allows the release and transportation of any population of threatened or endangered species, including eggs, propagules or individuals, outside of its current range if such release will further the conservation of the species.

A special rule authorizes reestablishment of a species in its former range. It's important to understand the final rule authorizing such a population because experimental populations carry unique management responsibilities.

Experimental populations are favored because of the flexibility they give in how they are managed. For example, Arizona's Cabeza Prieta National Wildlife Refuge is occupied by the endangered Sonoran pronghorn. Its habitat also occurs in adjacent Organ Pipe Cactus National Monument, the Goldwater Air Force Range, BLM lands and south into Mexico. The Sonoran pronghorn population in the United States was nearly wiped out in 2002 during severe drought. The refuge captive-breeds Sonoran pronghorn and releases surplus bucks and does to supplement the existing wild population.

An additional captive breeding facility was constructed in unoccupied, historic Sonoran pronghorn range. The progeny will establish new herds. Under a 10(j) rule, additional pronghorn populations were designated “experimental, non-essential.” Spreading out a population and creating additional herds over a larger area provides insurance against catastrophic events like drought and disease that could wipe out or deplete a single population.

Each population and member of an essential, experimental population is treated as a threatened species ... even if the species is listed as endangered. Consultations are carried out as normal; “take” for certain activities may be authorized under a special rule.

For a non-essential population, there are two scenarios: if the species occurs in a national wildlife refuge or national park, these animals and the population is treated as threatened and consultations occur normally.

Outside of these Federal units, the population and animals are treated as proposed species. As you learned in the Section 7 module of this course, proposed species aren't protected under the Endangered Species Act and take isn't prohibited. However, the Act requires that Federal agencies conference with the Services on any action which is likely to jeopardize proposed species. Refer to Module 4 for procedures on how to conference under Section 7.

So, Federal agencies aren't required to consult with the Services under Section 7 (a)(2) for non-essential, experimental populations not found within a refuge or park.

Let's go back to our Sonoran pronghorn example: unoccupied Sonoran pronghorn habitat is quite extensive. Acreage is managed by a number of Federal and non-Federal entities, including the Fish and Wildlife Service, Bureau of Land Management, Department of Defense, the State of Arizona, and private landowners.

The additional captive breeding facility houses breeding animals from the Cabeza Prieta. Even though the Cabeza Prieta population is endangered, it was more beneficial to the species and the landowners to designate the new population as non-essential, providing those landowners with certainty they won't encounter regulatory restrictions. While the Sonoran pronghorn remains critically endangered, the experimental, non-essential designation gives it an improved chance at recovery.

Experimental populations must be wholly separate geographically from non-experimental populations of the same species. Release must be outside of the current range of the species and must further the conservation of the species.

A determination must be made whether such a population is essential to the existence of the species. And the population must be identified in the "Federal Register."

Again, the benefits of experimental populations: they inject regulatory flexibility and promote a species' recovery, when a traditional release might impose additional regulatory burden and encounter opposition. They benefit land management agencies because in most cases, Section 7 consultations aren't required for their activities.

Our exercise begins on the next page. You'll be provided with a series of questions to test how well you've mastered the content in Section 10 of the Endangered Species Act on exceptions.

Once you've finished with these questions, you'll be prompted to go to a series of scenarios to further probe your new knowledge. A review and conclusion portion then will end this module.

Good luck!