

## ESA Overview Module 6 – Section 10, Exceptions

### Exception - Introduction (slides 1 - 5)

Hello, I'm Nikki Moore, the Bureau of Land Management's deputy director for its National Landscape Conservation System. I'm joining you as an instructor for this module on Section 10 of the Endangered Species Act, which covers various exceptions within the Act.

By background, I'm a fisheries biologist. I've been with BLM for 15 years. Most of my career has been in Oregon, working on fish species listed under the Endangered Species Act. In 2010, I came to Washington, D.C., as BLM's endangered species program leader.

So let's begin. Section 10 covers a lot of ground, both Federal and non-Federal. It allows the Fish and Wildlife Service and the National Marine Fisheries Service to issue take permits for listed species to avoid violations of Section 9. It engages non-Federal groups in the conservation of listed and candidate species, while still allowing for development. It provides recovery opportunities through experimental populations.

Some Section 10 topics are beyond the scope of this course, such as hardship exemptions, Alaska natives, antique articles, and non-commercial transshipments. Make note of these subsections and, if you wish, read them at your convenience.

Our primary objective is to recognize when actions are eligible for exemption under Section 10 requirements of the Endangered Species Act. We'll achieve this objective with several scenarios and some questions at the end of this module.

We'll discuss the purpose and intent of Section 10 and examine different types of permits – where the exceptions to the Act are provided – and when and by whom such exceptions are used. We'll explore the benefits of different kinds of permits. We'll look at how a non-Federal landowner can obtain an incidental take permit. We'll conclude with a discussion of experimental populations. Then, some review questions.

### **Purpose of Section 10 of the ESA**

Under certain conditions, Section 10 provides allowances or exceptions to Section 9's take provisions. It provides a way to authorize activities that would otherwise be prohibited under Section 9.

It allows some level of **incidental** take, if that taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity. The exception is plants: there's no incidental take provision in the Act for listed plants.

This section does allow some level of incidental take of species for scientific research.

There are two major types of permits -- 10(a)(1)(A) and 10(a)(1)(B). Get to know these numbers, as you'll hear them a lot.