

**Information for Clients/Landowners**  
NRCS policy on Endangered/Threatened Species and Species of Concern  
when NRCS is required to terminate assistance

**NRCS Policy Overview** (*General Manual, Title 190, Subpart B, Part 410.22*)

When NRCS concludes that a proposed action "may affect" a federally listed species; species proposed for federal listing; federally designated or proposed critical habitat; or State and Tribal designated species of concern; NRCS will recommend alternative conservation treatments that will avoid adverse effects and, to the extent practicable, provide a plan with long-term benefits to the species. Should the client choose to implement the action that would result in an adverse effect to the species, NRCS is required by policy to terminate assistance on that action.

When assistance is terminated, NRCS is required to inform the client of NRCS policy (as stated above) and of their responsibilities and liabilities under the Endangered Species Act (ESA) and any applicable State laws and regulations:

*NRCS will check the box for the appropriate notification to the client:*

Federally Listed Plants Species: no additional required notifications; under the Endangered Species Act (ESA), plants are protected only if on federal lands, or if federal funds or permits are involved in the action.

Federally Listed Fish/Wildlife Species and Designated Critical Habitat: Section 9 of the Endangered Species Act (ESA) prohibits "taking" any species that is listed by the U.S Fish and Wildlife Service as an endangered or threatened species; unless the person has first obtained a permit for the taking such as an "incidental takings" permit or there is a statutory or regulatory exemption that allows the taking. The term "taking" is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting. Take has also been interpreted to include impairing habitat that may indirectly cause death or injury by disrupting feeding, breeding, or other essential behavior patterns. An unlawful taking can result in criminal and civil fines and imprisonment. Permits are granted by the U.S. Fish and Wildlife Service. *16 U.S.C. ' 1531 et seq.*

*Note:* NRCS may proceed with technical assistance if the client/landowner obtains a permit to lawfully implement actions under ESA Section 10. A copy of the permit must be provided to NRCS and included in the NRCS customer case file. When it is anticipated that technical assistance will result in NRCS action (i.e. financial assistance), NRCS may proceed if the requirements in GM\_190\_B\_410.22\_paragraph E(5)(ii) are met. These requirements must be met *prior to* NRCS making a financial obligation. Contact the NRCS State Environmental Liaison for assistance.

Federally Proposed Species and Proposed Critical Habitat: no additional required notifications.

State Designated Wildlife Species of Concern: Under New Mexico's Wildlife Conservation Act (WCA) and its accompanying regulations, it is unlawful to take (harass, hunt, capture, kill or attempt to do so), possess, transport, export, process, sell, offer for sale, or ship any state (or federally) listed threatened or endangered species, except as authorized by permit or exemption. Violations of the law or regulations may include fines and imprisonment. Special permits are available under limited circumstances. Contact the NM Department of Game and Fish. *N.M. STAT. ANN. §§ 17-2-37 et seq. and N.M. ADMIN. CODE tit. 19 §§ 33.1.2 et seq.*

*Note:* NRCS may proceed with assistance if the client/landowner obtains a permit to lawfully implement actions under New Mexico's Wildlife Conservation Act. A copy of the permit must be provided to NRCS and included in the NRCS customer case file.

State/Tribal Designated Plant Species of Concern: The New Mexico's Endangered Plants Act (EPA), prohibits against taking, possession, transportation, exportation from this state, processing, sale or offer for sale or shipment within this state of state-listed plants or plant materials; except as authorized by permit. Authorized penalties include fines and imprisonment. Permits may be available. Contact the Department of Natural Resources. *N.M. STAT. ANN. §§ 75-6-1 et seq.*