

Scientific purposes include activities such as, but not limited to, presence/absence surveys, monitoring, and mark/recapture studies that involve Federally-listed species. Enhancement permits are issued for activities that directly aid in the recovery of endangered and threatened species. The current regulations at 50 CFR 17.22(a) and 17.32(a) refer to some of the activities that can be permitted under section 10(a)(1)(A) of the Act. The principal purpose of this proposed rule is to more explicitly describe and accommodate the different types of enhancement activities can be permitted under section 10(a)(1)(A) of the Act.

Permits to enhance the propagation or survival of listed species have most commonly been issued in connection with captive breeding efforts and research activities. The Service has recognized, however, that such permits can be used in other contexts as well. For example, in 1999, the Service revised its regulations to recognize two special categories of permits to enhance the survival of listed species. One category, called "permits for the enhancement of survival through Safe Harbor Agreements," is detailed at §§ 17.22(c) and 17.32(c). The other category, called "permits for the enhancement of survival through Candidate Conservation Agreements with Assurances," is detailed at §§ 17.22(d) and 17.32(d).

Both of the special categories of enhancement of survival permits authorize take that is incidental to beneficial management activities. The Service could have authorized such take under section 10(a)(1)(B), which authorizes permits for take incidental to any otherwise lawful activity. However, we concluded that it was more appropriate to utilize the authority of section 10(a)(1)(A) for both Safe Harbor Agreements and Candidate Conservation Agreements with Assurances because the purpose of such agreements is to enhance the survival of listed species. In addition, some of the requirements applicable to Habitat Conservation Plans and associated permits under section 10(a)(1)(B), such as mitigation, are ill-suited to the context of activities carried out for the purpose of benefitting listed and unlisted species.

As a result of the 1999 revisions, the regulations now recognize three types of enhancement of survival permits: (1) The generic category of enhancement of propagation or survival permits (§§ 17.22 and 17.32(a)), and the specific categories of permits connected with (2) Safe Harbor Agreements (§§ 17.22 and 17.32(c)) and (3) Candidate

Conservation Agreements with Assurances (§§ 17.22 and 17.32(d)). As discussed above, the generic category has historically been used principally to authorize otherwise prohibited activities in connection with captive breeding or similar activities. However, the Service recognizes that there are many other types of activities that can appropriately be authorized under the first category.

An example of such activities would be habitat management activities not associated with mitigation, such as management of parks, reserves or other conservation areas for the benefit of listed species. For example, a state natural reserve may use prescribed burning on a regular basis to maintain the habitat of a listed species such as the Karner blue butterfly. Regular prescribed burning is a beneficial management practice necessary simply for the long-term well-being of this (and many other) species, yet burning has the potential to take at least some individuals of the species, particularly in the sedentary and relatively cryptic egg, larval, or pupal life stages. The purpose of the activity is the maintenance of the species' required habitat in order to enhance the survival of the Karner blue butterfly. To authorize such activities through a Habitat Conservation Plan permit under section 10(a)(1)(B) would be inappropriate to require mitigation for impacts due to habitat management activities that enhance the propagation or survival of listed species.

It may also be inappropriate in some cases to authorize these activities under a Safe Harbor Agreement. This may be particularly true if the landowner does not wish to return the habitat to its baseline condition, which would mean that the requirement of the Safe Harbor policy to quantify baseline responsibilities would result in an unnecessary expense. For these reasons, it would be most efficient and appropriate to authorize the anticipated take, incidental or not, under the generic authority to issue permits to enhance the propagation or survival of a listed species.

The generic authority to issue permits to enhance the propagation or survival of listed species can authorize take that is intentional (as is the case with respect to removing animals from the wild in order to start a captive breeding program) and incidental (as in the prescribed burning example above). For example, a conservation initiative to improve and expand habitat for a species at a site where it currently occurs in only small numbers in degraded habitat may unavoidably result in the incidental take of some

individuals of the species. In addition, if the species (e.g., prairie dogs) has the potential to continue to expand into areas not intended for enhancement under the conservation initiative and detrimentally affect crops or livestock, the conservation initiative may include provisions to relocate or remove individuals that disperse from the habitat enhanced under the conservation initiative into nearby agricultural areas. Provided that the conservation initiative clearly meets the requirement that its overall impact would be to enhance the survival of the affected species, a permit under Section 10(a)(1)(A) could authorize both the incidental and intentional take described here. These permits could not be used to authorize past take even if conservation measures could be used to compensate for that impact to the species.

There are a number of activities that can appropriately be authorized under the first category to encourage in-situ conservation of foreign-listed species. An example would be the import of the Morelet's crocodile (*Crocodylus moreletii*) skins from ranched populations in Mexico. As part of an overall conservation program for this species, Mexico allows a regulated removal of live specimens from the wild to establish parental stock for captive-breeding operations. A certain portion of the young produced are returned to the wild and the remainder are used to produce ranched skins that are traded internationally. This is part of a comprehensive conservation and management program for Morelet's crocodiles, which includes sustainable use of the species to encourage its conservation. As a result of this management program, Mexico has been able to register its captive-breeding facilities with the Convention on International Trade in Endangered Species for international commercial trade. However, this international trade is still excluded from the United States because of the species' endangered status under the Act. Allowing the regulated import of such skins or products could further encourage Mexico to enhance its conservation efforts for this species in the wild.

Federal agencies generally would continue to be able to obtain permits authorized through parts 17.22(a) and 17.32(a). Federal agencies may not obtain authorization for intentional take associated with a Safe Harbor Agreements and Candidate Conservation Agreements with Assurances because the Safe Harbor Agreements and Candidate Conservation Agreements with