

ESA Predictability Frequently Asked Questions

What is Working Lands for Wildlife? Working Lands for Wildlife (WLFW) is a partnership between the USDA Natural Resources Conservation Service (NRCS), the U.S. Fish and Wildlife Service (FWS), and private landowners. The voluntary effort:

- Provides farmers, ranchers and forest managers with Endangered Species Act (ESA) predictability options
- Helps restore populations of specific declining wildlife species
- Strengthens rural economies by protecting the productivity of working lands



Photo: USDA NRCS

Warm season grassland habitat in Litchfield County, CT

What species are included in WLFW? WLFW includes seven species: the bog turtle, golden-winged warbler, gopher tortoise, greater sage-grouse, lesser prairie-chicken, New England cottontail and southwestern willow flycatcher.

Are these species listed under the Endangered Species Act? The bog turtle, gopher tortoise (in its western range), and southwestern willow flycatcher are currently listed under the ESA. The gopher tortoise (in its eastern range), the greater sage-grouse, the lesser prairie chicken and the New England cottontail are not currently listed under the ESA, but are candidates for listing. The golden-winged warbler is neither listed nor a candidate for ESA listing, but it is a declining (or at-risk) species.

Why should I enroll in WLFW? The program provides technical and financial assistance for landowners who voluntarily choose to implement specific conservation practices for a particular species while continuing to manage the property as working lands. These conservation practices and associated conservation measures were developed in partnership by NRCS and FWS to benefit a species. WLFW also provides landowners with predictability about the use of the conservation practices and the ESA.

What does ESA predictability mean for landowners who sign up for WLFW? While the benefits of the conservation practices are clear, some practices such as prescribed burning could have negative “incidental” impacts to a particular species in the short term but significant benefits in the long term. Landowners who voluntarily sign up for WLFW receive the ESA predictability that they will be exempted from any incidental take of the species caused by the implementation of WLFW conservation practices.



Photo: USDA NRCS

Trees provide wildlife habitat and diversification in an ecosystem



Photo: USDA NRCS

This hillside covered with wildflowers provides open space for wildlife and adds diversity to the landscape

To provide predictability to landowners, FWS has completed biological opinions for the listed species and conservation reports/opinions for candidate species under section seven of the ESA. These documents assess impacts of the conservation practices and exempts any incidental take anticipated. If a landowner voluntarily continues to implement the conservation practices and associated conservation measures in the future, any incidental take anticipated from their implementation is exempted for up to 30 years.

What is incidental take? “Take” is defined as: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to attempt to engage in any such conduct; may include significant habitat modification or degradation if it kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering.

“Incidental take” is defined as: Take that results from, but is not the purpose of, carrying out an otherwise lawful activity.

How will ESA predictability address the candidate species in WLFW that are not listed now, but may be listed in the future? In the future, the FWS will determine whether to list the eastern range of the gopher tortoise, the greater sage-grouse, the lesser prairie chicken, and the New England cottontail as threatened or endangered under the ESA. If any of the species are listed, the FWS is committed to the conference report and opinions the agency has already completed for these species. The conference reports and opinions assess the impacts of the conservation practices on these candidate species. Biological opinions will exempt incidental take from the conservation practices for up to 30 years. As a result, the predictability for landowners is clear. They will know that the conservation practices will continue to benefit particular species for as long as they are implemented, and that any ESA issues associated with their implementation have already been addressed.

How does ESA predictability relate to the golden-winged warbler? The golden-winged warbler is neither listed nor a candidate species for listing under ESA. Should the species’ status change in the future, FWS intends to follow the same approach to ESA predictability for NRCS and landowners that is used for the other species in WLFW.

Where do landowners go to find out more about WLFW? Interested landowners should contact their local NRCS service center. An NRCS planner will determine if habitat on the property is suitable or can be improved or created to benefit the species. If so, the NRCS planner and the landowner will jointly develop a conservation plan that will recommend a combination of conservation practices and measures for the landowner to apply in order to create or improve the habitat for the species.

For more information about WLFW, visit <http://goo.gl/mE74va> or contact your local NRCS service center. Visit www.nrcs.usda.gov, to learn more about NRCS conservation programs.