

TITLE 36
FISH AND GAME

CHAPTER 24
SPECIES CONSERVATION

36-2401. DEFINITIONS. As used in this title, the following terms have the following meanings unless the context indicates otherwise:

(1) "Best scientific and commercial data available" means that where this chapter requires the use of the best scientific and commercial data available, the state, when evaluating comparable data, shall give greater weight to scientific or commercial data that is empirical or has been field tested or peer reviewed.

(2) "Candidate conservation agreements" means agreements, entered into with the fish and wildlife service or the national marine fisheries service (services), to implement mutually agreed upon conservation measures for a proposed or candidate species, or a species likely to become a candidate or proposed candidate in the near future, that include assurances from the services that additional conservation measures above and beyond those contained in the agreement will not be required, and that additional land, water or resource use restrictions will not be imposed upon them should the species become listed in the future.

(3) "Candidate species" means a species for which the secretary of interior or secretary of commerce has on file sufficient information on biological vulnerability and threats to support a proposal to list the species as an endangered species or a threatened species, but for which listing is precluded because of pending proposals to list species that are of a higher priority.

(4) "Endangered species" means those species listed as endangered pursuant to 16 U.S.C. section 1532(6).

(5) "Habitat conservation plan" means a plan submitted pursuant to a permit as provided in 16 U.S.C. section 1539, et seq.

(6) "Listed species" means threatened or endangered species.

(7) "Rare and declining species" means those species in need of additional management consideration due to natural rarity, downward trends in populations and habitats, or other factors, natural or human, that, without additional management, might be listed as threatened or endangered species under the ESA in the future.

(8) "Recovery plans" means federal plans or conservation programs, referenced in 16 U.S.C. section 1533(f), that set forth the actions designed to assure the continued survival and recovery of the species listed as "endangered" or "threatened" pursuant to the endangered species act.

(9) "Species conservation assessment" means a state analysis, based on the best scientific and commercial data available, about the status of a rare or declining species throughout its range which describes current and anticipated factors limiting the viability of the species as it relates to desired goals and objectives and identifies specific research needs relative to the species.

(10) "Species conservation strategy" means a state strategic plan for the management or conservation of a rare or declining species that describes the species needs in terms of habitat needs, population size, distribution and connectivity. The strategy shall include voluntary, landowner-based incentives and measures to achieve the management or conservation goals.

(11) "Species management plan" means a plan which provides for the consideration and management of a species upon its being delisted.

(12) "State conservation programs" means the programs developed, pursuant to 16 U.S.C. section 1535(c), for the conservation of endangered species and threatened species.

(13) "Threatened species" means those species listed as threatened pursuant to 16 U.S.C. section 1532(20).

[36-2401, added 2000, ch. 270, sec. 2, p. 772.]

36-2402. DELISTING ADVISORY TEAM -- DUTIES -- MEMBERSHIP. (1) The director of the department of fish and game for animal species and plant species, in cooperation and consultation with the governor's office of species conservation, may establish a delisting advisory team (DAT) of no more than nine (9) members for a threatened species or endangered species, to recommend an appropriate state species management plan for a listed species in response to a notification from the secretary of interior or secretary of commerce of intent to delist the species or sooner if deemed appropriate.

(2) The delisting advisory team members shall be broadly representative of the constituencies with an interest in the species and its management or conservation and in the economic or social impacts of management or conservation including, where appropriate, depending on the specific species, representatives of tribal governments, local governments, academic institutions, private individuals and organizations and commercial enterprises. The delisting advisory team members shall be selected based upon:

- (a) Their knowledge of the species;
- (b) Their knowledge and expertise in the potential conflicts between a species' habitat requirements or management and human activities;
- (c) Their knowledge and expertise in the interests that may be affected by species management or conservation; or
- (d) Other factors that may provide knowledge, information, or data that will further the intent of this act.

[36-2402, added 2000, ch. 270, sec. 2, p. 773; am. 2003, ch. 129, sec. 2, p. 380.]

36-2403. OPERATIONS OF DELISTING ADVISORY TEAM. (1) The delisting advisory team shall elect a team leader who shall chair all meetings of the team and otherwise administer its operations. The team shall meet as necessary, but shall meet no less than once every six (6) months.

(2) Members of the team not in the employ of public agencies may be compensated as provided in section [59-509](#)(b), Idaho Code, from the budget of the governor's office of species conservation. Their department or division shall compensate its members of the team who are state employees.

[36-2403, added 2000, ch. 270, sec. 2, p. 773.]

36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The delisting advisory team shall develop a state management plan for a species in response to all notification of intent to delist the species by the secretary of interior or secretary of commerce or sooner if deemed appropriate. The state management plan shall provide for the management and conservation of the species once it is delisted, and contain sufficient safeguards to

protect the health, safety, private property and economic well-being of the citizens of the state of Idaho.

(2) The department of fish and game shall provide the delisting advisory teams, the informational, technical or other needs and requirements of those teams in the performance of their duties.

(3) In developing state delisting management plans, the delisting advisory team shall consult with the appropriate state agencies, commissions and boards. The appropriate state agency for wildlife biological and species management issues, and for plant life biological and species management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board.

[36-2404, added 2000, ch. 270, sec. 2, p. 773; am. 2001, ch. 103, sec. 12, p. 264; am. 2003, ch. 129, sec. 3, p. 380; am. 2010, ch. 279, sec. 24, p. 746.]

36-2405. RECOMMENDATION ON MANAGEMENT PLANS. (1) The delisting advisory team shall submit the management plan to the director of the department of fish and game for animal or plant species, for review and recommendation.

(2) The director shall review the management plan and make a recommendation to the fish and game commission. The director may recommend either approval of the management plan, or recommend to return the management plan to the delisting advisory team for further study and review, with instructions, prior to return of the species strategy or management plan to the directors.

(3) If the fish and game commission finds that the management plan provides for the management and conservation of the species when it is delisted by the secretary of the interior or secretary of commerce and that reasonable safeguards are included in the management plan to protect the health, safety, private property and economic well-being of the citizens of the state of Idaho, the fish and game commission shall approve the management plan.

(4) If the fish and game commission makes the finding required in subsection (3) of this section, the fish and game commission shall forward the state management plan, to the governor's office of species conservation and the legislature. The management plan is subject to legislative approval, amendment or rejection by concurrent resolution at the regular session immediately following the commission's finding and approval of the plan.

(5) The governor's office of species conservation may petition the responsible public agencies to initiate rulemaking to facilitate the implementation of the approved management plan.

(6) Each management plan developed pursuant to this chapter shall include a public education component that shall be developed and implemented in cooperation with other appropriate bureaus of the department of fish and game.

(7) Nothing in this act shall be interpreted as granting the department of fish and game with new or additional authority.

[36-2405, added 2000, ch. 270, sec. 2, p. 774; am. 2003, ch. 129, sec. 4, p. 381.]