

# Plant and Animal Collecting on National Forests

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## **Law - [Endangered Species Act \(1973\)](#)**

Section 9 of the Endangered Species Act stipulates that “it is illegal to take, possess, sell, deliver, carry, transport, or ship, receive, carry, sell, import or export, remove and reduce to possession any such (Threatened, Endangered or Proposed) “species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law.”

## **Regulation - [36 CFR 261](#)**

261.6 Timber and other Forest Products – This includes all plants. The following is prohibited: “Cutting or otherwise damaging any timber, tree or other forest product, except as authorized by a special use authorization, timber sale contract or federal law or regulation.”

261.8 Fish and Wildlife – The following are prohibited to the extent that Federal or State law is violated: “(a) Hunting, trapping, fishing catching, molesting, killing or having in possession any kind of wild animal, bird or fish, or taking eggs of any such bird” and “(c) Possessing equipment which could be used for hunting, fishing or trapping” and (e) curtailing the free movement of any animal or plant life into or out of a cave, except as authorized to protect cave resource”.

261.9 Property – The following are prohibited: “(b) removing any natural feature or property of the United States” (FSM 2673.1 says the FS will “enforce vigorously’ for TEP animals and plants) and “(c) Damaging any plant that is classified as a threatened, endangered, sensitive, rare or unique species.”

## **Policy - [Forest Service Manual 2673](#)**

FSM 2673.1 - Federally Listed Threatened and Endangered Species - Taking, removal or collection of TEP fish wildlife and plant is prohibited. Such permits are granted by the Secretary of Interior.

Lacey Act amendments (1981) protect “from sale, receipt, purchase, transport or interstate commerce to plants listed on a Convention on International Trade in Endangered Species appendix or plants included in a State law that provides for conservation of plant species threatened with extinction.”

FSM 2673.2 - Sensitive Species - “The Forest Service shall cooperate with states in their enforcement of state laws that protect wildlife species from illegal taking. All permits for taking are under the authority of State law.” Lacey Act amendments also apply. “Collection of sensitive plants may be permitted only for scientific or educational purposes or for the conservation or propagation of the species and must be authorized by a Forest Service Permit

(36 CFR 261.1a).” Regarding the take of sensitive plant species: “violations shall not be more than \$500 or imprisonment for not more than six months or both” (36 CFR 261.1b)

## **Permits**

Threatened, Endangered and Proposed Species – The Fish and Wildlife Service (FWS) and National Marine Fisheries Service “have the authority to grant permits for activities prohibited by the Endangered Species Act. Permits are necessary to take, collect, possess, transport, and buy or sell” Threatened, Endangered and Proposed species per 50 CFR 17 (FSM 2673.3). “The FWS permitting office must coordinate with Forest Service on permits issued for species on national forest system lands. Direct applicants for permits to FWS.”

Sensitive Species - Regional Foresters are to “establish criteria for collection of sensitive plants and ensure collections are covered by permit” (FSM 2673.32).

WO 2400/2600 of March 3, 1999 outlines Terms and conditions for annually issued Plant Collection and Bio-prospecting permits using Permit forms 2400-1 or 2400-8.

Common Animals and Plants – Support state permitting requirements per 36 CFR 261 and follow direction as summarized for Special Forest Products and Special Uses below.

### **Special Forest Products** – [FSH 2409.18, Chapter 80, Section 87.05](#)

As “Special Forest Products”, plant materials are considered “Non-Convertible Products” which is defined as “Timber products that do not have a common standard conversion to cubic feet of solid wood.” This includes “ a.) Non-timber vegetative products, such as mosses, fungus and bryophytes, echinacea, roots, bulbs, berries, seeds, wildflowers, beargrass, salal, ferns, and transplants of shrubs; b.) Non-convertible timber products, such as Christmas trees, tree sap, boughs, bark, cones, burls, yew bark, and transplants of trees; and c.) The following convertible timber products: posts, poles, rails, shingle and shake bolts, firewood, fence stays, vegas, mine props, and bow staves.”

“Examples of products that are not included in this definition for special forest products are: sawtimber, pulpwood, non-sawlog material removed in log form, cull logs, small roundwood, house logs, telephone poles, derrick poles, minerals, animals, animal parts, insects, worms, rocks, water, and soil.” Therefore where animal collection permits are requested, Special Use permits are used.

### **Special Use Permits** – [36 CFR Sec. 251.50](#)

“All uses of National Forest System lands, improvements, and resources, except those provided for in the regulations governing the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222), are designated “special uses.” Before engaging in a special use, persons or entities must submit an application to an authorized officer and must obtain a special use authorization from the authorized officer unless that requirement is waived by paragraph (c) of this section....(c) A special use authorization is not required for noncommercial recreational activities such as camping, picnicking, hiking, fishing, hunting, horseback riding, and boating, as well as noncommercial activities involving the expression of views ...”

[WO 2720/2600 of May 15, 1998](#) suggests that collection of insects by forest visitors be managed as a noncommercial activity as described above. It further states that special use authorization is required for collection activities that are not recreational in nature, such as those requested by universities, research institutions and professional societies.

### **Research Natural Areas and Wilderness Areas**

[R9 Memo 4060-3 of July 16, 1993](#) outlines procedures related to research and monitoring in RNA's. An application form to be submitted to North Central Research Station Director and reviewed by the Station and Forest and Regional RNA Coordinator, Station filed rep and District Ranger. The District Ranger finalizes Special Use applications when appropriate. RNA visits that do not involve study or collections for one day or less may be authorized without permit.

[FSM 2324.42](#) outlines Forest Service policy on research in Wilderness areas. In summary the wilderness character must be preserved; identify research needs in forest plans; ensure that research areas outside wilderness could not provide similar research opportunities and; ensure that research methods are compatible with wilderness values. Motorized equipment or mechanical transport is not allowed unless the research is essential to meet minimum requirements for administration of wilderness.