

## ESA Guidance for Listed Plants

WSDOT has developed this brief guidance to facilitate consultations related to listed plants. For help on identification of plant species and their habitats, the Washington State Department of Natural Resources' Natural Heritage Program and the Spokane District of the U.S.D.I. Bureau of Land Management prepared a [Field Guide to Selected Rare Plants of Washington](#).

### *Section 9*

Under section 9 of the Endangered Species Act, there are no Federal prohibitions for the take of listed plants on nonfederal lands

- Unless taking of those plants is in violation of state law or Federal law

A Federal permit is required for removal/possession of listed plants from areas under Federal jurisdiction

- Permit(s) for endangered plants:  
([50 CFR Section 17.62](#)) - Permits for scientific purposes or for the enhancement of propagation or survival, or ([50 CFR Section 17.63](#)) Economic Hardship permit.
- Seeds of endangered plants require permits to be imported or exported.
- Permit(s) for threatened plants:  
([50 CFR Section 17.72](#)) - scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act.
- Seeds of threatened plants require permits if the seed came from wild plants, but do not require permits if the seeds are from artificially propagated plants.

### *Section 7*

Like the consultation requirements for other listed species, projects with a federal nexus that could affect listed plants must consult with the U.S. Fish and Wildlife Service. When writing a biological assessment, the effect determination is made at the individual level.

As part of consultation, the U.S. Fish and Wildlife Service makes a jeopardy determination at the species level.

It is important to keep in mind that impacts to an individual plant or population could result in jeopardy to the species. This is possible for plants with small population size such as showy stickseed.