

Threatened & Endangered Species Takings Permits Frequently Asked Questions

1. What is “take”? What does “take” mean?

The definition of “take” is very broad and includes everything from killing a plant or animal to transplanting a plant or any activity that could be construed as harassing an animal. For wildlife, Title [10 V.S.A. §4001\(23\)](#) of the Vermont statutes defines take and taking as: “pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting fish, birds and quadrupeds and all lesser acts, such as disturbing, harrying or worrying or wounding or placing, setting, drawing or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in lawful manner.”

For plants, in accordance with [10 V.S.A. §5401\(14\)](#) “taking” means uprooting, transplanting, cutting, injuring or killing or any attempt to do the same or assisting another who is doing or is attempting to do the same.

2. Why do I need a Threatened & Endangered Species Takings Permit (T&E Permit)?

Under Vermont law, [10 V.S.A. §5403\(a\)](#) a permit is required to take, possess or transport wildlife or plants that are members of an endangered or threatened species. The Secretary of the Agency of Natural Resources is authorized to issue permits in accordance with [10 V.S.A. §5408\(a\)](#).

3. For which purposes can a T&E Permit be issued?

[10 V.S.A. § 5408\(a\)](#) allows the ANR Secretary to permit the take of a threatened or endangered species for the following reasons: scientific purposes; to enhance the propagation or survival of a species; economic hardship; zoological exhibition, educational purposes; and, special purposes consistent with the purposes of the federal Endangered Species Act.

4. What is the application fee for a T&E Permit?

Per [10 V.S.A. § 5408 \(f\)\(1\)](#) the fee to be charged for an application to take a threatened or endangered species shall be as follows:

Scientific purposes: \$50.00

Educational purposes: \$50.00

Enhance the propagation or survival of the species: \$50.00

Special purposes consistent with the federal Endangered Species Act: \$50.00

Zoological/Botanical Exhibition: \$250.00* for each listed animal or plant taken (\$25,000 max).

Economic Hardship: \$250.00* for each listed animal or plant taken (\$25,000 max).

* If the ANR Secretary determines that it is in the best interest of the species, ANR and the applicant may agree to mitigation in lieu of a monetary fee.

5. When is an application T&E Permit fee charged?

A. Initial application: Fee charged.

- B. Minor permit amendment (e.g., a new or amended permit condition is not required, a review of the permit findings is not needed): No fee.
- C. Significant permit amendment (e.g., where new or revised permit conditions are warranted): Fee charged.
- D. Permit renewal: Fee charged.
- E. Permit application fees are not required for ANR staff or agents of ANR working cooperatively or at the direction of ANR staff.

6. Will my T&E Permit application fee be refunded if I am denied a permit?

Yes.

7. Who determines the purpose of a T&E permit?

The applicant must include the purpose of the T&E permit in the application. The applicant must cite a statutory basis for the taking and support the application with information and/or documentation. The Secretary has the authority to make the final determination regarding the purpose of the T&E permit.

8. Who determines the amount of potential take for applications made for Zoological/Botanical Exhibition and Economic Hardship?

The Secretary of the Agency of Natural Resources determines the amount of potential take.

9. What criteria will be used to determine the number of plants and/or animals taken for permits requested for Economic Hardship and Exhibition purposes?

For purpose of calculating a T&E permit application fee for permit requested for Economic Hardship and Exhibition purposes:

- A. An animal is defined as one individual, regardless of age, size or maturity that can be identified using standard field methods.
- B. A “plant” is defined here as one or more above ground parts arising from a single point of origin (i.e. rootstock). This avoids the need to distinguish genets (genetically distinct individuals) from ramets (clones connected to one or more similar clones) since ramets function as individual plants even if their connections, via rhizomes or stolons, is severed.
 - I. Where an individual is obviously determined, such as in the case of an annual or single stemmed, perennial, each stem would constitute a plant;
 - II. In the case of woody or herbaceous, perennial species with multiple stems, each stem that arises from a separate point of origin will constitute a plant. It does not matter if there is a connection either below or above ground between the aboveground stems;
 - III. For densely clumped species, all stems arising from a single point of origin will be considered to be one plant. Whereas stems or clumps of stems arising from a separate point of origin, regardless if there are below or aboveground connections and some intermingled roots, will be considered to be separate plants.
 - IV. Effective implementation of this protocol requires that any determination of plant number be done at a time when aboveground stems are clearly visible.

Where the number of specimens of listed animals and/or plants that may be taken is evident, the application fee shall be the number of specimens observed, or estimated, by a designee or agent of the ANR Secretary.

In some cases, the Applicant may be required to conduct a survey to determine the number of specimens of listed species present at a site. The methodology for said survey shall be scientifically rigorous and shall be conducted under appropriate conditions by a qualified contractor approved in advance by the Agency of Natural Resources. Where a T&E permit is required to conduct said survey, it may be issued for scientific purposes. The total number of listed plants and/or animals will be determined by ANR after reviewing the Applicant's survey report.

10. I wish to exhibit dead specimens and parts thereof of listed wildlife (e.g., taxidermy mounts, furs, skeletons, eggs) the nest of a listed bird species and preserved specimens of a listed plant—all for educational purposes. Will I be charged the fee for “educational purposes” or for “zoological/botanical exhibition”?

If a T&E permit application describes an eligible educational purpose for the possession of dead specimens collected in Vermont the application fee for the permit may be considered an educational purpose. If you wish to import a dead specimen of a listed wildlife or plant species from outside Vermont you will not need a T&E permit as long as the specimen was legally obtained per [10 V.S.A. § 5408 \(b\)](#).

If a T&E permit application describes an eligible educational purpose for the possession of a live specimen of a listed species currently under the care of a Vermont wildlife rehabilitator and deemed non-releasable by a consulting veterinarian the permit may be considered an educational purpose.

11. I work for another branch of Vermont government. Do I still need to pay an application fee? Would I have to pay an application fee if I work for the federal government?

The application fee is required for all agencies, local, state and federal except where specifically exempted by statute. For example, [32 V.S.A §710](#) exempts the Vermont Agency of Transportation and any cooperating municipalities, and their contractors or agents from permit fees, including those of the Agency of Natural Resources.

12. What is the maximum period allowed for a T&E permit?

T&E Permit periods are set to meet the specific needs of the species to be taken, and a discrete set of activities of proposed in the permit application. Generally permit periods range from days or weeks to 5-years. In certain situations the period may be longer.

13. Can a fee determination be appealed?

Yes. A letter should be submitted to the Secretary of the Agency of Natural Resources.

14. Do I need a Vermont T&E permit if I have a T&E permit from another state or the U.S. Fish & Wildlife Service and I only want to transport a listed species into or through Vermont?

No. Per [10 V.S.A. § 5408 \(b\)](#), transporting a member of an endangered or threatened species from a point outside of Vermont to another point within or without of Vermont, does not require a Vermont T&E permit.

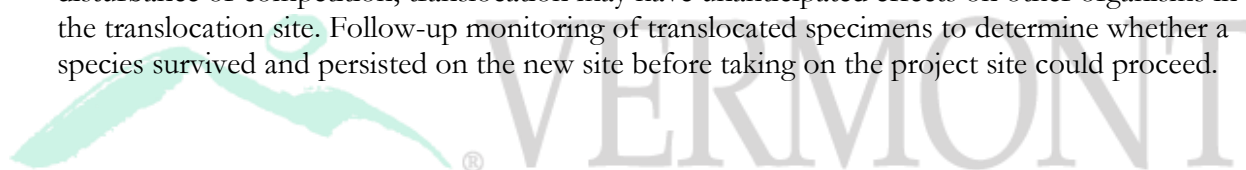
15. Do I need a Vermont T&E permit if I have a specimen of a species listed in Vermont or federally as Threatened or Endangered but I collected it legally from a state where it is not listed as Threatened or Endangered?

No. Per [10 V.S.A. § 5408 \(c\)](#) where substantial evidence is provided documenting that the wildlife or wild plant was first taken or obtained in a place without violating the law of that place a Vermont T&E permit is not needed.

If you wish to keep a live specimen of a listed fish or wildlife species in Vermont, you will need an [Importation & Possession Permit](#) from the Vermont Fish & Wildlife Department.

16. Since I am proposing the translocation of listed species (moving them from their current location to viable habitat elsewhere), they are not being killed. Do I still need to pay a fee for each specimen taken?"

Yes. Transplantation generally has not been considered acceptable mitigation for taking of endangered or threatened species for several reasons. Conservation of species in their native habitats is our first priority. Translocating to an artificial habitat has proven not to be a sustainable conservation strategy. Determining the feasibility and efficacy of translocation requires detailed knowledge of a species life history, habitat requirements and genetic structure as well as an understanding of the population structure. This information is unknown for most rare species, and acquiring it is the responsibility of the applicant. Moreover, due to resulting disturbance or competition, translocation may have unanticipated effects on other organisms in the translocation site. Follow-up monitoring of translocated specimens to determine whether a species survived and persisted on the new site before taking on the project site could proceed.



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