

# ERReview

## Endangered Resources

### Incidental Take

## Wisconsin's Endangered Species Law

Wisconsin's Endangered Species Law (s. 29.604, Wis. Stats.) pertains to wild plants and animals on the Wisconsin endangered and threatened species lists. It is illegal to take, transport, possess, process or sell any wild animal on public or private property. It is also illegal to remove, transport or carry away a wild plant from the place where it is growing; or cut, root up, sever, injure or destroy a wild plant on public property except for the following activities: 1) forestry practices, 2) agricultural practices, 3) construction, operation or maintenance of a utility facility or 4) as part of bulk sampling activities associated with mining.



Eastern Ribbonsnake by Rori Paloski, Wisconsin DNR.

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## What is "incidental take?"

Incidental take refers to the unintentional loss of individual endangered or threatened animals or plants that does not put the overall population of the species at risk. Take is defined as shooting, shooting at, pursuing, hunting, catching or killing any wild animal; or cutting, rooting up, severing, injuring, destroying, removing or carrying away any wild plant.

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## What is an IT Permit/Authorization?

An Incidental Take Permit/Authorization (ITP/A) is a means by which the department can allow the taking of an endangered or threatened species under certain circumstances. An ITP/A may only be issued if the project minimizes and mitigates for impacts to the species and does not jeopardize the survival of that species.

## IT Permit vs Authorization

Incidental Take Permits (ITP) are the most common incidental take request and are used for activities not conducted by the DNR and not conducted, funded or approved by another state agency. Privately funded projects including most commercial and residential projects (e.g., commercial buildings, subdivisions, single-family home construction), as well as those projects receiving cost sharing through conservation programs administered by the Natural Resources Conservation Service (NRCS), will typically require an ITP.

An Incidental Take Authorization (ITA) is needed for activities that are being conducted by the DNR itself or being conducted, funded, or approved by another state agency.

## What types of projects require an ITP/A?

Any project that has the potential to take a threatened or endangered species (see “Wisconsin’s Endangered Species Law” above for more details regarding protections) and where avoidance measures are not practicable will require an ITP/A. An Endangered Resources Review will determine whether or not a project has the potential to take a threatened or endangered species and whether or not avoidance measures are practicable.

## What is a Broad ITP/A?

An ITP/A is typically issued on a project-by-project basis, however a Broad incidental Take Permit/Authorization (BITP/A) can be created for specific scenarios so that neither an application nor a permit fee are required (although minimization, mitigation and/or reporting may still be required). There are currently four BITP/As in place for the following: 1) activities having no or low impact to species on the landscape, 2) common activities, 3) grassland and savanna management and 4) impacts to cave bats.

## Do you need an ITP/A?

An Endangered Resources Review is required prior to applying for an ITP/A. This review may be conducted by the ER Review Program, ER certification program or through another formalized DNR permit/grant/approval process. The ER Review will provide the applicant with the information needed to comply with Wisconsin's Endangered Species Law and other laws and regulations protecting endangered resources. If potential impacts exist, it should first be determined if the project can be modified to avoid potential impacts to endangered resources. If impacts cannot be avoided, it will then be necessary to apply for an Incidental Take Permit or Authorization.

## How to get an ITP/A

To apply for an Incidental Take Permit/Authorization, please submit an application, conservation plan, implementing agreement (ITP only) and \$100 application fee (ITP only) to the Bureau of Natural Heritage Conservation. Once we have received a completed application package, a 30-day public notice will be issued.

