

Endangered Species Permits

HCPs - Frequently Asked Questions

How long does it take to complete an HCP?

HCPs which do not fall into the "Low Effect" category require either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), depending on the project. For those requiring an EA as part of the permit application, the target permit processing time is around 6 months. For those requiring an EIS, the target permit processing time is 1 year.

How much will an HCP cost to complete and should I write it myself?

The cost can vary depending on the size and complexity of the proposed project. It is the landowner's responsibility to provide the Habitat Conservation Plan. It is also recommended that the landowner consult with the FWS early on (i.e., prior to writing the HCP or submitting the application package), as this will speed the application process. Landowners should have a clear understanding of the project description, project effects, and potential problems. In almost all cases, landowners hire a qualified biologist because there are many components (e.g., species information, habitat needs, potential effects to the species, biological goals and objectives, management strategy, and the knowledge and expertise of someone who has worked with the subject species). Individual consultant costs can vary. Regardless, we want to work closely with the landowner to insure that the HCP meets the mutual objectives of the FWS and the landowner and that the HCP gets completed in a timely manner.

What is the legal commitment of an HCP?

The elements of the HCP are made binding through the incidental take permit. If the terms of an incidental take permit would result in illegal take under Section 9 of the Endangered Species Act. If the violation is deemed technical or inadvertent in nature, the FWS Wildlife Service may send the permittee a notice of noncompliance by certified mail and recommend alternative actions to the permittee so that they may regain compliance with the terms of the permit.

What will happen if I conduct my project without getting an incidental take permit?

Section 9 of the Endangered Species Act prohibits taking, possession, sale, or purchase of a listed species. Taking is defined as to "harass, harm, pursue, hunt, shoot, wound, or collect." If you have a listed species on your property and you conduct a project that results in a "take" of a listed species without first obtaining an incidental take permit, you are in violation of Section 9 of the Endangered Species Act, which is a federal offense.

Are efforts made to accommodate the needs of HCP participants who are biologists and familiar with the issues?

Because development of an HCP is done by the applicant, it is considered a private activity and therefore, not subject to public participation or review until the U.S. Fish and Wildlife Service receives an official application. The U.S. Fish and Wildlife Service is committed to working with HCP applicants and providing technical assistance as required throughout the process to accommodate their needs. The U.S. Fish and Wildlife Service believes that information under development are restricted by privacy regulations unless waived by the applicant. However, the U.S. Fish and Wildlife Service does encourage the applicant to consult with appropriate parties. This is especially true for complex and controversial projects. For most large-scale, regional HCP efforts choose to provide extensive opportunities for public involvement during the planning process. The issuance of a permit is, however, that is subject to public review and comment. There is time for public review when the U.S. Fish and Wildlife Service reviews the information and decides whether to issue a permit based on the completed HCP. A 30-day public comment period is required for all completed HCP applications. During this period, any member of the public may submit a comment on the HCP and the accompanying NEPA document (if applicable). The U.S. Fish and Wildlife Service solicits public involvement and review, as well as requests for additional information during the scoping process for an Environmental Impact Statement.

What are Low-Effect HCPs?

"Low-Effect" HCPs are those involving (1) minor effects on federally listed, proposed, or candidate species and their habitats covered under the HCP; and (2) minor effects on environmental values or resources. Low-Effect HCPs do not require NEPA documentation (if applicable), and the target permit processing time is approximately 3 months.

What is NEPA?

In issuing an incidental take permit, the U.S. Fish and Wildlife Service must comply with the National Environmental Policy Act (NEPA) and other statutory and regulatory requirements, including any state or local environmental/planning laws. As such, they may be excluded from the National Environmental Policy Act or may require either an Environmental Assessment or, rarely, an Environmental Impact Statement.

What are "No Surprises" Assurances?

No Surprises assurances are provided by the government through the section 10 permit process to non-Federal landowners. Essentially, private landowners are assured that if "unforeseen circumstances" arise, the U.S. Fish and Wildlife Services will not require a commitment of additional land, water or financial compensation or additional use of land, water, or other natural resources beyond the level otherwise agreed upon without the consent of the permittee. The government will honor these assurances.

landowner will vary depending on the species, its habitat needs, and the magnitude of the proposed project has on the listed species and its habitat.

What kinds of actions are considered mitigation?

Mitigation measures are actions that reduce or address potential adverse effects of project activity upon species covered by an HCP. They should address specific needs of the species involved and be manageable and enforceable. Mitigation measures may take the form of: preservation (via acquisition or conservation easement) of existing habitat; restoration of degraded or a former habitat; creation of new habitats; establishment of buffer areas around existing habitats; modifications of land use practices, and restrictions on activities.

What kind of monitoring is required for an HCP and who performs it?

The U.S. Fish and Wildlife Service or any party designated as responsible by the HCP for compliance with the terms of the incidental take permit or HCP. If a party other than the U.S. Fish and Wildlife Service is responsible for monitoring compliance with the permit, the U.S. Fish and Wildlife Service will require periodic reporting from such party in order to maintain overall oversight of the implementation of the HCP's terms and conditions. For regional and long-term HCPs, monitoring programs must provide long-term assurances that the HCP is being implemented correctly, that actions will be monitored, and that such actions are being taken as expected. This should include periodic accountings of take, surveys to determine effects in project areas or mitigation habitats, and progress reports on fulfillment of HCP requirements (e.g., habitat acres acquired). Monitoring plans for HCPs should include specific milestones, to the extent practicable, or reporting requirements throughout the life of the HCP and should address actions to be taken in case of unforeseen or extraordinary circumstances.

In addition, the U.S. Fish and Wildlife Service must monitor the applicant's implementation of the HCPs and the permits terms and conditions; the biological conditions assumptions of the HCP to determine if species' needs are being met, and must determine if the HCP is meeting the goals that are expected as part of the HCP mitigation and minimization strategy and the U.S. Fish and Wildlife Service's ability to determine if the mitigation and minimization is functioning as intended and the anticipated benefits to the species are being realized.

What is Section 7?

To issue an incidental take permit, the U.S. Fish and Wildlife Service must comply with Section 7 of the Endangered Species Act, which requires federal agencies to insure that their actions are "not likely to jeopardize the continued existence of any endangered species or species" or result in the destruction of a species' critical habitat. Federal agencies must consult with the U.S. Fish and Wildlife Service regarding any activity that may impact listed species. The issuance of an Incidental Take Permit and approval of an HCP requires that the U.S. Fish and Wildlife Service conduct a Section 7 consultation with the applicant to determine if the proposed activity is likely to jeopardize the continued existence of any listed species or destroy or adversely modify any critical habitat.