

Endangered Species Permits

Explanation of the HCP Development Process

In general, there are three main phases to the HCP process. They are the pre-application phase, the permit processing phase, and the post-issuance phase. Roles and responsibilities of the applicant and the U.S. Fish and Wildlife Service are summarized as follows:

I. Pre-application Phase

1. Communication occurs between landowner and U.S. Fish and Wildlife Service, including seeking advice for HCP development. This may involve site visits, habitat assessments, consultation with the applicant's consultant, evaluation of the issues involved, and development of mitigation strategies. [Go here for U.S. Fish and Wildlife Service Field Office contact information for the Midwest.](#)
2. The U.S. Fish and Wildlife Service must comply with the National Environmental Policy Act (NEPA) before issuing the landowner an Incidental Take Permit. Therefore, the FWS must determine whether the project qualifies for a categorical exclusion as a "[low-effect HCP](#)". If not a "low-effect" project, an Environmental Assessment or Environmental Impact Statement (EIS) must be prepared. Preparation of NEPA documents is the responsibility of the U.S. Fish and Wildlife Service. However, we often ask the applicant to prepare the draft NEPA documents to speed up the process.
3. If the project is not a "low-effect" HCP, then an Implementing Agreement must be developed by the applicant.
4. The U.S. Fish and Wildlife Service will review and comment on draft HCP, NEPA documents, and Implementing Agreements.

II. Permit Processing Phase

5. The applicant submits a complete application package, including the permit application, draft HCP, and an application fee.
6. The U.S. Fish and Wildlife Service and/or the applicant have finalized the draft Implementing Agreement, if applicable.
7. The U.S. Fish and Wildlife Service reviews all documents to determine if they are complete.
8. The permit "package" (all documents) is mailed to the U.S. Fish and Wildlife Service (Fort Snelling, MN) for review.
9. The USFWS prepares an announcement to be published in the Federal Register regarding the draft HCP. The public comment period is usually 30 days.
10. The U.S. Fish and Wildlife Service prepares a "biological opinion" on their issuance of the HCP.

15. Permit holder submits all the required reports that are described in the HCP and agreement. Periodic meetings, phone calls and site visits may be needed during the HCP.
16. The U.S. Fish and Wildlife Service monitors and evaluates the HCP and

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Requirements of an HCP

According to section 10(a)(2)(B) of the Endangered Species Act and associated regulations, HCPs must meet six requirements before an incidental take permit is issued. These requirements are:

1. All takings must be incidental,
2. Impacts must be minimized and mitigated "to the maximum extent practicable,"
3. There must be both adequate funding, and provisions to address "unforeseen circumstances,"
4. The taking must "not appreciably reduce the likelihood of the survival and recovery of the species in the wild,"
5. The applicant must ensure that additional measures required by federal regulations are implemented,
6. Federal regulators must be certain that the HCP can and will be implemented.

If the HCP addresses all of these requirements and those of other applicable laws, a permit may be issued.

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General Outline of an HCP

Table of Contents

Executive Summary

Include the general location of the project or area covered by the Habitat Conservation Plan (HCP), the desired term of the permit (i.e., number of years permit will be in effect), a description of the project/activity (e.g., construction of 15 houses, timber harvest, etc.), the species to be covered by the Plan, and a brief description of the measures to be used to minimize and mitigate the impacts of the project.

1.0 INTRODUCTION AND BACKGROUND

1.1 Overview/Background

Provide a general overview of the project (i.e., brief description, background, etc. as appropriate) and purpose of the Plan.

1.2 Permit Duration

Include the desired term of the section 10(a)(1)(B) permit (i.e., duration of permit to be in effect; 5 years, 20 years, etc.). Include a discussion about the factors considered in determining the length of the permit (e.g., duration of approved proposed activities).

1.3 Regulatory/Legal Framework for Plan (Optional)

Provide a brief description of the prohibition against take and the lawful incidental take as provided by the Federal Endangered Species Act. Include a discussion of State Endangered Species Act as appropriate.

1.4 Plan Area

Identify the boundaries of the area covered by the Plan. Include maps, universal transverse mercator (UTM) coordinates, township and range, descriptions as necessary to clearly delineate precise boundaries. Provide a description of regional location of Plan area/project. Multiple maps or location documents should be included as an Appendix.

1.5 Species to be Covered by Permit

Provide a list of all species for which coverage under the permit is required.

2.1.1 Climate

2.1.2 Topography/Geology

2.1.3 Hydrology/Streams, Rivers, Drainages

2.1.4 Vegetation

2.1.5 Wildlife

2.1.6 Existing Land Use

2.2 Species of Concern in the Plan Area

2.2.1 Wildlife Species of Concern

Provide information on all species to be covered by the permit, as well as any other listed or sensitive species which may occur in the Plan area, even if incidental take coverage is not requested. Include information on the species' life history, habitat requirements, and distribution and population trends both range wide and within the Plan area. Numbered, lengthy species accounts can be included in the text of the Plan or as an Appendix.

2.2.2 Plant Species of Concern

Provide the same type of information as described for wildlife above.

3.0 PROJECT DESCRIPTION/ACTIVITIES COVERED BY PERMIT

3.1 Project Description

Describe the project. Provide as much detail as necessary to give a complete and accurate picture of the project, including any pertinent timing or phasing.

3.2 Activities Covered by Permit

Describe all activities related to the project that may result in take of or are important to obtaining a complete understanding of the proposed project. Include activities that may result in short-term and long-term impacts, as well as indirect impacts.

Note: Coverage under the 10(a)(1)(B) permit applies only to those activities described in the Plan.

be expressed as a number of individual animals, as habitat acres, appropriate measures.

4.1.2 Anticipated Impacts: Plant Species

Provide the same type of information as for wildlife species described above.

4.2 Cumulative Impacts

As appropriate, discuss cumulative impacts that may occur as a result of projects which may affect the same resources.

5.0 CONSERVATION PROGRAM/MEASURES TO MINIMIZE AND MITIGATE

5.1 Biological Goals

Describe the desired outcome for the covered species and their habitat biological goals and objects to be achieved through implementation of the conservation program. These goals should be broad guiding principles for the operating conservation program. They are the rationale behind the minimum mitigation strategies (e.g., maintain a viable population in the conservation area).

5.1.1 Biological Objectives

For each biological goal, describe specific biological objectives in terms of measurable targets for achieving the goals of the operating conservation program (e.g., maintain a successful reproductive rate of 70% within the conservation area during the life of the permit). The objectives could be habitat or species based. Success criteria could involve the maintenance of a certain acreage of suitable habitat, certain levels of habitat quality, certain numbers of individuals within habitat areas, certain levels of reproductive success, etc.

Note: Each covered species that falls under that goal or objective should be accounted for individually as it relates to that habitat.

5.1.2 Adaptive management strategy

For some HCPs, the adaptive management strategy will be an integral part of an operating conservation program that addresses the uncertainty in the conservation of a species covered by an HCP. The strategy should identify the uncertainty, develop experimental strategies to answer questions relating to the uncertainty, integrate a monitoring program that detects the necessary information, and incorporate a feedback loop that links implementation and monitoring to a decision-making process that results in appropriate changes in management. This strategy should

unavoidable impacts (e.g., establishment of permanent habitat preservation credits in a habitat bank, enhancement of degraded habitat, etc.)

5.4 Monitoring and Reports

Describe the monitoring measures that will be implemented to 1) evaluate compliance; 2) determine if the biological goals and objectives are being met; 3) provide feedback information for the adaptive management strategy

Describe any reports that will be prepared as part of the mitigation and monitoring process (e.g., annual report assessing take that occurred, annual report on species acquisition, monthly report on species occurrence, etc.). Include information on the contents of the reports, frequency of reports, due dates, who will prepare the reports and to whom reports will be submitted.

6.0 FUNDING

6.1 Funding for Minimization and Mitigation Measures

Describe the funding mechanism that will be used to ensure that mitigation and monitoring will be implemented. Note that funding must be guaranteed to have mitigation in place prior to take occurring or phased-in as the project progresses. Other options for guaranteed funding include posting of a bond or letter of credit, establishment of an endowment or other trust fund.

7.0 ALTERNATIVES

7.1 Alternative 1

7.2 Alternative 2

7.3 Alternative 3

8.0 PLAN IMPLEMENTATION, CHANGED AND UNFORSEEN CIRCUMSTANCES

8.1 Plan Implementation (Optional)

Describe any specifics of plan implementation (e.g., phasing, options in implementation, oversight organizations or committees, etc.). The need for this section will vary with the type of project and complexity of the Plan.

8.2 Changed Circumstances

Provide a detailed description of all reasonably foreseeable circumstances that may affect the project, including natural catastrophes that normally occur in the area (e.g., listing of new species within the plan boundary, fire, earthquake, etc.). This should include any conservation and mitigation measures that are necessary to respond to these circumstances.

APPENDICES (Optional)

The following items/information should be included as appendices to the HCF particular project. Note: In some circumstances it may be appropriate for so information to be included in the body of the Plan rather than as an appendix:

- A. Maps/Figures
- B. Biological Reports/Biological Assessments
- C. Implementing Agreement
- D. Conservation Easement Deed
- E. State Management Agreements; Memorandums of Understanding; etc.
- F. Financial/Account Information
- G. Community Involvement Process

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Contents of an HCP

The contents of an HCP are defined in [Section 10](#) as well. In general, they in

1. An assessment of impacts likely to result from the proposed taking of c federally listed species.
2. Measures the permit applicant will undertake to monitor, minimize, and impacts; the funding that will be made available to implement such me procedures to deal with unforeseen or extraordinary circumstances.
3. Alternative actions to the taking that the applicant analyzed, and the re applicant did not adopt such alternatives.
4. Additional measures that the U.S. Fish and Wildlife Service may require appropriate.

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Tools for Preparing Habitat Conservation Plans

[Screening Form for Determining Low-Effect Habitat Conservation Plans](#)

(38 KB Adobe pdf file)

[NEPA Compliance Checklist](#)

(41 KB Adobe pdf file)

[Roles and Responsibilities for Incidental Take Permits and Enhancement of S](#)

(42 KB Adobe pdf file)

[HCP Issuance Criteria](#) *(20KB pdf file; 5 pages)*

Template HCPs

[Guidelines for Identifying and Preserving Historic Objects](#) *(18KB pdf file; 4 p*

[Resource for Writing Biological Goals and Objectives](#)

[State Endangered Species Acts - Past, Present, and Future](#)

You will need Adobe Reader software to open some of the documents above. link to [obtain this software free of charge](#).

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Endangered Species Permits Habitat Conservation Plans - Selected Reading

Guidances

- [The HCP Handbook](#)
- Principal Deputy Director's Memorandum: [Guidance on When to Seek a Permit](#)(April 26, 2018) [1.2MB]
- Director's Memo: [Application of the "Destruction or Adverse Modification Section 7\(a\)\(2\) of the Endangered Species Act](#) - Dec. 9, 2004 (3 pages *file*)
- Director's Memo: [Guidance for the Establishment, Use, and Operation of Banks](#) - May 2, 2003 (19 pages; 216 KB Adobe pdf file)
- Director's Memo: [Revised Directive Concerning "No Surprises" Litigation](#) pages; 60 KB Adobe pdf file)
- Office of the Solicitor Memo [Standardized Guidance on Compiling a Decision Administrative Record](#) - June 27, 2006 (18 page; 265 KB Adobe pdf file)
- [CEQ Regulations \(40 CFR\)](#)
- [Disclosure Letter when preparing NEPA documents through third party document\)](#)
- [Generic purpose and need statement for Environmental Impact Statement HCPs](#) (Word document)
- OFFICE OF MANAGEMENT AND BUDGET [Final Information Quality Bulletin](#) Dec. 15, 2004 (41 pages; 238 KB Adobe pdf file)
- [Permit Application Form and Instructions](#) (11 pages; 605 KB Adobe pdf

- [Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act](#)
Federal Register Notice: Nov. 7, 2000 (222 KB Adobe pdf file)
- [National Environmental Policy Act Revised Implementing Procedures](#) - Federal Register Notice: March 8, 2004 (23 pages; 179 KB Adobe pdf file)
- [Policy for Evaluation of Conservation Efforts When Making Listing Decisions](#)
Register Notice: March 28, 2003 (16 pages; 102 KB Adobe pdf file)

Fact Sheets

- [Habitat Conservation Planning](#) (2 pages; Adobe pdf file)
- [Habitat Conservation Plans: Section 10 of the Endangered Species Act](#) (1 page; Adobe pdf file)
- [The Changing Face of HCPs](#) (4 pages; pdf Adobe file)
- [Comparison of Landowner Conservation Tools](#) (1 page; 26 KB Adobe pdf file)
- [Wisconsin Karner Blue Butterfly HCP Model](#) (1 page; 55 KB Adobe pdf file)

Articles

- [Score One for the Desert](#) - Audubon Magazine article
- [Species Coverage in Multispecies Habitat Conservation Plans: Where's the Action?](#) MATTHEW E. RAHN, HOLLY DOREMUS AND JAMES DIFFENDORFER in *Journal of Conservation Biology*, Vol. 17, No. 7 BioScience. 7pp
- [Understanding the HCP Universe and the Role of Facilitation in it.](#) Jill Brantley, Dylan Garrison of Monterey Institute of International Studies. May 2003 (102 KB Adobe pdf file)

NEPA Compliance

- [FWS NEPA Handbook](#) (401 pages; Adobe pdf file)

Samples and Templates

- [Sample Letter, Disclosure Statement and Statement of Responsibilities EIS for HCPs](#) (6 page Word Document)
- [HCP - EIS Purpose and Need Template](#) (1 page Word document)

Miscellaneous

- [La Cantera Development Co. HCP Case; ORDER CONCERNING PENDING SUMMARY JUDGMENT](#) (93 pages; 475 KB Adobe pdf file)
- [Findings and Recommendations for the Issuance of Section 10\(a\)\(1\)\(B\) Permits Associated with the Natomas Basin Habitat Conservation Plan](#) (Adobe pdf file)

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