

HABITAT CONSERVATION PLANNING
AND
INCIDENTAL TAKE PERMIT PROCESSING
HANDBOOK

November 4, 1996

U.S. Department of the Interior
Fish and Wildlife Service

U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

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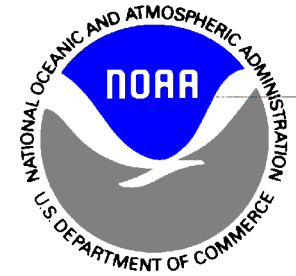
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FOREWORD

It gives us great pleasure to introduce this new Habitat Conservation Planning Handbook. It is the culmination of much hard work by dedicated U.S. Fish and Wildlife Service and National Marine Fisheries Service employees. It represents a great deal of collaboration with our conservation partners, and an important milestone in our ongoing efforts to make the Endangered Species Act (Act) more efficient and effective while providing voluntary opportunities for private landowners to be involved in conservation. With the streamlining measures and other innovations provided in this handbook, the Habitat Conservation Planning (HCP) process ranks as one of our greatest successes in seeking ways to reduce the Act's regulatory burden on private landowners while addressing the habitat needs of listed species.

HCPs reduce conflicts between listed species and economic use or development activities, allowing for the development of "creative partnerships" between the public and private sector which make the process work for both landowners and species. We have taken a process that was rarely used and have turned it into an increasingly utilized and successful way to provide private owners of natural resources with the creative flexibility and certainty they need to plan their activities while providing protection for listed species.

Species benefit too, and that is another strength of this process. It often expands the focus from conserving a single species to looking at the ecosystem as a whole, and that can often keep species from declining long before they may need to be considered for listing. Thus, the HCP process provides many opportunities for willing owners of natural resources to make positive contributions to the conservation of species and their habitats. This allows landowners to become true partners in the conservation of our precious natural heritage.

We would like to take this opportunity to express our heartfelt thanks for the hard work and dedication of all those who have made the development of the HCP process and this handbook possible. I especially want to thank those States, county and private natural resource owners who have become conservation partners with our Departments through this process. This document will be an important tool in threatened and endangered species conservation for our Nation.

Bruce Babbitt
Secretary
Department of the Interior

D. James Baker
Under Secretary for Oceans and Atmosphere
National Oceanic and Atmospheric Administration

PREFACE

The habitat conservation planning (HCP) program under section 10(a)(1)(B) of the Endangered Species Act (ESA) has grown rapidly in recent years. In the first 10 years of the program (1983-1992), 14 incidental take permits were issued. As of the end of August, 1996, 179 incidental take permits had been issued and approximately 200 HCPs were being developed. In just a few years the HCP process has been transformed from a relatively little used option under the ESA to one of its most important and innovative conservation programs.

Another pattern has begun to emerge, as evidenced by the growing number of HCPs being developed and by the size of the conservation planning areas involved. As of late 1995, most HCPs approved were for planning areas less than 1,000 acres in size. However, of the HCPs being developed as of early 1996, approximately 25 exceed 10,000 acres in size, 25 exceed 100,000 acres, and 18 exceed 500,000 acres. This suggests that HCPs are evolving from a process adopted primarily to address single developments to a broad-based, landscape level planning tool utilized to achieve long-term biological and regulatory goals. It also suggests that the underlying spirit of the HCP process has begun to take hold.

These large-scale, regional HCPs can significantly reduce the burden of the ESA on small landowners by providing efficient mechanisms for compliance, distributing the economic and logistic impacts of endangered species conservation among the community, and bringing a broad range of landowner activities under the HCPs' legal protection. In addition, the Services have helped reduce the burden on small landowners and have made it easier for them to be involved in the HCP process through streamlining measures in the HCP process.

The HCP process was patterned after the San Bruno Mountain HCP--an innovative land-use planning effort in California's San Francisco Bay area that began in the mid-1970s with a classic conflict between development activities and endangered species protection and culminated in the issuance of the first incidental take permit in 1983. What made the San Bruno Mountain case unusual was that it attempted to resolve these conflicts through negotiation and compromise rather than continued litigation. This fundamental approach was endorsed and codified by Congress when it incorporated the HCP process into the ESA in 1982.

One of the great strengths of the HCP process is its flexibility. Conservation plans vary enormously in size and scope and in the activities they address--from half-acre lots to millions of acres, from forestry and agricultural activities to beach development, and from a single species to dozens of species. Another key is creativity. The ESA and its implementing regulations establish basic biological standards for HCPs but otherwise allow the creative potential of HCP participants to flourish. As a result, the HCP program has begun to produce some remarkably innovative natural resource use and conservation programs.

The challenge of balancing biology with economics is a complex one, but is fundamental to the HCP process. Policy and procedure have at times frustrated HCP users and hampered the program's ability to meet its full potential. The HCP process was historically viewed as procedurally difficult; permit approvals took too long in some cases and long-term regulatory certainty under HCPs was widely desired by applicants but rarely available.

However, the U.S. Fish and Wildlife Service and National Marine Fisheries Service have made significant improvements in the HCP program in recent years. We have increased section 10 staff and improved guidance about section 10 objectives and standards, clarified and streamlined permit processing requirements, and substantially raised the certainty provided to HCP permittees. This handbook incorporates all these improvements and reflects updated policies and procedures in the HCP program.

The handbook is organized as follows. Chapter 1 provides a summary and overview of the HCP process. Chapter 2 summarizes the roles of the applicant and the Fish and Wildlife Service and National Marine Fisheries Services' Field, Regional, and Washington Offices. Chapter 3 explains the process of developing an HCP. Chapter 4 explains how unlisted species may be addressed in an HCP. Chapter 5 deals with section 10 NEPA requirements. Chapter 6 explains how to process and review an incidental take permit application. Chapter 7 explains the section 10 permit issuance criteria. Finally, Chapter 8 contains a glossary of important terms used throughout the handbook.

The handbook also contains numerous appendices, which include pertinent Federal regulations and policies; a reference list of publications about HCPs; "template" HCP documents that can be used as guides; and examples of HCP documents such as a permit application form and Federal Register notices. The handbook is organized to make information readily available. All important issues have labeled sections or subsections. The reader can find specific subjects of interest by scanning the Table of Contents and turning to the appropriate page.

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