

**Appendix H**

**Open House/Scoping Meetings  
Handouts**

## NiSource Project Schedule and Milestones

### HCP/ITP Application

- ◇ NiSource Drafting of the HCP – Ongoing throughout 2007
- ◇ Draft HCP and ITP Application – Submitted to the Service in 2008
- ◇ Final HCP – Submitted to the Service in 2008
- ◇ Service Decision on the ITP Application – 2009

### The NEPA Process

- ◇ Public Scoping – Fourth quarter 2007
- ◇ Draft Environmental Impact Statement (EIS) – Available for public comment in 2008
- ◇ Final EIS and Record of Decision – 2009

The NEPA process will happen at the same time as the HCP and ITP Application are being developed. However, the NEPA schedule depends on the HCP schedule (and is subject to changes to that schedule).

### What this NiSource Project is NOT

- ◇ The purpose of the ITP is to authorize the incidental take of a listed species, *not* to authorize the activities that result in take.
- ◇ An HCP/ITP authorized under Section 10 of the *Endangered Species Act* will not authorize any additional take of species that wouldn't otherwise be authorized under current Section 7 compliance on a project-by-project basis.
- ◇ This project is not for activities performed by NiSource subsidiaries other than those specific to its INGT companies—Columbia Gas Transmission, Columbia Gulf Transmission, Granite State Gas, and Crossroads Pipeline.

## How You Can Be Involved

Public comments will be considered in the ITP decision as well as through the NEPA process.

### HCP/ITP Process

- ◇ The *Endangered Species Act* requires a 60-day public comment period for comments on the HCP and application for an ITP.

### NEPA Process

The NEPA process has two stages at which public input is encouraged:

- ◇ Formal Public Scoping Process
  - ◇ Draft EIS Public Review and Comment Period
- Public meetings are held during both these periods.

Those wishing to submit comments on the scope of the NEPA EIS are encouraged to do so by December 8, 2007, by any one of the following methods:

- ◇ U.S. Postal Mail:  
Regional Director  
U.S. Fish and Wildlife Service  
Division of Ecological Services  
530, 1 Federal Drive  
Fort Snelling, MN 55111-4056
- ◇ Facsimile: 612-713-5292
- ◇ Website: [http://www.fws.gov/midwest/endangered/permits/hcp/hcp\\_nisource.html](http://www.fws.gov/midwest/endangered/permits/hcp/hcp_nisource.html) (click on the link to the comment form)

For further information, visit the website noted above, or contact:

- ◇ Mr. Thomas Magnuson at 612-713-5467 or [tom\\_magnuson@fws.gov](mailto:tom_magnuson@fws.gov), or
- ◇ Mr. Forest Clark at 812-334-4261 ext. 206 or [forest\\_clark@fws.gov](mailto:forest_clark@fws.gov)

Additional recorded information is available by calling 1-800-247-1247 ext. 3100.

# NiSource Habitat Conservation Plan/ Incidental Take Permit Permitting Process



Brown Pelican



Bog Turtle

Small-Whorled Pogonia



Swamp Pink

## Endangered Species Act Permitting

The U.S. Fish and Wildlife Service (the Service) is responsible for enforcing federal wildlife laws and administering the *Endangered Species Act*. An Incidental Take Permit (ITP) is needed if a company wants to do something that may result in the "taking" of a protected species. "Take" is defined by the *Endangered Species Act* as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

- ◇ **Section 7** of the *Endangered Species Act* says that any federal agency that permits, licenses, funds, or otherwise authorizes activities must consult with the Service to make sure its actions will not jeopardize the continued existence of any listed species.
- ◇ **Section 9** of the *Endangered Species Act* prohibits the take of animal species listed as endangered or threatened.

## Current NiSource Permitting Under the Endangered Species Act

Each year, NiSource undertakes approximately 400 projects across its interstate natural gas transmission (INGT) pipeline system to repair, upgrade, replace, maintain, and expand its natural gas infrastructure.

Staying within the *Endangered Species Act* Section 7 guidelines on a project-by-project basis has significant budgetary and administrative impacts for NiSource, the Service, and the state agencies responsible for endangered species conservation.



Karner Blue Butterfly

## What is an HCP/ITP?

**Section 10** of the *Endangered Species Act* says that people or companies who want to do activities that could put them at risk of unlawful "take" of federally protected species may apply for an ITP, which protects them from such liability.

**HCP/ITP Process** – The purpose of the Habitat Conservation Plan (HCP) is to make sure there is enough mitigation and minimization of the effects of the authorized incidental "take". The "taking" must be a side effect of an otherwise lawful activity, not the reason for the activity. To qualify for an ITP, the Applicant must submit an HCP to the Service.



Indiana Bat

## NiSource's Proposal for Endangered Species Act Compliance

NiSource is developing a comprehensive HCP to apply for an ITP. An ITP would provide NiSource protection from *Endangered Species Act* take liability for a range of individual projects.

- ◇ **Lands** proposed to be covered in the HCP/ITP Application are presently defined as a one-mile-wide corridor for approximately 15,500 miles of natural gas transmission pipelines and related facilities in Louisiana, Mississippi, Tennessee, Kentucky, Virginia, West Virginia, North Carolina, Indiana, Ohio, Pennsylvania, New York, New Jersey, Delaware, New Hampshire, Maine, Maryland, and Massachusetts.
- ◇ **Species** include approximately 76 species (mammals, birds, reptiles, amphibians, fish, mollusks, crustaceans, insects, and plants) that are currently listed in the *Endangered Species Act* as federally threatened or endangered, or have the potential to become listed during the life of this HCP. They would also have some likelihood to occur within the covered lands.
- ◇ **Activities** may include a range of those associated with operations, maintenance, and construction of NiSource's interstate natural gas transmission and storage business.

*Benefits would include:*

- ◇ Reduce the annual administrative burden of *Endangered Species Act* compliance efforts, without reducing conservation of protected species.
- ◇ Redirect NiSource funds currently spent on administrative compliance to conservation and mitigation measures that can be seen or measured.

## Required U.S. Fish and Wildlife Service NEPA Review of NiSource's HCP/ITP

**NEPA Trigger** – Service consideration of an ITP Application and associated HCP is considered a federal action, which means the Service must comply with the *National Environmental Policy Act* of 1969 (NEPA). The review will evaluate impacts of the proposed federal action, as well as a range of alternatives to that action (including the "no action" alternative).

**NEPA Review** – The extent of NEPA review required (Environmental Impact Statement, Environmental Assessment, or Categorically Excluded from Further Consideration) depends upon whether any Significant Effects to the human environment may result from the proposed action. In this context, the human environment includes biological, physical, and socio-economic components.

Given the proposed size and coverage of NiSource's ITP Application and HCP, the Service has decided that an Environmental Impact Statement (EIS) level of review is appropriate.

*The process will include:*

- ◇ Formal consultation through the NEPA process (public scoping and public comment periods, cooperating agency involvement).
- ◇ Development of a Biological Opinion of the ITP's potential impact on all listed species, candidate species, and critical habitat for those species.



Fringed Orchid



# NEPA EIS Open House/Scoping Meeting

## Overview of Stations

### Station 1: *Welcome and Registration*

#### Handouts to Receive:

- Overview of stations
- Comment form
- Colored brochure

### Station 2: *Overview of the HCP/ITP and NEPA Processes*

#### Discusses:

- Permitting
  - Endangered Species Act (ESA)
  - Incidental Take Permit (ITP)
- HCP/ITP Process
- NEPA Compliance
  - National Environmental Policy Act (NEPA)

#### Handouts to Receive:

- FWS HCP Fact Sheet

### Station 3: *NiSource*

#### Discusses:

- Who is NiSource?
- What is a Habitat Conservation Plan?

#### Handouts to Receive:

- Newsletter for the NiSource MSHCP Project
- NiSource HCP Fact Sheet
- NiSource HCP Frequently Asked Questions (FAQs)
- NiSource Environmental, Health & Safety Environmental Challenge Fund Handout



**Station 4: *NEPA and the EIS***

Discusses:

- What is NEPA?
- What is an EIS?
- Chart illustrating the NEPA decision making process
- Types of impacts that may be considered in the HCP and EIS

Handouts to Receive:

- NEPA Fact Sheet
- NEPA Frequently Asked Questions (FAQs)

**Station 5: *Proposed Covered Lands, Species, and Activities***

Discusses:

- Proposed lands covered, species included, activities included
- Types of NiSource activities that may be addressed in the HCP and EIS

Handouts to Receive:

- Potential partial list of covered species for the HCP and EIS

**Station 6: *Comment Form Station***

This station is set up for you to fill in the comment form that you received in Station 1. Please deposit it in the comment form box at this Station when finished.

Thank you for your participation!



## **Frequently Asked Questions (FAQs)** ***National Environmental Policy Act (NEPA) Process and*** **Environmental Impact Statement (EIS) for the** **NiSource Habitat Conservation Plan (HCP)**

### **What is NEPA?**

“NEPA” stands for the *National Environmental Policy Act* of 1969. It is a national environmental policy with goals for the protection, maintenance, and enhancement of the environment. It also establishes a process for federal agencies to make these goals happen. The “environment” includes the biological, physical, and social components of the environment.

### **What is an Environmental Impact Statement (EIS)?**

An EIS is a thorough environmental analysis that focuses on significant environmental (biological, physical, and social) impacts of a proposed action and/or alternatives. It includes a description of the proposed action (in this case, the Incidental Take Permit, or ITP), why it is needed, alternatives to the action, how it will affect the environment, environmental consequences of the action and/or the alternatives, and ways of reducing impacts to the environment. It does not approve or reject an action and is not a permit.

### **What is the U.S. Fish and Wildlife Service’s role in the NEPA Environmental Impact Statement process?**

The U.S. Fish and Wildlife Service (the Service) is responsible for enforcing federal wildlife laws and administering the *Endangered Species Act*. It has no direct authority over the placement or operation of NiSource’s facilities. The Service must comply with the *National Environmental Policy Act* of 1969 (NEPA) by evaluating the impacts of what NiSource wants to do, as well as looking at a range of alternatives to the proposed action (i.e., the proposed action of issuing an ITP to NiSource). To assist in developing the EIS, a third-party contractor (AMEC Earth & Environmental) has been hired to ensure the NEPA requirements are met. AMEC Earth & Environmental will complete various NEPA activities (such as drafting the EIS) under the direction of the Service.

### **Why is the U.S. Fish and Wildlife Service doing an Environmental Impact Statement for NiSource’s Habitat Conservation Plan and Incidental Take Permit Application?**

The level of review needed under NEPA depends on whether any significant effects to the environment may result from the proposed action. The Service has determined that an Environmental Impact Statement is an appropriate level of review for this project. This means that there will be formal consultation throughout the NEPA process, which includes public scoping and public comment periods, and involvement of cooperating agencies.

### **Who determines the species to include in the Habitat Conservation Plan and Environmental Impact Statement?**

The HCP Applicant (NiSource, in this case) determines the list of species to include in the HCP and the EIS.



## **What species will be covered by the NiSource Incidental Take Permit and evaluated in the Environmental Impact Statement?**

The list of the species currently under consideration to be included in the NiSource HCP is available on the Service's website at:

[http://www.fws.gov/midwest/Endangered/permits/hcp/nisource/noi\\_prepare\\_eis11oct2007.html](http://www.fws.gov/midwest/Endangered/permits/hcp/nisource/noi_prepare_eis11oct2007.html).

## **What if the HCP/ITP approach does not work for some species? Can the HCP/ITP be revoked or modified in the future? If so, what NEPA review would be required?**

Yes, if monitoring shows that certain conservation or mitigation measures are not achieving the desired result, and adaptive management does not identify successful conservation and mitigation measures, the ITP can be changed for individual species. If that happens, an additional NEPA review would take place to deal with that change.

## **How will mitigation strategies be developed?**

The Service, state agencies, and non-government organizations are currently working with NiSource to develop a landscape-scale approach to mitigation for this project.

## **What are some key milestones for the project?**

The initial scoping period in November 2007 starts the EIS process, after which a Draft EIS is developed for public review. Once that review is complete, public and agency comments will be addressed, and a Final EIS and Record of Decision (ROD) will be produced. It is expected that the process will be completed by mid-2009.

## **Will you be consulting with any tribal entities during the NEPA process?**

Federal agencies such as the Service are required to consult with federally recognized tribes during the course of NEPA analyses. All federally recognized tribes within the scope of the project will be consulted. They are also part of the stakeholder outreach program, and are on the mailing list to receive letters, etc.

## **How do I provide comments or get additional information about the NEPA Environmental Impact Statement scoping process?**

Send your comments or request for information by any one of the following methods:

- U.S. Mail:  
Regional Director, U.S. Fish and Wildlife Service  
Division of Ecological Services  
1 Federal Drive  
Fort Snelling, MN 55111-4056
- Facsimile: 612-713-5292
- Website: [http://infoman.amec.com/SIMS\\_PublicComment/](http://infoman.amec.com/SIMS_PublicComment/)

You can also attend an open house/scoping meeting (held November 5–16, 2007 in various cities), and fill out a comment form.

# NEPA Fact Sheet



## What is NEPA?

The *National Environmental Policy Act* of 1969 (NEPA) creates a national environmental policy with goals for the protection, maintenance, and enhancement of the environment, and also establishes a process for federal agencies to implement these goals. Under NEPA, the “environment” includes both the biological and physical environment as well as the social environment. The main objective of NEPA is to ensure that federal agencies consider potential environmental impacts of proposed actions, and alternatives to those actions, within their decision-making process.

NEPA requires that federal agencies:

- Provide opportunities for public involvement, which may include participating in scoping, reviewing the Draft and Final Environmental Impact Statement (EIS), and attending public meetings.
- Incorporate environmental considerations in their planning and decision-making process, using a systematic and interdisciplinary approach.
- Formally assess the environmental impacts of their actions and consider all reasonable alternatives.
- NEPA does not dictate the decision to be made by the federal agency.

## Environmental Impact Statement (EIS)

An EIS is the most detailed and comprehensive environmental analysis specified under NEPA. It focuses on significant environmental (biological, physical, social) impacts of the proposed action and/or alternatives. The purpose of this EIS is to objectively analyze and evaluate the potential significant impacts of both the proposed action and a range of alternatives to the proposed action (including the “no action” alternative).

Specifically, the EIS will include descriptions of:

- Proposed Action
- Purpose and need for the Proposed Action
- Alternatives
- Affected environment
- Environmental consequences of the Proposed Action and alternatives
- Required mitigation or recommended best management practices

Major steps in preparing the EIS include:

- Issue the Notice of Intent to begin the EIS process (issued October 11, 2007)
- Conduct a formal Scoping Process to gather input about issues and potential alternatives from the public; other federal, state, and local agencies; Native American tribes; and other stakeholders (public comment period to December 8, 2007; public scoping meetings November 5–15, 2007)
- Prepare and distribute the Draft EIS (2008)
- Receive and respond to public comments on the Draft EIS (incorporated into the Final EIS) (2008)
- Prepare and distribute the Final EIS (2009)
- Prepare a Record of Decision (ROD) (2009)



U.S. Fish & Wildlife Service

# Habitat Conservation Plans

## *Section 10 of the Endangered Species Act*

### **What is a Habitat Conservation Plan and Incidental Take Permit?**

An incidental take permit is required when non-Federal activities will result in “take” of threatened or endangered wildlife. A habitat conservation plan (HCP) must accompany an application for an incidental take permit. The purpose of the habitat conservation planning process associated with the permit is to ensure there is adequate minimizing and mitigating of the effects of the authorized incidental take. The purpose of the incidental take permit is to authorize the incidental take of a listed species, not to authorize the activities that result in take.

### **What is take?**

“Take” is defined in the Endangered Species Act (ESA) as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any threatened or endangered species. Harm may include significant habitat modification where it actually kills or injures a listed species through impairment of essential behavior (e.g., nesting or reproduction).

### **How many HCPs have been developed and what size areas do they cover?**

Both the number of HCPs and the size and complexity of the areas they cover have increased. More than 430 HCPs have been approved, with many more in the planning stage. Most of the earlier HCPs approved were for planning areas of less than 1,000 acres; now 10 exceed 500,000 acres, with several larger than 1,000,000 acres. In some cases, there are more than one incidental take permit associated with a HCP. For example, the Central Coastal Orange County HCP was developed as an overall plan under which each individual participating entity received a separate incidental take permit. This suggests that HCPs are evolving from a process adopted primarily to address single projects to broad-based, landscape-level planning, utilized to achieve long-term biological and regulatory goals.



*The Wisconsin Statewide HCP was developed for the conservation of the endangered Karner blue butterfly. Photo by Joel Trick.*

### **Who needs an incidental take permit?**

Anyone who believes that their otherwise-lawful activities will result in the “incidental take” of a listed wildlife species needs a permit. The U.S. Fish and Wildlife Service (FWS) can help you determine whether your proposed project or action is likely to result in “take” and whether a HCP is an option to consider. FWS personnel can also provide technical assistance to help you design your project so as to avoid take. For example, the project could be designed with seasonal restrictions on construction to minimize disturbance during nesting.

### **What is the benefit of an incidental take permit and Habitat Conservation Plan to a private landowner?**

The permit allows a landowner to legally proceed with an activity that would otherwise result in the illegal take of a listed species. The FWS also developed a regulation to address the problem of maintaining regulatory assurances and

providing certainty to landowners through the HCP process, called the “No Surprises” regulation.

### **What are No Surprises assurances?**

No Surprises assurances are provided by the government through the section 10(a)(1)(B) process to non-Federal landowners. Essentially, private landowners are assured that if “unforeseen circumstances” arise, the FWS will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the HCP without the consent of the permittee. The government will honor these assurances as long as a permittee is implementing the terms and conditions of the HCP permit, and other associated documents in good faith. In effect, this regulation states that the government will honor its commitment as long as the HCP permittees honor theirs.

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## Are incidental take permits needed for listed plants?

There are no Federal prohibitions under the ESA for the take of listed plants on non-Federal lands, unless taking of those plants is in violation of State law. However, before the FWS issues a permit, the effects of the permit on listed plants must be analyzed because section 7 of the ESA requires that issuance of a HCP permit must not jeopardize any listed species, including plants.

## What is the process for getting an incidental take permit?

The applicant is in charge of deciding whether to pursue an incidental take permit. While FWS personnel provide detailed guidance and technical assistance throughout the process, the development of a HCP is driven by the applicant. The applicant is responsible for submitting a completed permit application. The necessary components of a completed permit application are a standard application form, a HCP, an Implementation Agreement (if required), and, if appropriate, a draft National Environmental Policy Act (NEPA) analysis.

While processing the permit application, the FWS will prepare the incidental take permit, write a biological opinion under section 7 of the ESA, and finalize the NEPA analysis documents. Consequently, incidental take permits have a number of associated documents besides the HCP.

## How long will it take to process our application?

The length of time to complete the permitting process depends on the complexity of issues involved (e.g., the number of species) and the completeness of the documents submitted by the applicant. The FWS will work to complete all steps, such as the public comment process, as expeditiously as possible. The most variable factor in permit processing requirements is the level of analysis required for the proposed HCP under NEPA, in other words, whether an Environmental Impact Statement (EIS), Environmental Assessment (EA), or a categorical exclusion is required. Other factors such as public controversy can also affect permit processing times.

“Low Effect” HCPs are those involving minor effects on federally listed, proposed, or candidate species and their habitats covered under the HCP and minor effects on other environmental values or resources. These HCPs do not require a NEPA

document, and the target permit processing time is 3 months.

HCPs that do not fall into the “Low Effect” category require either an EA or an EIS, depending on their complexity. For those requiring an EA as part of the permit application, the target permit processing time is 4 to 6 months. For those requiring an EIS, the target permit processing time may be up to 12 months.

## How do we know if we have listed species on our project site?

Check with the appropriate State fish and wildlife agency, the nearest FWS field office, or the National Oceanic and Atmospheric Administration (NOAA) – Fisheries (for anadromous fish). You can arrange for a biologist from one of these agencies to visit your property to determine whether a listed species may be on your project site.

## What needs to be in a HCP?

The contents of a HCP are defined in section 10 of the ESA and its implementing regulations. They include:

- an assessment of impacts likely to result from the proposed taking of one or more federally listed species.
- measures the permit applicant will undertake to monitor, minimize, and mitigate for such impacts; the funding that will be made available to implement such measures; and the procedures to deal with unforeseen or extraordinary circumstances.
- alternative actions to the taking that the applicant analyzed, and the reasons why the applicant did not adopt such alternatives.
- additional measures that the FWS may require as necessary or appropriate.

## What kind of actions are considered mitigation?

Mitigation measures are actions that reduce or address potential adverse effects of a proposed activity on species covered by a HCP. They should address specific needs of the species involved and be manageable and enforceable. Mitigation measures may take many forms, such as preservation (via acquisition or conservation easement) of existing habitat; enhancement or 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 access.

## What is the legal commitment of a HCP?

The elements of a HCP are made binding through the incidental take permit. While incidental take permits contain an expiration date, the mitigation identified in the HCP

can be in perpetuity in certain cases. Violation of the terms of an incidental take permit would result in illegal take under section 9 of the ESA. If the violation is deemed technical or inadvertent in nature, the FWS may send the permittee a notice of noncompliance by certified mail or may recommend alternative actions to the permittee so that they may regain compliance with the terms of the permit.

## Who approves a HCP?

The FWS Regional Director decides whether to issue a HCP permit based on findings that:

- the taking will be incidental to an otherwise lawful activity;
- the impacts will be minimized, and mitigated to the maximum extent practicable;
- adequate funding will be provided;
- the taking will not appreciably reduce the likelihood of the survival and recovery of the species; and
- any other necessary measures are met.

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

What other laws besides the Endangered Species Act are involved?

In issuing an incidental take permit, the FWS must comply with the NEPA and all other statutory and regulatory requirements, including any State or local environmental/planning laws. HCPs may be categorically excluded from NEPA or may require either an EA or, rarely, an EIS.

## Who is responsible for NEPA compliance during the HCP process?

The FWS is responsible for ensuring NEPA compliance during the HCP process. However, if the Service does not have sufficient staff resources to prepare the appropriate NEPA analysis in a timely fashion, an applicant may, within certain limitations, prepare draft Environmental Assessment analyses. This can benefit the applicant and the government by expediting the application process and issuance of the permit. When this is done, the FWS will provide the preparer with appropriate guidance concerning document preparation; and review the document within 30 days and take responsibility ultimately for its scope, adequacy, and content.

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**Does the public get to comment on our HCP? How do public comments affect our HCP?**

The ESA requires a 30-day period for public comment on the application for an incidental take permit. However, we have recognized the concerns of the public regarding inadequate time for the public comment period, and have extended the minimum comment period to 60 days. Additionally, NEPA requires public comment on certain NEPA documents, and the FWS runs these two comment periods concurrently. Therefore, public comments must be considered in the permit decision.

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

The ESA or any party we designate as responsible (e.g., State wildlife agency, local government) in the HCP will monitor the project for compliance with the terms of the incidental take permit or HCP. If another party is responsible for monitoring compliance with the permit, the FWS will require periodic reporting from such party in order to maintain overall oversight responsibility for the implementation of the HCP's terms and conditions. For regional and other large-scale or long-term HCPs, monitoring programs must provide long-term assurances that the HCP will be implemented correctly, that actions will be monitored, and that such actions will work as expected. This should include periodic accountings of take, surveys to determine species status in project areas or mitigation habitats, and progress reports on fulfillment of mitigation requirements (e.g., habitat acres acquired). Monitoring plans for HCPs should establish target 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.

The FWS must monitor the applicant's implementation of the HCP and the permit terms and conditions. In addition to compliance monitoring, the biological conditions associated with the HCP should be monitored to determine if the species needs are being met. This includes determining if the biological goals that are expected as part of the HCP mitigation and minimization strategy are being met. The effectiveness monitoring will help the FWS determine if the conservation strategy is functioning as intended and the anticipated benefits to the species are being realized.

**Are efforts made to accommodate the needs of HCP participants who are not professionally involved in the issues?**

Because development of a HCP is done by the applicant, it is considered a private action and, therefore, not subject to public participation or review until the FWS receives an official application. The FWS is committed to working with HCP applicants and providing technical assistance as required throughout the HCP development process to accommodate their needs. The FWS believes that HCPs under development are restricted by privacy regulations unless waived by the applicant. However, the FWS does encourage the applicant to involve all appropriate parties. This is especially true for complex and controversial projects, and applicants 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, a Federal action that is subject to public review and comment. There is time for public review during the period when the FWS reviews the information and decides to grant or deny 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 review and comment on the HCP and the accompanying NEPA document (if applicable). Additionally, the FWS solicits public involvement and review, as well as requests for additional information during the scoping process for an EIS.

**Are the views of independent scientists used or sought, before and during development of a HCP?**

The views of independent scientists are important in the development of mitigation and minimization measures in nearly all HCPs. In many cases, these individuals are contacted by the applicant and are directly involved in discussions on the adequacy of possible mitigation and minimization measures. In other cases, the views of independent scientists are incorporated indirectly through their participation in other documents, such as listing documents, recovery plans, and conservation agreements, that are referenced by applicants as they develop their HCP.

**How does the FWS ensure that species are adequately covered in HCPs?**

The FWS has strengthened the HCP process by incorporating adaptive management into the plans when there are species covered for which additional scientific information may be useful during the implementation of the HCP. These

provisions allow FWS and NOAA–Fisheries to work with the landowner to reach mutual agreement upon changes in the mitigation strategies within the HCP area, if new information about the species indicates this is needed. Any changes in strategy that may occur are discussed up front with the landowner during the development of the HCP. In this manner, the permittees are fully aware of any future uncertainty in the management strategies, and have concurred with the adaptive approaches outlined in the HCP.

**What will the FWS do in the event of unforeseen circumstances that may jeopardize the species?**

The FWS will use its authority to manage any unforeseen circumstances that may arise to ensure that species are not jeopardized as a result of approved HCPs. The FWS will work with all other Federal and State agencies to help ensure the continued survival and recovery of the species in the wild.

**How can I obtain information on numbers and types of HCPs?**

Our national HCP database displaying basic statistics on HCPs is available online from our Habitat Conservation Planning page at <http://www.fws.gov/endangered/hcp/>. The contact information regarding an individual HCP that is available for public comment is listed in the notice of availability for that HCP, published in the *Federal Register* by the appropriate Regional office. Regional office contact information can be found at <http://www.fws.gov>.

**U.S. Fish & Wildlife Service  
Endangered Species Program  
4401 N. Fairfax Drive, Room 420  
Arlington, VA 22203  
703/358-2106  
<http://www.fws.gov/endangered/hcp/>  
December 2005**

## Potential Partial List of Covered Species for the Habitat Conservation Plan and Environmental Impact Statement

Species	Federal Status	State Occurrences
<b>Mammals</b>		
Gray bat	Endangered	KY, TN
Indiana bat	Endangered	IN, KY, MD, NJ, NY, OH, PA, TN, VA, WV
Louisiana black bear	Threatened	LA, MS
Virginia big-eared bat	Endangered	KY, VA, WV
Virginia northern flying squirrel	Endangered	WV
New England cottontail	Candidate	ME
<b>Birds</b>		
Bald eagle	Delisted *	DE, IN, KY, LA, MD, MS, NH, NJ, NY, OH, PA, VA, WV
Brown pelican	Endangered	LA
Interior least tern	Endangered	LA, MS
Piping plover	Threatened	LA, OH
Red-cockaded woodpecker	Endangered	LA, MS
<b>Reptiles</b>		
Bog turtle	Threatened	DE, MD, NJ, NY, PA
Copperbelly watersnake	Threatened	IN, OH
Eastern massasauga	Candidate	IN, OH, PA
Louisiana pine snake	Candidate	LA
<b>Amphibians</b>		
Cheat mountain salamander	Threatened	WV
Shenandoah salamander	Threatened	VA
<b>Fish</b>		
Maryland darter	Endangered	MD
Pallid sturgeon	Endangered	LA, MS
Roanoke logperch	Endangered	VA
Spotfin chub	Threatened	TN
<b>Crustaceans</b>		
Madison cave isopod	Threatened	VA
Nashville crayfish	Endangered	TN
<b>Mollusks</b>		
Birdwing pearlymussel	Endangered	TN
Clubshell	Endangered	IN, KY, OH, PA, TN, WV
Cracking pearlymussel	Endangered	TN
Cumberland monkeyface pearlymussel	Endangered	TN
Dwarf wedgemussel	Endangered	NJ, NY, PA, VA
Fanshell	Endangered	KY, OH, TN, WV
Fat pocketbook	Endangered	LA, MS
James spiny mussel	Endangered	VA
Louisiana pearlshell	Endangered	LA
Northern riffle shell	Endangered	IN, KY, OH, PA, WV
Orangefoot pimpleback pearlymussel	Endangered	KY, TN
Oyster mussel	Endangered	TN
Pink mucket pearlymussel	Endangered	KY, OH, TN, WV
Purple cat's paw pearlymussel	Endangered	OH, TN
Rayed bean	Candidate	IN, OH, PA
Ring pink mussel	Endangered	KY

Species	Federal Status	State Occurrences
Rough pigtoe	Endangered	KY, TN
Sheepnose	Candidate	KY, MS, OH
Slabside pearlymussel	Candidate	TN
Spectaclecase	Candidate	TN
Tan riffleshell	Endangered	TN
White cat's paw pearlymussel	Endangered	IN
White wartyback pearlymussel	Endangered	TN
Insects		
American burying beetle	Endangered	MS, OH
Karner blue butterfly	Endangered	IN, OH
Mitchell's satyr butterfly	Endangered	IN
Plants		
American chaffseed	Endangered	VA
Eastern prairie fringed orchid	Threatened	OH, VA
Globe bladderpod (previously Short's bladderpod)	Candidate	KY
Harperella	Endangered	VA
Lakeside daisy	Endangered	OH
Leafy-prairie clover	Endangered	TN
Leedy's roseroot	Threatened	NY
Mead's milkweed	Threatened	IN
Michaux's sumac	Threatened	VA
Northeastern bulrush	Endangered	PA, VA
Northern monkshood	Threatened	OH
Pondberry	Threatened	MS
Prairie white-fringed orchid	Threatened	IN
Price's potato bean	Endangered	MS, TN
Running buffalo clover	Endangered	KY, OH, WV
Sandplain gerardia	Endangered	MD
Sensitive joint-vetch	Threatened	NJ, VA
Shale barren rockcress	Endangered	VA, WV
Short's goldenrod	Endangered	KY
Small-whorled pogonia	Threatened	OH, PA, VA
Smooth coneflower	Endangered	VA
Spring creek bladderpod	Endangered	TN
Swamp pink	Threatened	NJ, VA
Tennessee purple coneflower	Endangered	TN
Tennessee yellow-eyed grass	Endangered	TN
Virginia sneezeweed	Threatened	VA
Virginia spirea	Threatened	OH, WV
White fringeless orchid	Candidate	MS
White-haired goldenrod	Threatened	KY

**Notes:**

Although the timber rattlesnake (*Crotalus horridus*) is not currently listed as threatened or endangered under the *Endangered Species Act*, it may be considered for inclusion in the Habitat Conservation Plan (HCP) and Environmental Impact Statement (EIS).

\* The bald eagle has been delisted from the Endangered Species List because of its state of recovery. However, it is still covered under the *Bald and Golden Eagle Protection Act*. It is still being considered for inclusion in the HCP and EIS.

**Definitions from the *Endangered Species Act (ESA)*:**

*Endangered* = "A species is considered endangered if it is in danger of extinction throughout all or a significant portion of its range."

*Threatened* = "A species is considered threatened if it is likely to become an endangered species within the foreseeable future."

*Candidate* = "Any species being considered by the Secretary (of Commerce or Interior) for listing under the ESA as an endangered or a threatened species, but not yet the subject of a proposed rule (see 50 CFR 424.02)."



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