

## Appendix G. Standard Process for Obtaining and Implementing a Permit for an HCP

For Endangered Species Act (ESA) Section 10(a)(1)(B) Habitat Conservation Plans (HCPs), there are four primary phases in the process of obtaining and implementing a Permit:<sup>314</sup>

1. pre-application;
2. development of an HCP;
3. processing the Permit; and
4. post issuance compliance.

During **Phase 1**, the U.S. Fish and Wildlife Service (Service) provides technical assistance to the Project Proponent<sup>315</sup> regarding the need for a Permit and if so, what type and scale of HCP would meet their needs. If any component of a project cannot be conducted in a way that avoids take<sup>316</sup> of federally listed species, Project Proponents may choose to seek a Permit to ensure that they have coverage for take otherwise prohibited under ESA section 9. Coordination with the local field office<sup>317</sup> can help determine if project activities are reasonably certain to result in take and if Permit coverage is recommended.

If a Project Proponent chooses to pursue a Permit, the Service works with them during **Phase 2** to develop a conservation plan<sup>318</sup> that integrates the proposed project or action with the conservation needs of federally listed species.

Every HCP submitted in support of a Permit application must describe:

1. the impacts likely to result from the taking for which Permit coverage is requested;
2. measures that will be implemented to monitor, minimize, and mitigate these impacts; funding that will be made available to undertake such measures; and procedures to deal with unforeseen circumstances;
3. considered alternatives that would not result in take; and
4. any additional measures the Service may require as necessary or appropriate for purposes of the plan.<sup>319</sup>

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<sup>314</sup> A Permit refers to an incidental take permit under ESA section 10(a)(1)(B).

<sup>315</sup> The Multi-Bat General Conservation Plan (GCP) defines a Project Proponent as a potential Applicant. For the purposes of this plan, a Project Proponent is any person planning to engage in activities within the Plan Area that may result in take of a Covered Species. A Project Proponent is referred to as an Applicant at the time they submit a complete application. "Person" is further defined in ESA Section 3(13).

<sup>316</sup> Take is defined in ESA section 3 as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

<sup>317</sup> Contact information for the Service's local field offices can be found in GCP appendix A.

<sup>318</sup> The plan required by ESA section 10(a)(2)(B) that an Applicant must submit when applying for a Permit. Conservation plans are also known as HCPs. Incidental take is authorized through a section 10(a)(1)(B) Permit (HCP and ITP Processing Handbook, 50 CFR 17.3).

<sup>319</sup> ESA 10(a)(2)(A)

Once the Service determines that an Applicant's<sup>320</sup> HCP meets statutory and regulatory issuance criteria, the Service initiates **Phase 3** by publishing a Notice of Availability of the application in the *Federal Register* (FR) to satisfy statutory public review and comment requirements. Notices may be published in the *FR* as individual applications are received or published in batches to streamline processing when multiple applications are received. Upon a determination by the Service that all statutory and regulatory requirements for Permit issuance have been met, the local field office makes a recommendation regarding Permit issuance and submits the HCP and all supporting materials for final approval, decision, and issuance to the Regional Office.

During **Phase 4**, Permittees implement their conservation plan in accordance with the terms and conditions of the issued Permit. The Service monitors Permittee compliance with issued Permits as well as its long-term progress and success.

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<sup>320</sup> Refers to any person, as defined in ESA section 3(13), who requires formal approval or authorization from a Federal agency as a prerequisite to conducting an action (50 CFR 402.02). Under the GCP, a Project Proponent is a potential Applicant, and becomes an Applicant at the time they submit a complete application as determined by the Service.