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# Habitat Conservation Plans

- Authorized by Section 10(a)(1)(B) of the Act, as amended in 1982
- Available to private landowners, corporations, Tribal governments, State and local governments, and other non-Federal landowners

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# Purpose of Habitat Conservation Plans

- Provide a means for permitting non-Federal projects that will result in “incidental take” of Federally listed species
- Reduce conflicts between endangered species and economic activities and develop “flexible, creative partnerships” between the public and private sectors

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## Purpose of HCPs (cont)

The purpose of a habitat conservation plan is to describe the anticipated effects of the proposed taking on the affected species and how those impacts of that take will be minimized and mitigated for

The HCP is submitted with an incidental take permit (ITP) application and fee

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## HCP Standard

- The applicant will minimize and mitigate (impacts to covered species) to the maximum extent practicable
- The applicant for an incidental take permit (ITP) must ensure adequate funding for plan

# Who Can Participate in HCPs?

- Private landowners
- Corporations
- Tribal governments
- State and local governments
- Other non-Federal landowners

# What Types of Species Can Be Included in HCPs?

- Listed species—*must* be present
- Proposed species—may be covered
- Candidate species—may be covered
- Non-listed species—may be covered

# How Do Applicants Benefit From Habitat Conservation Plans?

- Allows economic development & viability
- Provides regulatory certainty (“no surprises”) to permitted non-Federal property owners
- Maintains maximum management flexibility
- Enables long-term planning
- May be designed to meet species’ and applicants’ needs

## The “No Surprises” Rule

Additional conservation and mitigation measures will not involve the landowner committing any additional land, water, or financial compensation, or additional restrictions on the use of his/her land, water, or other natural resources, other than those agreed to in the HCP.

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# The “No Surprises” Rule Definition

Unforeseen circumstances: changes that could not reasonably have been anticipated and that result in a substantial and adverse change in a species’ status

# In Determining “Unforeseen Circumstances”

- FWS and NMFS shall consider (in part):
  - ① Percentage of affected species’ range adversely affected by the HCP
  - ② Effect of the operating conservation program on the species
  - ③ Whether failure to adopt additional measures would appreciably reduce the likelihood of survival and recovery of the species

# The “No Surprises” Rule

## Specific Provisions

- Assurances apply to:
  - Non-Federal entities
  - ITPs where the HCP is properly implemented
  - Species adequately covered by the HCP
- The Services will not require additional commitments or restrictions without consent of the permittee

## The “No Surprises” Rule Specific Provisions (cont)

- Additional measures may be required of a properly implemented HCP only if
  - measures are limited to conserved habitat areas, or
  - the original terms of the HCP are maintained to the maximum extent possible AND
  - additional commitments and restrictions have been agreed to by the permittee

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# The “No Surprises” Rule

## Specific Provisions (cont)

- FWS and NMFS have the burden of demonstrating that unforeseen circumstances exist; their findings must be clearly documented and based on best scientific and commercial data available

# Things to Include in Any HCP

- Impacts likely to result from the proposed taking of one or more federally listed species of wildlife
- Measures to monitor, minimize, and mitigate such impacts and ensure funding
- Alternative actions considered
- Additional measures that the Service may require as necessary or appropriate for the purposes of the plan

# How Do Species Covered in an HCP Benefit?

- Impacts to species are minimized and mitigated
- Habitat fragmentation rates may be reduced
- Habitats may be preserved, restored, or enhanced
- Advanced planning can provide for comprehensive long-term conservation

# Five Point Policy for HCPs

- Addendum to the HCP Handbook (6/1/00)
  - Biological goals and objectives (outcomes)
  - Monitoring
  - Adaptive management
  - Permit duration
  - Public participation

*Consider these 5 points in using  
Section 10 Tools.*

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# Issuance Criteria for HCPs

(50 CFR 17.22(b)(2) & ESA Section 10(a)(2)(B))

- The taking will be incidental
- The Applicant will avoid, minimize and mitigate to the maximum extent practicable
- The Applicant will ensure that adequate funding is available
- The taking will not appreciably reduce the likelihood of survival and recovery in the wild

*These criteria must be addressed in the HCP's Findings Document/Set of Findings.*

## Issuance Criteria for HCPs (continued)

- The Applicant will ensure that other measures that the Service may require will be provide
- The Applicant will ensure that the HCP is carried out as specified (ITP permit, implementing agreement).

*These criteria must be addressed in the HCP's Findings Document/Set of Findings.*

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## How to Increase Comfort-Level with “No Surprises”

- Be specific in the HCP
- Covered Species (include as many listed species as possible)
- Adaptive management
- Audits or other check points
- Shorter term permits
- Inclusion of adaptive management in the HCP to support the “No Surprises” rule

## HCP PERMIT

- Endangered Species Permit
- Under Section 10(a)(1)(B) of the ESA
- Incidental Take Permit (ITP)
- For listed species and unlisted species
- Minimize and Mitigate to the Maximum Extent Practicable is the Standard
- Authorizes take associated with immediate lawful activities (e.g., development, forestry, water use)