Great Lakes-Big Rivers Region

Roles and Responsibilities for Incidental Take Permits and Enhancement of Survival Permits (adapted from the U.S. Fish and Wildlife Service's Habitat Conservation Planning Handbook, dated 11/96)

This document identifies roles, responsibilities, routing procedures, and review protocols for permitting Habitat Conservation Plans (HCPs), Safe Harbor Agreements (SHAs) and/or Candidate Conservation Agreements with Assurances (CCAAs). It was developed to help Regional and Field Office staff better understand the planning, permitting, and administrative processes and constraints affecting incidental take permits (ITPs) and enhancement of survival permits (ESPs).

Applicant

1. Early coordination with the Service to ensure both parties fully understand the nature of the proposed action, determination that "take" is likely to occur, and whether an ITP or ESP is an appropriate instrument for an action, and whether or not an ITP or an ESP can be legally issued.

2. Early coordination with affected Federal and state agencies, tribal governments, and where appropriate, private sector interests to discuss the nature of the proposed action and expectations for the HCP, SHA, or CCAA. Other Federal agencies might need to be involved if at a later time they would administer mitigation lands under an HCP. Inclusion of affected state agencies insures efficient consideration of any additional requirements of state law.

3. Developing the draft HCP/SHA/CCAA and appropriate NEPA document with technical assistance from the Service and other affected parties. While the applicant is responsible for development of the NEPA document, the Service is ultimately responsible for the content, analysis, and conclusions of the NEPA document.

4. Submitting a permit application (Form 3-200) with a $100 application fee (unless applicant is fee exempt), a completed HCP/SHA/CCAA, and the draft NEPA document to the appropriate Service Field Office.

5. Coordinating with the Service Field Office to amend, correct, or modify the HCP/SHA/CCAA and NEPA documents, as necessary.

6. Providing the Field Office with timely information needed to respond to public comments, when appropriate.

7. Implementing all measures and programs required by the ITP/SHA/CCAA and submitting all documentation, monitoring reports, etc. as required over the life of the permit.

Field Office

The Field Office is responsible for:

1. Working with the applicant to ensure all applicable HCP/SHA/CCAA screening forms are complete and signed-off upon (i.e., low-effect screening form, NEPA compliance form, when appropriate). The Field Office Project Leader will transmit applicable forms to the HCP/SHA/CCAA Coordinator for processing.

2. Assisting the applicant in preparing the HCP/SHA and any associated NEPA document, including ensuring the documents are statutory complete and meet a Service standard of quality.

3. Keeping well informed of planning progress, problems, significant issues, and decisions, including routinely advising/updating the Regional Office on progress and issues concerning policy.

4. Providing technical assistance to the applicant, including convening meetings with affected Federal and state agencies, tribal governments, and private sector interests and conducting outreach with key stakeholders.

5. Reviewing internal drafts of the HCP/SHA/CCAA/NEPA documents for adequacy. All internal drafts will be returned to the permit applicant within 30 days of receiving them.

6. Certifying to the Regional Office through the Project Leader (in writing) that the HCP, SHA, CCAA, and/or NEPA document has been reviewed by Field Office staff and are found to be statutorily complete, when the "complete application package" is transmitted to the Regional Office for processing.

7. Reviewing public comments and coordinating changes to the HCP/SHA/CCAA/NEPA documents with the Regional Staff during the permit processing phase.

8. Notifying the applicant of any recommended revisions to the draft HCP/SHA/CCAA/NEPA document as a result of legal or public review and discussing remedies.

9. Drafting the Biological Opinion concluding formal Section 7 consultation.

10. Drafting the Set of Findings for the HCP/SHA/CCAA.

11. Drafting the Environmental Action Memorandum (for low-effect (HCPs) that are categorically excluded from NEPA) or the Finding of No Significant Impact (FONSI) for the EA, or the Record of Decision (ROD) for the EIS.

12. Drafting any news releases, as appropriate.

13. Drafting any and all response to comments, as necessary.

14. Sending a Notice of Permit Issuance to the Office of the Federal Register for publication.

15. Monitoring compliance with HCP/SHA/CCAA provisions and permit terms and conditions and evaluates success of the HCP/SHA/CCAA at least annually. Arrange for independent biological peer review, as appropriate.

16. Providing an accounting of fund expenditures administering the Section 10 program to the Regional Office, as requested.

Regional Office

The Regional Office is responsible for:

1. Overseeing and administering the overall HCP/SHA/CCAA program for the region.

2. Processing the complete permit application package with supporting documents from the applicant/Field Office.

3. Coordinating with the ARD-LE to have permit number assigned through LEMIS (Law Enforcement Management Information System) and coordinating the review of permit application by ARD-LE, as necessary.

4. Reviewing the permit application package for adequacy and reporting any deficiencies to the Field Office. Prior periodic Field Office review and reporting on key policy and substantive issues should result in the identification and elimination of most deficiencies prior to formal Regional Office review.

5. Transmitting the Federal Register notices to the Office of the Federal Register for Publication.

6. Coordinating the review of the HCP/SHA/CCAA and federal register notices with the SOL. Coordinating with the Regional Solicitor's Office on a permit application package should begin as soon as possible in the permit processing phase and during the HCP development phase. After Solicitor review is complete, the Regional Solicitor's office should forward a memorandum to the RD or appropriate ARD stating that he or she has reviewed the documents, as applicable, and that they meet statutory and regulatory requirements. The Regional Solicitor's Office should review the documents, as necessary, throughout the HCP process to ensure regulatory and statutory compliance and to avoid "last minute" identification of problems in the document submitted for final approval. The purpose of legal review of the permit application package is to ensure that the HCP and associated documents meet the requirements of the ESA and its regulations. This is especially important for the HCP, which has specific legal requirements, and the Implementing Agreement, which legally binds the applicant to complying with the HCP and permit. Typically, the SOL needs to only review those parts of the permit application package that the Regional Director request be reviewed - typically the HCP/SHA/CCAA and the Implementing Agreement.

7. Sending copies of any draft and final EIS with the Environmental Protection Agency.

8. Reviewing and finalizing the Set of Findings (unless finalized by the Field Office)

9. Reviewing the Environmental Action Memorandum (EAM) for low-effect HCPs.

10. Coordinating with the Assistant Director for Ecological Services for major policy issues to ensure the interpretation of the policy is legally sufficient and within the overall National policy guidance for the HCP/SHA/CCAA program. This may include briefing the Director or Washington Office staff on all significant HCP/SHA/CCAA developments, permit processing, and post-issuance efforts, as necessary.

11. Reporting HCP/SHA/CCAA developments through monthly conference calls with other regions and WO staff.

12. Coordinating with lead Regions for species covered by the HCP/SHA/CCAA prior to issuance of a permit.

13. Preparing permits for RD/ARD signature, as necessary.

14. Issuing or denying the permit and updating the LEMIS. Sends the signed permit with terms and conditions or a denial letter to the permittee or applicant. Sends copies of these documents to the Field Office, other affected offices, and the HCP/SHA Coordinator in Washington Office.

15. Sending a Notice of Permit Issuance to the Office of the Federal Register for publication. For low-effect HCPs, this is the responsibility of the FO.

16. Coordinating Freedom of Information Act (FOIA) requests.

Washington Office

The Washington Office is responsible for:

1. Providing guidance, oversight, and support to the Region. Ultimately, they are responsible for nationwide administration of the program, including developing regulations and national policy guidance.

2. Assisting in resolving issues or disputes when requested by the Regional Offices

3. Briefing the Director or other authorities and/or coordinates such briefings.

4. Preparing related training and technical assistance to Regional Offices and Field Offices, as needed.

5. Maintaining and updating national lists or databases of HCPs/SHAs/CCAAs in development and permits issued.

6. Assisting the Region in getting Federal Register notices approved and published in the Federal Register.