

## GLOSSARY

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**Origin:** When a term's definition is identical in multiple documents the document with the highest authority is cited. Authority ranking is as follows: statute, regulations, policy, guidance, working definition. If a word or phrase is not a defined term in statutory, regulatory, policy, or guidance documents, the glossary's definition or explanation is noted as a "working definition". In these cases the compiler composed a working definition by drawing contextual quotes and information from the statutes and regulations or by using various non-statutory and non-regulatory sources (e.g., dictionaries, Service websites, etc.) to construct a commonly held meaning for the phrase or word. Definitions based on statute, regulations, policy or guidance were current as of the date of publication of this Handbook, but users are encouraged to verify that those definitions remain current.

**NEPA definitions are noted by "(NEPA definition)", where applicable, to distinguish between NEPA and ESA definitions.**

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**action** - All discretionary activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas. Examples include, but are not limited to: (a) actions intended to conserve listed species or their habitat; (b) the promulgation of regulations; (c) the granting of licenses, contracts, leases, easements, rights-of-way, permits, or grants-in-aid; or (d) actions directly or indirectly causing modifications to the land, water, or air.

**Origin:** 50 CFR 402.02, FWS and NMFS

**action area** - All areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

**Origin:** 50 CFR 402.02, FWS and NMFS

**adaptive management** - A method for examining alternative strategies for meeting measurable biological goals and objectives, and then, if necessary, adjusting future conservation management actions according to what is learned.

**Origin:** 65 FR 35252, Five-Point Policy

**adequately covered** - With respect to ESA-listed species, a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the ESA for the species covered by the plan, and, with respect to unlisted species, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the ESA that would otherwise apply if the unlisted species covered by the plan were actually listed. For the Services to list a species on the section 10(a)(1)(B) permit, it must be addressed in the conservation plan.

**Origin:** 50 CFR 17.3, FWS; 50 CFR 222.102, NMFS

**administrative record** - The records assembled for a court action that a judge reviews to determine if a final agency decision is legally sufficient and supportable. Also referred to as the agency record or decision file.

**Origin:** Working definition

**affecting** - (NEPA definition) - Will or may have an effect on.

**Origin:** 50 CFR 1508.3, CEQ

**affected environment** - (NEPA definition) - The NEPA analysis document shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of a NEPA analysis document.

**Origin:** 40 CFR 1502.15, CEQ

**alternatives including the proposed action** - (NEPA definition) - Refers to alternatives, including the no action alternative and the proposed action, that are considered in detail and described within a NEPA document (EA or EIS). The alternatives section of the NEPA document shall devote substantial and objective treatment to each of these alternatives so that reviewers may evaluate their comparative merits.

**Origin:** 40 CFR 1502.14, CEQ

**alternative courses of action** - Within the context of ESA section 7, all alternatives not limited to original project objectives and agency jurisdiction.

**Origin:** ESA section 3(1); ESA section 7

**alternatives to the taking** - A required portion of an HCP which describes “what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized.” This discussion should address any other actions that the applicant could have chosen that would have *avoided*, and thus, avoid the need for an incidental take permit, *or significantly reduced* the impact of the taking of the listed entity (e.g., species, distinct population segment, etc.).

**Origin:** ESA §10(a)(2)(A)(iii); FWS 2012

**amendment** - Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information. The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity.

**Origin:** 50 CFR 13.23, FWS; 50 CFR 222.203, NMFS

**Additional information:** See also administrative amendment and formal amendment.

**analysis area** - (NEPA definition) - The geographic area within which impacts to particular resource are analyzed. The analysis area or geographic area analyzed will be different for different resources. For example the species range and the particular recovery unit where the project is located may be the most appropriate analysis areas for a listed species; a watershed may be the hydrologic analysis area; and a county may be the socioeconomic analysis area. Sometimes the analysis boundary for a particular resource will change with different alternatives.

While analysis requirements differ, the “analysis area” term can apply equally well to analyses conducted under section 7 and section 10 of ESA as well as NEPA.

**Origin:** Working definition adapted from NPS Director’s Order 12 (NEPA guidance) found at [http://www.nature.nps.gov/protectingrestoring/do12site/02\\_Ovrvu/028\\_affected\\_env.htm](http://www.nature.nps.gov/protectingrestoring/do12site/02_Ovrvu/028_affected_env.htm) accessed 11/10/14.

**anticipated/allowable/authorized** - In incidental take statements, the Services determine the amount or extent of incidental take "anticipated" (expected) due to the proposed action or an action modified by reasonable and prudent alternatives. When writing incidental take statements, use only the phrase "anticipated" rather than "allowable" or "authorized," as the Services do not allow or authorize (formally permit) incidental take under section 7.

**Origin:** FWS and NMFS 1998

**Additional Information:** See FWS and NMFS 1998 pp. 4-45 to 4-49.

**applicant** - Refers to any person, as defined in section 3(13) of the ESA, who requires formal approval or authorization from a Federal agency as a prerequisite to conducting an action.

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** See also qualified applicant.

**application** - A complete section 10 application consists of at least the following: the application form, fee (if required), conservation plan or agreement, and draft NEPA compliance document as drafted by the Service(s).

**Origin:** working definition

**assurances** - With the 1982 Amendments to the ESA, Congress envisioned and allowed the Federal government to provide regulatory assurances to non-Federal property owners through the section 10 incidental take permit process. The Services believed that non-Federal property owners should be provided economic and regulatory certainty regarding the overall cost of species conservation and mitigation, provided that the affected species were adequately covered, and the permittee was properly implementing the HCP and complying with the terms and conditions of the HCP, permit, and Implementing Agreement (IA), if used.

**Origin:** FWS and NMFS 2000

**authorized take** - Take that is formally permitted under section 10 of the ESA.

**Origin:** Working definition

**Avian and Bat Protection Plan (ABPP) or Bird and Bat Conservation Strategy (BBCS)** - A document that describes a program to reduce risks to birds and bats from electric utility equipment and facilities.

**Origin:** Working definition

**Additional information:** Most often associated with wind energy.

**baseline conditions** - Within the context of HCPs or SHAs, these are population estimates and distribution and/or habitat characteristics and determined area of the enrolled property that sustain seasonal or permanent use by the covered species at the time an agreement is executed between the Services and the property owner.

**Origin:** FWS 2013

**Additional information:** See environmental baseline, which is a different definition within the context of ESA section 7.

**baseline monitoring/conditions** - Monitoring done or conditions existing before implementation of a specific project, in order to establish historical and/or current conditions against which progress can be measured.

**Origin:** FWS 2011

**best available scientific and commercial data** - This phrase is not defined, but the Services have a joint policy on its use and consideration. "...[T]o assure the quality of the biological, ecological, and other information used in the implementation of the Act, it is the policy of the Services to: (1) evaluate all scientific and other information used to ensure that it is reliable, credible, and represents the best scientific and commercial data available; (2) gather and impartially evaluate biological, ecological, and other information disputing official positions, decisions, and actions proposed or taken by the Services; (3) document their evaluation of comprehensive, technical information regarding the status and habitat requirements for a species throughout its range, whether it supports or does not support a position being proposed as an official agency position; (4) use primary and original sources of information as the basis for recommendations; (5) retain these sources referenced in the official document as part of the administrative record supporting an action; (6) collect, evaluate, and complete all reviews of biological, ecological, and other relevant information within the schedules established by the Act, appropriate regulations, and applicable policies; and (7) require management-level review of documents developed and drafted by Service biologists to verify and assure the quality of the science used to establish official positions, decisions, and actions taken by the Services during their implementation of the Act."

**Origin:** 1994 *Federal Register* notice July 1, 1994 (Volume 59, No. 126) p. 34271.

**Additional Information:** This phrase does not appear in this form in the ESA. The ESA structures the phrase "best scientific and commercial data available". ESA, Section 4(b).

**best management practices** - Recommended measures that, if implemented as part of a proposed action, would, to the extent practicable, avoid, minimize, and mitigate for adverse effects of that proposed action on the relevant species.

**Origin:** FWS 2011b

**biological assessment** - In the context of section 7, "...information prepared by, or under the direction of, a Federal agency concerning listed and proposed species and designated and proposed critical habitat that may be present in the action area and the evaluation [of] potential effects of the action on such species and habitat."

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** The phrase first appears in the ESA, but is defined in the regulations. Biological assessments must be prepared for "major construction activities." See 50 CFR 402.02. The outcome of this biological assessment determines whether formal consultation or a conference is necessary. 50 CFR 402.02 and 402.12. Biological Assessments are required for projects seeking exemption from section 7(a)(2) of the ESA through the Endangered Species Committee (ESA, section 7(c)(2)).

**biological goal** - Habitat and wildlife are closely intertwined. Managing wildlife may include habitat manipulation and direct manipulation of populations. Thus, where possible, biological goals should include both habitat and wildlife elements. Each biological goal should contain four elements: (1) a key subject of concern (e.g., a particular species or guild, a biotic community, or a habitat type); (2) the attribute of interest for that subject (e.g., population size, physical area covered, species composition); (3) a conceptual target or condition for the attribute (e.g., a number, period of time, natural); and (4) an action or effort (e.g., restore, provide) that we will make relative to the target.

**Origin:** FWS 1997

**Additional Information:** See also goal.

**biological objective** - A concise statement of what we want to achieve, how much we want to achieve, when and where we want to achieve it, and who is responsible for the work. Objectives derive from goals and provide the basis for determining strategies, monitoring refuge accomplishments, and evaluating the success of strategies.

**Origin:** FWS 1997

**Additional information:** See also objective.

**Biological Opinion** - The document that states the opinion of the Service as to whether or not the Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** The biological opinion shall include: (1) a summary of the information on which the opinion is based; (2) a detailed discussion of the effects of the action on listed species or designated critical habitat; and (3) the Service's opinion on whether the action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat (a “no jeopardy” biological opinion). A “jeopardy” biological opinion shall include reasonable and prudent alternatives, if any. If the Service is unable to develop such alternatives, it will indicate that the best of its knowledge there are no reasonable and prudent alternatives. 50 CFR 402.14(h).

**Bird and Bat Conservation Strategy (BBCS) or Avian and Bat Protection Plan (ABPP)** - A document that describes a program to reduce risks to birds and bats from electric utility equipment and facilities.

**Origin:** Working definition

**Additional information:** Most often associated with wind energy. See also definition for Avian and Bat Protection Plan.

**Candidate Conservation Agreement (CCA)** - An Agreement signed by either Service, or both Services jointly, and other Federal or State agencies, local governments, tribes, businesses, organizations, or non-Federal citizens, that identifies specific conservation measures that the participants will voluntarily undertake to conserve the covered species.

**Origin:** Working definition

**Additional Information:** Quote taken from policy on Candidate Conservation Agreements with Assurances published in the *Federal Register*, June 17, 1999 (Volume 64, No. 116) p. 32734.

**Candidate Conservation Agreement with Assurances (CCAA)** - Candidate Conservation Agreements with Assurances are voluntary conservation agreements between the Service and one or more public or private parties. The Service works with its partners to identify threats to candidate species, plan the measures needed to address the threats and conserve these species, identify willing landowners, develop agreements, and design and implement conservation measures and monitor their effectiveness. Assurances provided to a non-Federal property owner in a Candidate Conservation Agreement with Assurances that conservation measures and land, water, or resource use restrictions in addition to the measures and restrictions described in the Agreement will not be imposed should the covered species become listed in the future. Candidate Conservation Assurances will be authorized by an Enhancement of Survival Permit. Such assurances may apply to a whole parcel of land, or a portion, as identified in the Agreement.

**Origin:** Working definition

**Additional Information:** Quote taken from policy on Candidate Conservation Agreements with Assurances published in the *Federal Register*, June 17, 199 (Volume 64, No. 116) p. 32734. The assurances included in these agreements provide greater certainty (and most include a section 10(a)(1)(A) permit for incidental take) if the species becomes listed. Assurances cannot be extended to federal agencies.

**candidate species** - For those species under the jurisdiction of FWS, "...those species for which the Service has on file sufficient information on biological vulnerability and threat(s) to support proposals to the list them as endangered or threatened species. Proposal rules have not yet been issued because this action is precluded..." For those species under the jurisdiction of NMFS, candidate species are any species that are undergoing a status review that NMFS has announced in a *Federal Register* notice, whether or not they are the subject of a petition.

**Origin:** 61 FR 7598, FWS; 71 FR 61022, NMFS

**categorical exclusion (CatEx)** - (NEPA definition) - A category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedure adopted by a Federal agency in implementations of these regulations (Sec. 1507.3 and for which, therefore, neither an environmental assessment nor an environmental impact statement is required).

**Origin:** 40 CFR 1508.4, CEQ

**certificate of inclusion** - Certificates of inclusion are template instruments created under an HCP for the purpose of conveying take authority to enrollees. Additionally, specific to NMFS, any individual who wishes to conduct an activity covered by a NMFS general incidental take permit must apply to the Assistant Administrator for a Certificate of Inclusion.

**Origin:** Working definition and 50 CFR 222.307(f), NMFS

**changed circumstances** - Changes in circumstances affecting a species or geographic area covered by a conservation plan or conservation agreement that can reasonably be anticipated by plan or agreement developers and the Service(s) and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).

**Origin:** Working definition

**conference and conference opinion** - Noun form of the word confer from section 7(a)(4) of the ESA. Defined in the regulations as “a process which involves informal discussions between a Federal agency and the Service under section 7(a)(4) of the ESA regarding the impact of an action on proposed species or proposed critical habitat and recommendations to minimize or avoid the adverse effects.” 50 CFR 402.02. Discussed further in the regulations at 50 CFR 402.10 “Federal agencies shall confer with the Service on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat. The conference is designed to assist the Federal agency and any applicant in identifying and resolving potential conflicts at an early stage in the planning process.” Conferences are concluded with either a Conference Report or (if requested) a Conference Opinion. Conference Opinions may be adopted as a biological opinion after listing, under certain conditions (402.10). Many agencies voluntarily request to conference on projects that they determine “may affect” (as opposed to the likely to jeopardize) proposed species, critical habitat (402.10) or candidate species. Adoption of the conference opinion should be requested in writing. Because of the wide variety of actions taken by the Service and action agency relative to a “voluntary” conference, the process and terminology can become confusing.

**Origin:** 50 CFR 402.02 and 402.10, FWS and NMFS

**Additional information:** A conference opinion uses the same format as a biological opinion and may be adopted as a biological opinion after listing, under certain conditions (402.10). An incidental take statement may be included, but is not in effect until the species is listed. Adoption of the conference opinion should be requested in writing. See discussion in Chapter 6 of FWS and NMFS 1998.

**conserve** - the terms "**conserve**," "**conserving**" and "**conservation**" mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the] Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.”

**Origin:** ESA, section 3

**Additional information:** Also codified as 50 CFR 424.02

**conservation banking** - A method used to offset impacts occurring elsewhere to the same listed species (FWS 2005). A “bank” consists of non-Federal land containing natural resource values conserved and managed in perpetuity (FWS 2005). Conservation banking is a tool for federal agencies, project applicants, and other entities to address the adverse effects of proposed actions on listed and other federally-managed species, and to support the recovery of listed species and their habitats (NMFS 2015). A conservation bank is a parcel of land containing natural resource values the banker has conserved, restored, created and managed in perpetuity for federal or state protected species.

**Origin:** USFWS 2005, NMFS 2015

**conservation measures** - Actions to benefit or promote the recovery of listed species that are included by the Federal agency as an integral part of the proposed action. These actions will be taken by the Federal agency or applicant, and serve to minimize or compensate for, project

effects on the species under review. These may include actions taken prior to the initiation of consultation, or actions which the Federal agency or applicant have committed to complete in a biological assessment or similar document.

**Origin:** Section 7 Handbook, p. xii

**conservation plan** - The plan required by section 10(a)(2)(B) of the ESA that an applicant must submit when applying for an incidental take permit. Conservation plans also are known as “habitat conservation plans” or “HCPs.” Incidental take is authorized through a section 10(a)(1)(B) permit.

**Origin:** 50 CFR 17.3, FWS, and 50 CFR 222.102, NMFS

**Additional information:** First mentioned, but not defined, in the ESA (Section 10).

**conservation program** - An operating conservation program includes an operating conservation plan, the aim of which is to avoid, minimize, and compensate for impacts on covered species that result from authorized activities, and to protect and conserve habitats that support these species.

**Origin:** Working definition

**Additional information:** See also operating conservation program.

**conservation priority areas** - Specific areas identified in a species conservation strategy as a priority for that particular species.

**Origin:** working definition

**conservation strategy [also conservation framework]** - An established, consistent approach for guiding conservation actions. Should be founded on recovery plan actions if available, or other formal intra-Service planning, agreements, or procedures. Ideally, these take the form of directives issued by appropriate management level governing the affected Service field stations. For example, targeting conservation projects to reduce species habitat fragmentation.

**Origin:** Working definition

**conserved habitat areas** - Areas explicitly designated for habitat restoration, acquisition, protection, or other conservation purposes under a conservation plan.

**Origin:** 50 CFR 17.3, FWS; 50 CFR 222.102, NMFS

**consultation** - The process required of a Federal agency under section 7 of the ESA when any activity authorized, carried out, or conducted by that agency may affect a listed species or designated critical habitat; consultation is with FWS or NMFS and may be either informal or formal. See sections 7(a)(1) and 7(a)(2) of the ESA.

**Origin:** FWS and NMFS 1998 and working definition from FWS and NMFS 1998.

**covered activities** - Activities that a permittee will conduct for which take is authorized in an ESA section 10 permit.

**Origin:** Working definition

**covered species** - Species for which incidental take is authorized in an incidental take permit and is adequately covered in a habitat conservation plan. Could also include unlisted species that have been adequately addressed in an HCP as though they were listed, and are therefore included on the permit.



**Origin:** Working definition

**critical habitat** - “(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the ESA, on which are found those physical or biological features and (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.” In some cases not all areas occupied by a species are designated as critical habitat.

**Origin:** ESA section 3

**cumulative effects** - (ESA Section 7 definition) - Those effects of future State or private activities, not involving Federal activities that are reasonably certain to occur within the action area of the Federal action subject to consultation.

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** This definition applies only to section 7 analyses and should not be confused with the use of the term Cumulative Impact in the National Environmental Policy Act or other environmental laws.

**cumulative impact** - (NEPA definition) - The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**Origin:** 40 CFR 1508.7, CEQ

**Additional information:** This definition applies only to NEPA analyses and should not be confused with the use of the term Cumulative Effects in the ESA.

**deconstructing the action** - The process of identifying sub-activities and their consequences. This process breaks larger action into component activities. Each sub-activity can cause different effects.

**Origin:** FWS 2011b; Cole 2013

**destruction or adverse modification** - A direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

**Origin:** Final regulatory definition was adopted in 81 Fed. Reg. 7214 (Feb. 11, 2016).

**Additional Information:** This phrase and similar phrases such as Adversely Modify and Adverse Modification can create confusion if used by action agencies or the Service to describe situations where critical habitat is destroyed or modified by a project, resulting in an adverse effect determination. That situation is at an action area scale and is rarely the same scale at which the determination of Destruction or Adverse Modification is made by the Services. Simplistically and broadly, Destruction or Adverse Modification can be thought of as parallel in scale to a Jeopardy Analysis.

**development or land use area** - Those portions of the conservation plan area that are

proposed for development or land use or are anticipated to be developed or utilized.

**Origin:** USFWS 1996

**direct control** - (ESA definition) - Refers to any person or entity that “except as otherwise stated on the face of the permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for purposes authorized by the permit, may carry out the activity authorized by the permit. In the case of permits issued under section 17.22(b)–(d) or section 17.32(b)–(d) of this subchapter to a State or local governmental entity, a person is under the direct control of the permittee where: (1) The person is under the jurisdiction of the permittee and the permit provides that such person(s) may carry out the authorized activity; or (2) The person has been issued a permit by the governmental entity or has executed a written instrument with the governmental entity, pursuant to the terms of the implementing agreement.”

**Origin:** 50 CFR 13.25(d)-(e)(1)-(2)

**direct effects** - (ESA definition) - Related to the ESA, the direct or immediate effects of the project on the species or its habitats.

**Origin:** FWS and NMFS 1998, p. 4-25

**direct effects** - (NEPA definition) - Related to NEPA, are effects caused by the action and occur at the same time and place.

**Origin:** 40 CFR 1508.8, FWS and NMFS

**early consultation** - A process requested by a Federal agency on behalf of a prospective applicant under section 7(a)(3) of the Act.

**Origin:** 50 CFR 402.02 and 402.11, FWS and NMFS

**Additional information:** First mentioned in the ESA, but not defined there. The resulting consultation document is referred to as a Preliminary Biological Opinion. It can be confirmed as a final opinion by written request. See details at section 7(a)(3) of the Act, 50 CFR 402.11, and chapter 7 of FWS and NMFS 1998 for specific process.

**effects of the action** - Related to section 7 of the ESA, “...the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action that will be added to the environmental baseline.”

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** Discussion on pp. 4-25 through 4-29 of FWS and NMFS 1998.

**endangered species** - Any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

**Origin:** ESA section 3(6); 50 CFR 424.10(e), FWS and NMFS

**ESA (or Act)** - the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531-1543; 87 Stat 884) (50 CFR 17.3).

**enhancement of survival permit** - A permit issued under section 10(a)(1)(A) of the ESA that authorizes the permittee to incidentally take species covered in a Candidate Conservation

Agreement with Assurances or a Safe Harbor Agreement or to take listed species for research or recovery-related activities.

**Origin:** Working definition

**Additional Information:** Quote taken from policy on Candidate Conservation Agreements with Assurances published in the *Federal Register*, June 17, 1999 (Volume 64, No. 116) p. 32734.

**enrolled lands (or enrolled properties, enrolled area)** - Specific lands within the agreement area or plan area that have gone through the process of becoming enrolled under a CCAA, SHA, or HCP and associated enhancement of survival permit or incidental take permit. This term often used for large programmatic or expanding HCPs where the properties are being enrolled over a period of time and there is a need to distinguish between the parts of the plan area that are enrolled and those parts that are not yet enrolled. ECOS does use this term for HCPs as well as CCAAs and SHAs.

**Origin:** Working definition and FWS 2003

**Environmental Action Memorandum Statement (EAMS) or Environmental Action**

**Statement (EAS)** - A FWS document prepared to explain the Service's reasoning in finalizing an action that is categorically excluded from NEPA.

**Origin:** FWS 2001, FWS 1996

**environmental assessment (EA)** - (NEPA definition) - A concise public document, prepared in compliance with NEPA, that briefly discusses the purpose and need for an action, alternatives to such action, and provides sufficient evidence and analysis of impacts to determine whether to prepare an Environmental Impact Statement or Finding of No Significant Impact.

**Origin:** 40 CFR 1508.9, CEQ; FWS 2001, FWS 2003, FWS 1996

**environmental baseline** - Within the context of section 7, it is a term explained within the regulatory definition of "Effects of the Action" as "... the past and present impacts of all Federal, State, or private actions and other human activities in an action area, the anticipated impacts of all proposed Federal projects in an action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions that are contemporaneous with the consultation in process."

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional Information:** See also baseline, which is a different definition within the context of HCPs and other agreements, such as SHAs.

**environmental consequences** - (NEPA definition) - A section of a NEPA Environmental Impact Statement including environmental impacts of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources.

**Origin:** NEPA section 102(2)(C); 40 CFR 1502.16, CEQ

**environmental document** - (NEPA definition) - Environmental document includes the documents specified in section 1508.9 (environmental assessment), section 1508.11 (environmental impact statement), section 1508.13 (finding of no significant impact), and section 1508.22 (notice of intent).

**Origin:** 40 CFR 1508.9, 1508.11, 1508.13, 1508.22, CEQ

**environmental impact statement (EIS)** - (NEPA definition) - A detailed written statement required by section 102(2)(C) of NEPA containing, among other things, an analyses of environmental impacts of a proposed action and alternative considered, adverse effects of the project that cannot be avoided, alternative courses of action, short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources.

**Origin:** NEPA section 102(2)(C); 40 CFR 1508.11 and 40 CFR 1502, CEQ; FWS 2001, FWS 2003, FWS 1996

**extinction** - No longer in existence, i.e., no individuals of the species exist.

**Origin:** FWS 2011

**extirpated** - Locally extinct; other populations of the species exist elsewhere.

**Origin:** FWS 2011; FWS 2005

**federal agency** - any department, agency, or instrumentality of the United States.

**Origin:** ESA section 3(7); FWS and NMFS 1998

**Federal Register (FR)** - The official journal of the Federal government that contains most routine publications and public notices of government agencies. The *Federal Register* is compiled by the Office of the *Federal Register* (within the National Archives and Records Administration) and is printed by the Government Printing Office. Section 10(c) of the ESA requires we publish notices in the *Federal Register*.

**Origin:** Working definition

**federal regulations** - When a law is passed by Congress and signed by the President, its language authorizes the relevant members of the President's Cabinet (e.g., the Secretaries of the Interior and Commerce) to enact Federal regulations to instruct Federal agencies on how to implement the statute they execute. Found in the Code of Federal Regulations (CFR), all Federal agencies must comply with the requirements of these regulations. The regulations that most pertain to HCPs are found at 50 CFR Parts 13 and 17 for the FWS and 50 CFR Part 222 for NMFS. Also note that the regulations that pertain to section 7 of the ESA are found at 50 CFR Part 202.

**field office** - Offices of each Service with specific areas of responsibilities, or sub-offices reporting to the Regional Office.

**Origin:** Working definition

**finding of no significant impact (FONSI)** - (NEPA definition) - A document prepared in compliance with NEPA, supported by an EA, that briefly presents why a Federal action will not have a significant effect on the human environment and for which an EIS, therefore, will not be prepared.

**Origin:** 40 CFR 1508.13, CEQ; FWS 2001, FWS 2003, FWS 1996

**findings** - See set of findings.

**Origin:** FWS 2012

**fish and/or wildlife** - Any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

**Origin:** ESA section 3(8); 50 CFR 424.02

**Additional Information:** Definition was created in 1984 to interpret and implement those portions of the Endangered Species Act that pertain to the listing of species and the determination of critical habitats.

**Freedom of Information Act (FOIA)** - A federal statute that applies to the Executive Branch of Government. Anyone can submit a request to see agency records for any reason. Requirements: 1) The records are reasonably described, and 2) The request is made according to published regulations. The request must be for copies of "Agency Records": 1) Existing and created or obtained by the Agency, and 2) Under the control of the Agency.

**Origin:** 5 USC 552; FWS 2012

**fully offset** - Completely mitigating any impacts expected to remain after avoidance and minimization measures are implemented. Other terminology meaning the same thing are that conservation measures are commensurate with the level and type of impacts of the taking or that they will compensate for the impacts of the taking. Fully offset means the biological value that would be lost (from covered activities) will be replaced (through implementation of covered activities) with equivalent biological value.

**Origin:** working definition, Chapter 9

**funding assurances** - It is incumbent upon the applicant to produce an itemized list of financial obligations necessary to implement all components of the conservation program including all minimization and mitigation measures; adaptive management and monitoring programs; maintenance of preserve lands; all measures to address changed circumstances; and any other aspects of the HCP deemed necessary to meet the issuance criteria throughout the duration of the permit. To this end, it is vitally important that the applicant develop a robust and very detailed economic analysis which not only addresses current costs, but also includes a factor for addressing inflation, changing land values and any other changing costs for the duration of the agreed upon time frame. Additionally, the applicant must identify the financial/legal instruments that will be used to ensure that funding will be available in appropriate amounts at appropriate times throughout the duration of the obligation.

**Origin:** FWS 2012 and working definition

**general conservation plan (GCP)** - Consists of a completed landscape level conservation plan and NEPA compliance document produced either by the Services, or by another entity in cooperation with the Services; however, no permit is issued at the time the conservation plan is approved. This approach is recommended in situations where a large-scale HCP covering many similar actions is needed, but where no applicant is capable to serve as a master permittee. In this type of HCP, the Services define the geographic scope of the GCP, the conservation plan and associated mitigation requirements. In this process, the Services complete a single Findings

document, a single section 7 biological opinion, and a single NEPA document for all actions covered under the GCP. The GCP is made available for adoption and use by numerous applicants who will receive individual ITPs when they can demonstrate compliance with the conservation plan and mitigation requirements of the GCP.

**Origin:** October 5, 2007 U.S. Fish and Wildlife Service Policy Memo; Cole 2013

**goal** - Habitat and wildlife are closely intertwined. Managing wildlife may include habitat manipulation and direct manipulation of populations. Thus, where possible, biological goals should include both habitat and wildlife elements. Each biological goal should contain four elements: (1) a key subject of concern (e.g., a particular species or guild, a biotic community, or a habitat type); (2) the attribute of interest for that subject (e.g., population size, physical area covered, species composition); (3) a conceptual target or condition for the attribute (e.g., a number, period of time, natural), and; (4) an action or effort (e.g., restore, provide) that we will make relative to the target.

**Origin:** FWS 1997

**Additional Information:** See also biological goal.

**habitat** - The location where a particular taxon of plant or animal lives and its surroundings, both living and non living; the term includes the presence of a group of particular environmental conditions surrounding an organism including air, water, soil, mineral elements, moisture, temperature, and topography.

**Origin:** FWS 2013, FWS 2005, FWS 2003, FWS 1996

**harass (FWS)** - Is defined by the FWS as "... an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering."

**Origin:** 50 CFR 17.3

**Additional information:** *Federal Register*, September 26, 1975 (Volume 40, No. 188) p.

544413. In 1998 additional language was added for circumstances involving captive wildlife.

"...This definition, when applied to captive wildlife, does not include generally accepted: (1)

Animal husbandry practices that meet or exceed the minimum standards for facilities and care under the Animal Welfare Act, (2) Breeding procedures, or (3) Provisions of veterinary care for confining, tranquilizing, or anesthetizing, when such practices, procedures, or provisions are not likely to result in injury to the wildlife." *Federal Register* September 11, 1998, Volume 63, No. 176 (p. 48639).

**harass (NMFS)** - As of the publication date of this Handbook, the National Marine Fisheries Service had never promulgated a regulatory definition for Harass under the ESA. In the context of ESA sections 7 and 10, NMFS issued interim guidance under which NMFS will interpret "harass" in a manner similar to the FWS regulatory definition for non-captive wildlife: "Create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering."

**Origin:** NMFS, Interim Guidance on the Endangered Species Act Term "Harass," October 21, 2016.

**Additional information:** NMFS has promulgated a definition for Harass under the Marine Mammal Protection Act). See that Act (and 1994 amendments) for that definition.

**harm (FWS)** - Is defined by FWS to mean “an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering.”

**Origin:** 50 CFR 17.3

**Additional information:** See 1981 Final Rule, *Federal Register* November 4, 1981 (Volume 46, number 213) p. 54750.

**harm (NMFS)** - NMFS promulgated its own definition of Harm under the ESA. It is very similar to the FWS definition. “Harm in the definition of “take” in the ESA means an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering.”

**Origin:** 50 CFR 222.102

**Additional information:** See also *Federal Register*, November 8, 1999, Vol. 64, No. 215 (pp. 60727-60731).

**HCP (or SHA or CCA) Area** - A term to express the specific geographic area where the plan or agreement can be implemented.

**Origin:** working definition

**HCP (or SHA or CCA) Boundary** - The boundary of the specific geographic area where the plan or agreement can be implemented.

**Origin:** working definition

**historic property** - Under the National Historic Preservation Act (NHPA), any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object.

**Origin:** NHPA section 106; 36 CFR 800.16(l)(1)

**impacts** - (NEPA definition) - Synonymous with effects and used interchangeably.

**Origin:** 40 CFR 1508.8, CEQ

**implementation agreement or implementing agreement** - Section 10(a)(2)(B) of the ESA, which describes issuance criteria for incidental take permits, authorizes the Services to obtain "such other assurances as [they] may require that the plan will be implemented." This provision allows the Services broad latitude to require measures as necessary to accommodate the wide variety of circumstances often encountered in HCPs. Implementing Agreements can help assure the government that the applicant will implement the mitigation program and other conditions of the HCP, while assuring the applicant that agreed upon procedures will be followed for any changes in the conditions of the permit or the conservation measures for species addressed in the HCP. An Implementing Agreement includes one or more of the following elements: (1) defines the obligations, benefits, rights, authorities, liabilities, and privileges of all signatories and other

parties to the HCP; (2) assigns responsibility for planning, approving, and implementing specific HCP measures; (3) specifies the responsibilities of the FWS, NMFS, or other state and Federal agencies in implementing or monitoring the HCP's conservation program; (4) provides for specific measures when habitat acquisition, transfer, or other protections are part of the HCP's mitigation program; (5) establishes a process for amendment of the HCP, where necessary; and (6) provides for enforcement of HCP measures and for remedies should any party fail to perform on its obligations under the HCP.

**Origin:** FWS and NMFS 1996

**incidental take** - Take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a Federal agency or applicant.

**Origin:** 50 CFR 402.02, FWS and NMFS; FWS and NMFS 1998

**Additional information:** Incidental take can be exempted through section 7 or authorized by section 10 of the Act.

**incidental take permit (ITP)** - A permit issued under section 10(a)(1)(B) of the ESA to a non-Federal party undertaking an otherwise lawful project that might result in the take of an endangered or threatened species. Application for an incidental take permit is subject to certain requirements, including preparation by the permit applicant of a conservation plan, generally known as a "Habitat Conservation Plan" or "HCP."

**Origin:** ESA section 10(a)(1)(B); FWS 2005

**incidental take statement** - A section after the conclusion of a Biological Opinion that "... (i) specifies the impact of such incidental taking on the species, (ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact, (iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 1371(a)(5) of this title with regard to such taking, and (iv) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clauses (ii) and (iii)."

**Origin:** Working definition

**Additional information:** Quote in text above taken from the ESA section 7(b)(4)(C). The 1986 regulations describe it this way "... (i) Specifies the impact, i.e., the amount or extent, of such incidental taking of the species; (ii) Specifies those reasonable and prudent measures that the Director considers necessary or appropriate to minimize such impact; (iii) Sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or any applicant to implement the measures specified under (ii) above; and (iv) Specifies the procedures to be used to handle or dispose of any individuals of a species actually taken." [50 CFR 402.14(i-iv)] See also page 4-42 through 4-53 of FWS and NMFS 1998.

**indirect effects** - (ESA definition) - Those effects that are caused by or will result from the proposed action and are later in time, but are still reasonably certain to occur.

**Origin:** 50 CFR 402.02, FWS and NMFS; USFWS and NMFS 1998

**indirect effects** - (NEPA definition) - Are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth



inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

**Origin:** 40 CFR 1508.8, CEQ

**interdependent actions** - (ESA definition) - Are those that have no independent utility apart from the action under consideration.

**Origin:** 50 CFR 402.02, FWS and NMFS

**interrelated actions** - (ESA definition) - Are those that are part of a larger action and depend on the larger action for their justification.

**Origin:** 50 CFR 402.02, FWS and NMFS

**intra-Service consultation (section 7)** - (ESA definition) - are those internal to either Service. Services units will consult or confer with the appropriate field office on actions they authorize, fund, or carry out that may affect listed, proposed or candidate species or designated or proposed critical habitat. These actions include refuge operations, public use programs, private lands and federal aid activities, as well as promulgating regulations and issuing permits. A Service office requesting formal consultation provides the data required by the regulations at 50 CFR 402.14(c) and is treated as any other action agency with the exception that there is no timing requirement and that the incidental take statement is governed by section 10(a)(1)(B) to the extent that mitigation, including off-site compensation not directed at the affected individuals, may be considered. Formal intra-Service consultation must occur on the proposed issuance of any section 10 permit. Although including candidate species is not required by law, it is Services policy to consider candidate species when making natural resource decisions. Therefore, candidate species will be considered for all intra-Service consultations.

**Origin:** Appendix E of the Intra-Service Consultation Handbook

**IPaC (Information for Planning and Conservation)** - This is an internet-based system designed for easy, public access to the natural resources information for which the U.S. Fish and Wildlife Service has trust or regulatory responsibility. One of the primary goals of the system is to provide information that assists people in planning activities within the context of natural resource conservation. The IPaC system also assists people through the various regulatory consultation, permitting and approval processes administered by the Fish and Wildlife Service, helping achieve more effective and efficient results for both the project proponents and natural resources.

**Origin:** Working definition

**Additional information:** <http://www.fws.gov/ipac/>

**jeopardy, jeopardize, jeopardize the continued existence of** - A phrase used in the ESA, but only defined in the regulations. "...[T]o engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species."

**Origin:** 50 CFR 402.02, FWS and NMFS

**Additional information:** "The determination of jeopardy or adverse modification is based on the effects of the action on the continued existence of the entire population of the listed species or on a listed population..." (Section 7 Handbook, pp. 4-33 and 4-34).

**land use area or development area** - A term to identify the area within the HCP boundary and permit area where the majority of the land use project activities and most direct impacts will occur.

**Origin:** FWS 1996

**listed species** - Any species of fish, wildlife or plant which has been determined to be endangered or threatened under section 4 of the Act. FWS listed species are found in 50 CFR 17.11-17.12. NMFS listed species are found in 50 CFR 223.102 and 224.101.

**Origin:** 50 CFR 402.02

**low-effect HCPs** - Those HCPs involving minor or negligible effects on federally listed, proposed, or candidate species and their habitats covered under the HCP and minor or negligible effects on other environmental values or resources. For an HCP to qualify as low-effect, it must also qualify as a categorical exclusion under NEPA. Effects can be mitigated, such as buying conservation bank credits, so that the HCP can be considered “low-effect.” Examples may include permanent impacts to a small area of habitat within the plan area or temporary impacts to habitat that have minor or negligible effects on federally listed, proposed, or candidate species.

**Origin:** FWS 2011

**master permit holder** - A permit holder implementing a programmatic conservation plan who can enroll other participants and convey incidental authority under their master incidental take permit. See also certificate of inclusion.

**Origin:** Working definition

**maximum extent practicable** - To issue an incidental take permit, the ESA requires the Service to make a finding that “the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the such taking.” Guidance on meeting this statutory issuance criterion is provided in Chapter 9.

**Origin:** 16 U.S.C. § 1539(a)(2)(B)

**minimization measures** - Within the context of the HCP, minimization is related to the impacts of the proposed covered activities on the species to be covered. In other words, minimization measures comprise actions that will reduce the impacts of the taking that have been identified during the development of the HCP.

**Origin:** Working definition

**mitigation** - Because the meaning of the term “mitigation” can have different interpretations, we define “mitigation” for the purposes of this Handbook as that it means “to offset impacts of taking on the species.”

**Origin:** working definition; Chapter 9

**monitoring** - Conservation plans require monitoring in some capacity dependent upon the type of plan and permit holder(s). An ideal monitoring requirement would consist of three separate components: compliance monitoring, effects monitoring, and effectiveness monitoring.

**Origin:** FWS 2011b

**National Environmental Policy Act (NEPA)** - A Federal statute that requires Federal agencies to consider the environmental impacts of their discretionary proposed actions, and for significant environmental actions seeking public input on decisions and implementation of federal actions.

**negligible (and minor)** - (NEPA definition) - Regarding effects under NEPA, these are non-significant actions.

**Origin:** Derived from 40 CFR 1508.7, CEQ

**NEPA (analysis) document** - NEPA screening document, environmental assessment, or environmental impact statement

**Origin:** Working definition

**no surprises assurances** - The No Surprises policy, originally announced in 1994, provides regulatory assurances to the holder of a Habitat Conservation Plan (HCP) incidental take permit issued under section 10(a) of the ESA that no additional land use restrictions or financial compensation will be required of the permit holder with respect to species covered by the permit, even if unforeseen circumstances arise after the permit is issued indicating that additional mitigation is needed for a given species covered by a permit.

**Origin:** 50 CFR 17, FWS; 50 CFR 222, NMFS

**non-covered species** - Species for which no incidental take is authorized in an incidental take permit and is not covered in a habitat conservation plan.

**Origin:** Working definition

**non-federal property owner** - Property owners, including, but not limited to private individuals, states, tribes, non-governmental organizations, industries, etc. that can apply for incidental take permits under ESA section 10(a)(1)(B) and participate in corresponding conservation plans.

**Origin:** Working definition

**notice of intent (*Federal Register*)** - A notice, usually published in the *Federal Register*, that an environmental impact statement will be prepared and considered.

**Origin:** 40 CFR 1508.22, CEQ

**objective** - A concise statement of what we want to achieve, how much we want to achieve, when and where we want to achieve it, and who is responsible for the work. Objectives derive from goals and provide the basis for determining strategies, monitoring accomplishments, and evaluating the success of strategies.

**Origin:** FWS 1997

**Additional Information:** See also biological objective.

**operating conservation program** - An operating conservation program includes an operating conservation plan, HCP, the aim of which is to avoid, minimize, and compensate for impacts on covered species that result from authorized activities, and to protect and conserve habitats that support these species.

**Origin:** Working definition

**Additional Information:** See also conservation program.

**permit** - A document signed by an authorized official of the Services that authorizes, limits, or describes take of ESA listed species. ESA section 10(a)(1)(B) incidental take permits authorize take that occurs incidental to and not the purpose of otherwise lawful activities in accordance within HCP; ESA section 10(a)(1)(A) authorizes incidental take in accordance with an SHA or CCAA.

**Origin:** Working definition and ESA sections 10(a)(1)(A) and 10(a)(1)(B).

**permit area** - The geographic area where the incidental take permit applies. It includes the area under the control of the applicant/permittee(s) where covered activities will occur. The permit area must be delineated in the permit and be included within the plan area of the HCP.

**Origin:** Working definition modified from HCP Training NCTC Course notebook.

**plan area** - The specific geographic area where covered activities described in the HCP, including mitigation, may occur. The plan area must be identified in the HCP. Depending on the nature of the HCP, the plan area could for example: a) be all or some of the property of a single landowner; b) may encompass a large area to allow for future acquisition or expansion of control of a large company; or c) encompass a whole county, state, or other area under a programmatic HCP that would allow enrollment by multiple landowners over time. Plan areas must include at least the permit area but often include lands outside of the permit area.

**Origin:** Working definition modified from HCP Training, National Conservation Training Center Course notebook.

**programmatic plan or agreement** - A large-scale plan with a central, or master, permit holder and participants enrolled by the permittee's regulatory authorities, or signed up through certificates of inclusion.

**Origin:** Working definition

**properly implemented conservation plan** - Any conservation plan, Implementing Agreement and permit whose commitments and provisions have been or are being satisfactorily implemented by the permittee.

**Origin:** 50 CFR 17.3, FWS; 50 CFR 222.102, NMFS

**property owner** - A person with a fee simple, leasehold, or other property interest (including owners of water rights or other natural resources), or any other entity that may have property interest, sufficient to carry out the proposed management actions, subject to applicable state law, on non-federal land.

**Origin:** 50 CFR 17.22(c), 17.22(d), 17.32(c), and 17.32(d), FWS; FWS 2013

**proposed action** - (NEPA definition) - Under NEPA regulations, a plan that has a goal which contains sufficient details about the intended actions to be taken or that will result, to allow alternatives to be developed and its environmental impacts to be analyzed.

**Origin:** 40 CFR 1508.23, CEQ; FWS 2013, FWS 2003, FWS 2001, FWS 1996

**proposed species** - Any species of fish, wildlife or plant that is proposed in the *Federal Register* to be listed under section 4 of the ESA.

**Origin:** 50 CFR 402.02, FWS and NMFS; FWS and NMFS 1998

**qualified applicant** - For FWS, a qualified applicant is one that has the legal authority to execute their proposed project on the lands that are proposed for coverage under an HCP and sufficient legal control to implement the HCP, such as ownership of property in fee simple, a lease agreement that grants authority for the proposed project, or similar type of legal authority to conduct the proposed activities. For NMFS, a qualified applicant is so determined by the Administrator.

**Origin:** 50 CFR 17.22(b)(2)(F), FWS; 50 CFR 17.32(b)(2)(F), FWS; 50 CFR 222.303(e)(1)(v), NMFS

**ROD (Record of Decision)** - The ROD is the final step for agencies in the EIS process. The ROD is a document that states what the decision is; identifies the alternatives considered, including the environmentally preferred alternative; and discusses mitigation plans, including any enforcement and monitoring commitments.

**Origin:** Working definition

**Additional information:** 40 CFR 1505.2 and 1505.3; A Citizen's Guide to NEPA, Having Your Voice Heard, Council on Environmental Quality, 2007, 49 p.

**recovery** - Improvement in the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act.

**Origin:** 50 CFR 402.02, FWS and NMFS

**recovery unit** - Management subsets of the listed species that are created to establish recovery goals or carrying out management actions essential to the conservation of the species. To lessen confusion in the context of section 7 and other ESA activities, a subset of an animal or plant species that needs to be identified for recovery management purposes will be called a "recovery unit" instead of a "population." May help in delineating permit and planning areas.

**Origin:** FWS 2011; NMFS 2010

**requested take** - The amount or extent of take requested by the applicant in a permit application and conservation plan.

**Origin:** Working definition

**resource** - The habitats, circumstances, and other physical or biological features or conditions required by a species for breeding, feeding and/or sheltering (reproduction, nutrition, habitat for plants). Examples include: grassland, forest, natural ambient light, habitat structure, ability to roost undisturbed, host species, prey species, pollinators, aspect of slope, etc.

**Origin:** FWS 2015

**safe harbor agreement (SHA)** - A voluntary agreement (under section 10(A)(1)(a) involving private or other non-Federal property owners whose actions contribute to the recovery of species listed as threatened or endangered under the ESA. The agreement is between cooperating non-Federal property owners and the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

**Origin:** Working definition

**Additional information:** See *Federal Register*, June 17, 1999, Vol. 64, No. 116, (pp. 32771 – 32726) for Safe Harbor policy.

**safe harbor assurances** - Assurances provided by the Services to a non-Federal property owner in the Agreement and authorized in the enhancement of survival permit for covered species. These assurances allow the property owner to alter or modify enrolled property, even if such alteration or modification results in the incidental take of a listed species to such an extent that it returned the species back to the originally agreed upon baseline conditions. Such assurances may apply to whole parcels or portions of the owner's property as designated in the Agreement. These assurances depend on the property owner complying with obligations in the Agreement and in the enhancement of survival permit.

**Origin:** FWS 2013; 64 FR 1999

**Science Advisory Committees/Teams** - The purpose of the Science Advisory Committee is to make recommendations to the Applicant on what species should be considered in the HCP; help to determine the effects of the Covered Activities on the potential covered species; and assist in development of the minimization and mitigation package for the proposed HCP. Some advisory committees may be established to guide adaptive measures during permit implementation. The basis for any HCP planning effort is the scientific understanding behind the species and their habitats that are likely to be included in the HCP. The scientific advisory committee usually consists of recognized species experts from academia, State agencies, Federal agencies, and FWS. The Applicant should also be represented on the committee and the lead biologist working on the planning effort. The size of the Scientific Advisory Committee should be proportional to the number of potential covered species and complexity of the issues being addressed in the HCP. If there is potentially a large number of covered species, it may not be practical to have experts on all the species on the Science Advisory Committee. In this instance, it may be advisable to have representatives of the potential applicant, FWS, States, and other federal agencies comprise the committee, which then would coordinate with the species experts to make recommendations to the applicant.

**Origin:** FWS 2012

**section 4** - The section of the Endangered Species Act of 1973, as amended, outlining procedures and criteria for: (1) identifying and listing threatened and endangered species; (2) identifying, designating, and revising critical habitat; (3) developing and revising recovery plans; and (4) monitoring species removed from the list of threatened or endangered species [ESA §4]”.

**Origin:** Working definition and section 4, ESA

**section 4(d)** - That section of section 4 (of the ESA) that relates to protective regulations the Secretary deems necessary and advisable to provide for the conservation of such [threatened] species.

**Origin:** Working definition and section 4(d) of the ESA.

**section 6** - The section of the ESA that sets out the manner in which the Services cooperate with the individual states to conserve endangered or threatened species e.g. management agreements, cooperative agreements, allocation of funds, etc.

**Origin:** Working definition and section 6 of the ESA.

**section 7** - The section of the ESA outlining the mandate for Federal agencies to use their authorities to conserve listed species and habitat designated as critical (section 7(a)(1)); establish the requirement to conduct conferences on proposed species, allow applicants to initiate early

consultation, require FWS and NMFS to prepare biological opinions, and issue incidental take statements (section 7(a)(2)). Section 7 also establishes procedures for seeking exemptions from the requirements of section 7(a)(2) from the Endangered Species Committee.

**Origin:** Working definition and section 7 of the ESA.

**section 9** - The section of the Endangered Species Act of 1973, as amended, that prohibits the taking of endangered species of fish and wildlife. Additional prohibitions include: (1) import or export of endangered species or products made from endangered species; (2) interstate or foreign commerce in listed species or their products; and (3) possession of unlawfully taken endangered species. ESA section 9.

**Origin:** Working definition and section 9 of the ESA.

**section 10** - The section of the ESA that provides exceptions to section 9 prohibitions. The exceptions relevant to HCPs are takings allowed by two kinds of permits issued by the Services: scientific take permits [section 10 (a)(1)(A)] and incidental take permits [section 10 (a)(1)(B)]. The Services can issue permits to take listed species for scientific purposes, or to enhance the propagation or survival of listed species. The Services can also issue permits to take listed species incidental to otherwise legal activity. ESA section 10.

**Origin:** Working definition and section 10 of the ESA.

**section 10(a)(1)(A)** - That portion of section 10 of the ESA that allows for permits for the taking of threatened or endangered species for scientific purposes or for purposes of enhancement of propagation or survival.

**Origin:** ESA section 10(a)(1)(A); FWS 2013, FWS 2003, FWS 2001, FWS 1996

**section 10(a)(1)(B)** - That portion of section 10 of the ESA that allows for permits for incidental taking of threatened or endangered species.

**Origin:** ESA section 10(a)(1)(B); FWS 2013, FWS 2003, FWS 2001, FWS 1996

**Service(s)** - The U.S. Fish and Wildlife Service or the National Marine Fisheries Service (or both).

**Origin:** FWS and NMFS 1998

**set of findings** - Document prepared for the administrative record to memorialize a permit decision. Often executed as a recommended action by staff or middle management for concurrence by permit signatory at time of permit decision. It may incorporate NEPA functions, such as the finding of no significant impact or environmental action statement.

**Origin:** FWS 1996, 50 CFR Parts 13 and 17, FWS, 50 CFR 222, NMFS

**species** – "...[I]ncludes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature."

**Origin:** ESA, section 3

**species take avoidance measures (STAMs)** - Measures the Service has approved and the applicant agrees to undertake to avoid take of a listed, proposed, candidate, or other at-risk species within a permit area.

**Origin:** Great Plains Wind Energy HCP and NiSource HCP; began as industry term

**stakeholders** - Anyone with an interest or stake. Includes Federal, State, and local agencies, Tribes, non-governmental organizations, industries, other groups, or individuals with an interest in recovery, or who may be affected by recovery planning or implementation.

**Origin:** FWS 2011

**stay ahead provisions** - The specifics are laid out in each HCP, but generally stay ahead provision require the conservation to be implemented before impacts can occur.

**steering committee** - Group or panel of individuals representing affected interests or stakeholders in a conservation planning program, the private sector, and the interested public, which may be formed by the applicant to guide development of the HCP, recommend appropriate development, land use, and mitigation strategies, and to communicate progress to their larger constituencies. FWS and NMFS representatives may participate to provide information on procedures, statutory requirements, and other technical information (but Service representatives should not request a recommendation to comply with the Federal Advisory Committee Act).

**Origin:** FWS and NMFS 1996

**Surrogate** - Term originating from the FWS Section 7 Handbook describing an alternative way to express the level of take anticipated from an action when the take of individuals of the species is difficult to detect or enumerate.

**Origin:** Working definition

**Additional Information:** Handbook, p. 4-47 and 4-49. Practitioners should note that if a surrogate is used, the relationship between it and the listed species must be well established in the Biological Opinion before its use in the Incidental Take Statement.

**survival** - "...[F]or determination of jeopardy/adverse modification: the species' persistence as listed or as a recovery unit, beyond the conditions leading to its endangerment, with sufficient resilience to allow for the potential recovery from endangerment. This condition is characterized by a species with a sufficient population, represented by all necessary age classes, genetic heterogeneity, and number of sexually mature individuals producing viable offspring, which exists in an environment providing all requirements for completion of the species' entire life cycle, including reproduction, sustenance, and shelter.

**Origin:** FWS and NMFS 1998, p. xviii

**Additional Information:** Mentioned several times in the ESA, but not defined there.

**take** - "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct."

**Origin:** ESA section 3

**Additional information:** See also harass and harm. Plants are treated differently regarding take - see ESA section 9.

**threats assessment** - A systematic identification, deconstruction and analysis of potential threats, including sources and their associated stressors. It results in a well-documented population by population assessment of the scope and severity and the related imminence of each



potential threat. A threats assessment can be organized by the five factors in section 4(a)(1). Sometimes called a threats analysis.

**Origin:** FWS 2011

**threatened species** - Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**Origin:** ESA section 3(20); 50 CFR 424.10(m), FWS and NMFS

**unforeseen circumstances** - Means changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that could not reasonably have been anticipated by plan or agreement developers and the Service at the time of the conservation plan's or agreement's negotiation and development, and that result in a substantial and adverse change in the status of the covered species.

**Origin:** 50 CFR 17.3, FWS; 50 CFR 222.103, NMFS

**viability** - The ability of a species to persist over the long term, and conversely, to avoid extinction over some time period. So we can think of a viable species as having a high degree of redundancy (multiple, strategically situated populations), resilience (self-sustaining populations), and representation (ability to adapt and evolve).

**Origin:** FWS 2013b

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