

**Appendix 2:**  
**List of Definitions**

## DEFINITIONS

Candidate species - Under FWS's ESA policy "...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..." (See Federal Register, Volume 61, No. 49, page 7598, and 61 FR 64481) For those species under the jurisdiction of NMFS, candidate species means a species for which concerns remain regarding their status, but for which more information is needed before they can be proposed for listing.

Categorical exclusion - Under NEPA regulations, a category of actions that does not individually or cumulatively have a significant effect on the human environment and have been found to have no such effect in procedures adopted by a Federal agency pursuant to NEPA. (40 CFR 1508.4)

Complete application package - Section 10 permit application package presented by the permit applicant to the Field Office or Regional Office for processing. It contains an application form, fee (if required), Candidate Conservation Agreement with Assurances, EA or EIS. In order to begin processing, the package must be accompanied by a certification by the Field Office that it has reviewed the application documents and finds them to be statutorily complete.

Covered Lands - Lands and other areas encompassed by specific boundaries which are affected by the Candidate Conservation Agreement and take permit.

Covered species - A species of fish, wildlife or plant that is the subject of a Candidate Conservation Agreement with Assurances, are included on the permit and for which assurances are provided.

Cumulative impact or effect - Under NEPA regulations, the incremental environmental impact or effect of the action together with impacts of past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. (40 CFR 1508.7) Under ESA section 7 regulations, the 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 (50 CFR 402.02).

Delist - To remove from the Federal list of endangered and threatened species (50 CFR 17.11 and 17.12) because such species no longer meets any of the five listing factors provided under section 4(a)(1) of the ESA and under which the species was originally listed (i.e., because the species has become extinct or is recovered).

Downlist - To reclassify an endangered species to a threatened species based on alleviation of any of the five listing factors provided under section 4(a)(1) of the ESA.

Effect or impact - Under NEPA regulations, a direct result of an action that occurs at the same time and place; or an indirect result of an action which occurs later in time or in a different place and is reasonably foreseeable; or the cumulative results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions (40 CFR 1508.8). Under ESA section 7 regulations, "effects of the action" means "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 (50 CFR 402.02).

Endangered species - "...any species [including subspecies or qualifying distinct population segment] which is in danger of extinction throughout all or a significant portion of its range." [Section 3(6) of ESA]

Endangered Species Act of 1973, as amended - 16 U.S.C. 1513-1543; Federal legislation that provides means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, and provides a program for the conservation of such endangered and threatened species.

Enhancement of survival permit - A permit issued under the authority of section 10(a)(1)(A) of the Act.

Enrolled property - All private or non-Federal property, waters, or natural resources to which the assurances in a Candidate Conservation Agreement with Assurances apply and on which taking is authorized under the enhancement of survival permit.

Environmental Action Memorandum (EAM) - A FWS document prepared to explain the Service's reasoning in finalizing an action that is categorically excluded from NEPA; decisions based on EAs for which a notice is not published in the Federal Register; emergency actions under CEQ's NEPA regulations (40 CFR 1506.11); EAs which conclude that an EIS is necessary (since no FONSI is prepared in such cases); and any decision where additional documentation of the Service's decision is desirable (Director's Order No. 11).

Environmental Assessment (EA) - 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 (40 CFR 1508.9).

Environmental impact statement (EIS) - 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 (40 CFR 1508.11 and 40 CFR 1502).

Finding of no significant impact (FONSI) - 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 (40 CFR 1508.13).

Force majeure - Means events that are beyond the reasonable control of, and that did not occur through the fault of negligence of, Permittee or any entity controlled by Permittee, including its contractors and subcontractors, including but not limited to: acts of God; sudden actions of the elements, including fire; or actions of Federal or State agencies or other local jurisdictions. Force majeure does not include the financial inability of Permittee to fulfill its obligations or any increased cost of performance.

Formal permit application phase - The phase of the section 10 process that begins when the Regional Office receives a "complete application package" and ends when a decision on permit issuance is finalized.

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.

Habitat conservation plan (HCP) - Under section 10(a)(2)(A) of the ESA, a planning document that is a mandatory component of an incidental take permit application, also known as a Habitat Conservation Plan or HCP.

"Harm" - Defined in regulations implementing the ESA promulgated by the Department of the Interior as an act "which actually kills or injures" listed wildlife; harm may include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering." (50 CFR 17.3) NMFS has not defined "harm" by regulation.

"Harass" - Defined in regulations implementing the ESA promulgated by the Department of the Interior 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, and sheltering." (50 CFR 17.3) NMFS has not defined "harass" by regulation.

Incidental take - Defined in regulations implementing the ESA promulgated by the Department of the Interior as any taking otherwise prohibited, if such taking is incidental to but not the

purpose of, the carrying out of an otherwise lawful activity (50 CFR 17.3) (see definition for "take").

Listed species - Species, including subspecies and distinct vertebrate populations, of fish, wildlife, or plants listed as either endangered or threatened under section 4 of the ESA.

National Environmental Policy Act (NEPA) - Federal legislation establishing national policy that environmental impacts will be evaluated as an integral part of any major Federal action. Requires the preparation of an EIS for all major Federal actions significantly affecting the quality of the human environment (42 U.S.C. 4321-4327).

Non-Federal property owner - Includes, but is not limited to, private individuals, organizations, businesses, State, local, and Tribal governments, and other non-Federal entities who own the enrolled property. Federal agencies can be involved in the development of Candidate Conservation Agreements with Assurances, but will not receive the same assurances provided through these Agreements as non-Federal property owners.

Person - "...an individual, corporation, partnership, trust association, or any other private entity; or any officer, employee, agent, department or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States" [Section 3(12) of the ESA].

Proposed action - 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 (40 CFR 1508.23).

Proposed species - A species for which a proposed rule to add the species to the Federal list of threatened and endangered species has been published in the Federal Register.

Record of Decision - Under NEPA regulations, a concise public record of decision prepared by the Federal agency, pursuant to NEPA, that contains a statement of the decision, identification and discussion of all factors used by the agency in making its decision, identification of all alternatives considered, identification of the environmentally preferred alternative, a statement as to whether all practical means to avoid or minimize environmental harm from the alternative selected have been adopted (and if not, why they were not), and a summary of monitoring and enforcement measures where applicable for any mitigation (40 CFR 1505.2).

Safe Harbor Agreement - An Agreement signed by the Service and a property owner and any other cooperator, such as the holder of a "programmatic" permit, if appropriate, that (a) sets forth specific management activities that the private or non-Federal property owner will voluntarily undertake or forgo that will provide a net conservation benefit to listed species and

(b) provides the property owner with the Safe Harbor assurances described within the Agreement and authorized in the enhancement of survival permit.

Section 7 - The section of the ESA which describes the responsibilities of Federal agencies in conserving threatened and endangered species. Section 7(a)(1) requires all Federal agencies "in consultation with and with the assistance of the Secretary [to] utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species." Section 7(a)(2) requires Federal agencies to "ensure that any action authorized, funded, or carried out by such agency...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of..." designated critical habitat.

Section 9 - The section of the ESA dealing with prohibited acts, including the "take" of any listed species without specific authorization of the Fish and Wildlife Service or the National Marine Fisheries Service for species under the jurisdiction of each agency.

Section 10 - The section of the ESA dealing with exceptions to the prohibitions of section 9 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.

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.

Species - "...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" [Section 3(15) of the ESA].

Take - Under section 3(18) of the ESA, "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" with respect to federally listed endangered species of wildlife. Federal regulations provide the same taking prohibitions for threatened wildlife species [50 CFR 17.31(a)].

Threatened species - "...any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range" [Section 3(19) of the ESA].

**LIST OF ACRONYMS:**

CCAA - Candidate Conservation Agreement with Assurances

FWS - U.S. Fish and Wildlife Service

HCP - Habitat Conservation Plan

NEPA - National Environmental Policy Act

NMFS - National Marine Fisheries Service

SHA - Safe Harbor Agreement