



Safe Harbor Agreements For Private Landowners

Questions and Answers

Why is this policy necessary and what are its purposes?

For the last decade or so, it has become increasingly evident that private and non-Federal landowners can play a critical role in the conservation of listed species. This is especially important when, according to the General Accounting Office report that concluded that as of 1995 at least 712 species occurred on private lands. Many initiatives aimed at implementing management actions to enhance the status of listed species on non-Federal lands has been met with fear of the future implications of enhancing or attracting listed species onto their properties. This policy main purpose is to promote the implementation of beneficial management actions for listed species on non-Federal landowners while providing participating landowners with the necessary assurances that no additional future regulatory restrictions will be imposed on their land's management as a result of their proactive and voluntary conservation management actions.

How are species benefitted?

Before entering into a Safe Harbor Agreement the Services must make a finding that covered species will receive a net benefit from the management actions taken under the Agreement. Conservation benefits derived from management actions under the Agreement include reduction of habitat fragmentation, maintenance, restoration, or enhancement of existing habitats, increase

in habitat connectivity, maintenance or increase of population numbers or distribution, reduction of the effects of catastrophic events, establishment of buffers for protected areas, and areas to test and develop new management techniques. However, in the final analysis it's the interaction of the cumulative benefits of all agreements which would provide the most conservation benefit.

What assurances does the landowner receive?

The Services will provide assurances (through the issuance of an enhancement of survival permit) that, at the end of the term of the Agreement or at any time during the agreement, as long as the landowner has complied with the terms of the agreement, the participating landowner can, if necessary, incidentally take above baseline individuals without any additional restrictions.

What are Safe Harbor Agreements?

Safe Harbor Agreements, coupled with an enhancement of survival permit, provide assurances to non-Federal landowners (e.g., State and local agencies, private landowners, Tribal governments, businesses) who voluntarily agree to manage their lands to benefit listed, proposed, and candidate species that their proactive and voluntary stewardship will not result in future regulatory obligations in excess of those that existed at the time of entering into the

agreement. Landowners have been hesitant for years to undertake management actions that may enhance existing populations of listed species, restore degraded habitat areas, restore historic populations, or undertake actions that may improve the status of populations within their lands because of fear of future additional regulatory obligations. Through this process the Services will authorize any necessary future incidental take to provide the participating landowner with the necessary assurances.

Who can participate?

Any non-Federal landowner can request the development of a Safe Harbor Agreement. Generally, these agreements are entered into only between the landowner and the Services. However, other important stakeholders (e.g., State Fish and Game agencies, Tribal governments, local governments, conservation organizations, businesses) can participate in a number of capacities in the development phases of the agreement or even be signatories to the Agreement. However, the assurances only apply to the participating landowners and for lawful activities within the enrolled lands.

How does this policy affect individuals and institutions not associated with the Services?

Individuals and institutions will be affected in a positive manner by the implementation of this policy because for years non-Federal landowners have



been seeking and have insisted on receiving some assurances that their voluntary actions will not result in future land-use restrictions. This policy could affect all non-Federal landowners interested in voluntarily undertaking conservation measures on their lands that also seek assurances of no future additional obligations. However, it will also affect the Services and the FWS's Private Lands Programs because of the increased workload expected from the implementation of this policy nationwide.

What are the steps to develop a Safe Harbor Agreement?

Generally, the sequence of events is as follows:

Anyone interested in participating in the Safe Harbor Program should contact the nearest field office.

Some general information must be gathered to develop an agreement. Information to be collected include, but is not limited to, a map of the property, any management plans any information on listed species occurrence within the property, any other pertinent information.

An on-site visit is necessary to determine baseline conditions, discuss land use objectives, assess habitat quality, and identify any other information needs to develop an agreement that meets the standards of the policy.

Based on all the information provided by the landowner, information gathered during site visits and the Service's technical assistance a cooperative agreement is developed

between the landowner and the Service and any other pertinent entity (e.g., State Fish and Game agencies).

The Service after complying with all applicable ESA provisions will issue the landowner a Safe Harbor permit.

A monitoring program is developed and implemented to assess the success of the management practices to be implemented as a result of the Safe Harbor and any future incidental take that may occur as a result of the termination of the agreement.

How long does it take to develop an Agreement?

Development time for an agreement varies and depends on a number of factors including but not limited to, complexity of the species and the species' ecology, planning scale, number of parties to the agreement, state of scientific knowledge regarding the management of covered species, and available funding to implement the program.

How is the baseline determined?

The baseline of the enrolled property will be described in terms appropriate for the target or covered species, such as number and location of individuals, if available or determinable, necessary habitat characteristics that support the covered species, and any other surrogate measure that adequately describes listed species' use of the enrolled lands at the time of entering into the Agreement.

What if I sell my land? Are these agreements transferable?

If a participating landowner who is party to a Safe Harbor Agreement transfers ownership of the enrolled lands, the Services will regard the new landowner as having the same rights with respect to the enrolled lands as the original landowner if the landowner agrees to and signs the original agreement or a new mutually agreeable agreement.

When an Agreement expires, how can it be renewed?

These agreements can be renewed for as long as the landowner is interested and continues to implement the agreement's provisions and the Services have the necessary resources to continue providing any necessary technical assistance for the continued sound implementation of the agreement.