



U.S. Fish & Wildlife Service

GENERAL CONSERVATION PLAN FOR THE DESERT TORTOISE IN CALIFORNIA

The U.S. Fish and Wildlife Service (Service) proposes to develop a General Conservation Plan for the federally threatened desert tortoise in California to address incidental take permitting needs on projects that lack a federal nexus.

Preliminary Purpose and Need

Desert tortoises occur in low densities over large areas of non-federal land in California. The construction, operation, and maintenance of various types of projects, such as renewable energy facilities, commercial buildings, and utilities, can kill or injure desert tortoises. Absent a federal nexus, project proponents may pursue individual applications for incidental take permits, pursuant to the Endangered Species Act of 1973, as amended. Although meeting the issuance criteria for an incidental take permit for the desert tortoise is relatively straightforward, the processing of such incidental take permits is time consuming and complex. For these reasons, the Service seeks to streamline its review and issuance of incidental take permits for the desert tortoise in California in areas that it does not consider to be important for achieving the recovery goals of the species.

Planning Area

The planning area would include areas where the Service and others have focused efforts to conserve desert tortoises in the long term and areas where the streamlined incidental take permitting process would be in effect. We will refer to these as the mitigation area and permit area, respectively.

Mitigation Areas

The Service's 2011 recovery plan for the desert tortoise recommends managing suitable habitat as desert tortoise conservation areas. These conservation areas include desert tortoise habitat within critical habitat, areas of critical environmental concern, National Park Service lands, California Desert National Conservation Lands, and other areas managed for their conservation values. The Service is considering areas that overlap desert tortoise habitat as the mitigation areas for the General Conservation Plan.



Permit Area

The permit area comprises non-federal lands outside of desert tortoise conservation areas. In general, the Service has not attempted to maintain these areas as long-term habitat for the desert tortoise because of the more abundant threats and the lack of land ownership in a manner that is conducive to conservation management.

We anticipate that most of the permit area would occur in the western Mojave Desert. However, we continue to seek input on the boundaries of this area.

What activities would the General Conservation Plan cover?

The General Conservation Plan would cover development, operation, and maintenance of commercial (e.g., renewable energy projects), agricultural, residential, and infrastructure projects and recreational activities outside of desert tortoise conservation areas, provided that they meet its established sideboards. It would also cover activities within Congressional rights-of-way for which those rights-of-way were granted.

What would happen to desert tortoises found on project sites?

The Service proposes to translocate desert tortoises from sites proposed for development to suitable habitat within desert tortoise conservation areas. The recipient locations would depend on the specific needs of the desert tortoise and the recipient location. These locations would likely include lands managed by the Bureau of Land Management and non-governmental conservation organizations.

Who may apply to use the General Conservation Plan?

Any project proponent who wishes to engage in a covered activity within the planning area may be eligible for an incidental take permit, provided they meet permit issuance criteria and commit to implement the specific conservation measures for the desert tortoise identified in the General Conservation Plan.

National Environmental Policy Act

Federal agencies must comply with the National Environmental Policy Act when they undertake discretionary actions. The purposes of the National Environmental Policy Act are to ensure that federal agencies examine environmental impacts of their actions and to ensure public

participation. In this case, the Service's discretionary action is to determine whether to issue an incidental take permit; the Service's National Environmental Policy Act compliance would consist of an environmental impact statement.

Plan and Permit Duration

Incidental take permits issued under the General Conservation Plan will authorize incidental take associated with covered activities for up to 30 years after issuance of each permit.

Regulatory Context

Permits issued under the General Conservation Plan will cover only take incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Applicants seeking an incidental take permit under the General Conservation Plan must comply with all applicable Federal, State, and local statutes and regulations to ensure that the action is otherwise lawful. If an activity is reasonably certain to cause the take of federally listed species other than the desert tortoise, the Service will recommend that the applicant apply for a separate incidental take permit.

Incidental Take Permit Process Under The General Conservation Plan

The conservation planning process will have four primary phases: (1) pre-application; (2) development of a conservation plan; (3) processing of the permit; and (4) post-issuance compliance. In the first stage, the Service will provide the potential applicant guidance in deciding if an incidental take permit is appropriate and, if so, the type and scale of conservation plan that would be needed.

During the second phase, the applicant will prepare a plan that integrates the proposed project or action with conservation of listed species. Every conservation plan submitted in support of an application for an incidental take permit must specify:

1. The impact to the desert tortoise that will likely result from such taking;
2. What steps the applicant will take to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;
3. What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and
4. Such other measures that the Service may require as being necessary or appropriate for purposes of the plan (50 Code of Federal Regulations 17.32(b)(1)(iii)(C)).

During the third phase, the Service will determine whether the applicant has proposed adequate measures to monitor, minimize, and mitigate the effects of the incidental take and that it has received any other assurances that it may require that the applicant will implement the plan. The minimization measures must address capturing desert tortoises that reside in work areas and moving them to secure habitat. The Service proposes to follow the general guidance for mitigation ratios contained in the Bureau of Land Management's California Desert Conservation Area Plan as amended by the Desert Renewable Energy Conservation Plan. Monitoring requirements will depend on site-specific circumstances.

The Service proposes to render a decision regarding issuance of the incidental take permit after reviewing the complete application package. We anticipate completing this phase within 30 days of receiving a complete conservation plan, as described in the previous paragraph.

During the post-issuance phase, the permittee and any other responsible entities will be required to implement the conservation plan in accordance with the terms and conditions of the incidental take permit and report the results to the Service. The Service will monitor compliance with the conservation plan and its long-term progress and success.

How do I comment?

The Service is in the initial stages of gathering input for the General Conservation Plan and associated Environmental Impact Statement. Submit Input by July 1, 2022.

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Comments also can be submitted at the following website:
www.virtualpublicmeeting.com/usfws-desert-tortoise-gcp-eis

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