

# Natural Community Conservation Planning

## General Process Guidelines

\*\*Note - Except as provided in Fish and Game Code section 2830, these guidelines are superceded by the NCCP Act of 2002 (Fish & Game Code, [Section 2800](#) et seq.).

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# I. Introduction

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- A. **What is an NCCP?** A Natural Community Conservation Plan (NCCP or "plan") is a plan for the conservation of natural communities that takes an ecosystem approach and encourages cooperation between private and government interests. The plan identifies and provides for the regional or areawide protection and perpetuation of plants, animals, and their habitats, while allowing compatible land use and economic activity. An NCCP seeks to anticipate and prevent the controversies caused by species' listings by focusing on the long-term stability of natural communities.
- B. **Legal Authority.** NCCPs are authorized by the NCCP Act of 1991, codified as Chapter 10 of Division 3 of the California Fish and Game Code ( 2800 et. seq.). Approved NCCPs provide the basis for issuance of state authorizations for the take of species specifically identified in the plan, whether or not a species is listed as threatened or endangered, and may provide the basis for issuance of federal endangered species permits.

An NCCP will be approved by the Department for implementation upon meeting the statutory standards for natural community conservation (Fish and Game Code 2820 et. seq.) and other applicable laws and regulations. It is important to note that the NCCP process must ensure consistency with the federal and state Endangered Species Acts.

- C. **Purpose of the Guidelines.** These guidelines, adopted pursuant to 2825 of the Fish and Game Code for the general application of the NCCP Act, are designed to help planners provide for regional protection and perpetuation of biological diversity, meet NCCP regulatory requirements and to allow for flexibility in plan development. Further guidelines may be adopted in the future for the application of the NCCP Act to specific ecosystems or regions of the state.
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## II. Characteristics of an NCCP

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An NCCP is defined by the following characteristics and these combined characteristics may distinguish an NCCP from other types of conservation planning efforts.

- A. Scope.** The scope of the plan is regional or area wide (Fish and Game Code 2805). Within the planning region, effective NCCP "subregional planning units" may be delineated to reflect both biological and administrative boundaries. An NCCP is based on a scientific and procedural framework that can effectively address cumulative impact concerns and integrate them with multi-jurisdictional or subregional planning efforts.
  - B. Ecosystem Conservation.** The plan promotes wildlife diversity through conservation of habitat on an ecosystem level. "Wildlife" means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which wildlife depend for their continued viability (Fish and Game Code 711.2).
  - C. Science.** The plan provides a conservation strategy that is based on recognized principles of conservation biology, as well as the best available scientific information about species and habitats.
  - D. Coordination.** The plan promotes coordination and cooperation among public agencies, landowners, other private interests, and members of the public, and includes a mechanism by which private interests can participate in the planning process.
  - E. Economic Activity.** The plan allows compatible economic activity including resource utilization and development.
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### III. Components of an NCCP

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#### A. Planning Agreement

1. The Department of Fish and Game (Department) may enter into agreements with any person for the purpose of preparing and implementing an NCCP. A planning agreement identifies the scope of the plan to be prepared and the participating parties. More specifically, the planning agreement:
  - a. shall be entered into by, and binding upon, all parties, including, but not limited to, the department, other participating federal, state, or local agencies, and participating private landowners;
  - b. shall identify those natural communities, and the endangered, threatened, proposed, candidate, or other species known, or reasonably expected to be found in those communities, which will be the focus of the plan;
  - c. should establish a process for the identification of target species, which may include listed species, and which shall collectively serve as indicators of the natural communities which are the focus of the plan;
  - d. shall establish a process for the collection of data, information, and independent input necessary to meet scientifically sound principles for the conservation of species coverage in the plan;
  - e. shall establish a process for public participation throughout plan development and review;
  - f. should establish an interim process (during plan development) for project review, by wherein projects which potentially conflict with goals of the plan are discussed with the Department prior to formal processing by the jurisdiction.
  - g. shall provide that draft documents associated with a natural community conservation plan shall be available for public review and comment for at least 45 days prior to adoption. The review period specified in this paragraph may run concurrent with the review period provided for the California Environmental Quality Act (CEQA) document associated with the natural community conservation plan, however, nothing in this paragraph limits the discretion of a city or county to revise any draft documents at a public hearing.
2. The Department may also enter into a Memorandum of Understanding (MOU) with the appropriate federal and state agencies to set up a joint program by which state and federal participation in the development and implementation of one or more NCCPs may be coordinated. Pursuant to 2095 of the Fish and Game Code, the Department encourages consistent and compatible findings between state and federal agencies on biological opinions.

**B. Planning Document.** The plan should be tailored to meet the resource needs of a particular region

or subregion. The plan must specify a strategy for achieving the required objectives of natural community conservation and compatible land use and economic activity. The strategy might include such techniques as reserve assembly or watershed management. Planning considerations and key plan elements should include, but are not limited to, the following:

## **1. Planning Considerations**

- a. Research. Take into account, and coordinate with, ongoing scientific research that will be helpful in future management adaptations.
- b. Agricultural Land Protection. Consider the impact of the plan on the use of existing agricultural lands and on conversion of agricultural land to non-agricultural purposes. The conservation value of the types of agriculture in the plan area should be recognized in the plan. NCCPs should distinguish between areas that are intended to remain in agriculture in perpetuity, areas expected to be converted to urban development, and areas to be restored to a natural state when current commitments have expired. An NCCP may be developed in connection with, or to aid in, an agricultural program created under Article 3.5 of Chapter 1.5 of the Fish and Game Code.
- c. Aquatic Ecosystem Responsibilities. Consider methods by which the Department's responsibilities under Chapter 6 of Division 2 of the Fish and Game Code (1600 et. seq.) can be integrated with future NCCP planning processes and with the responsibilities of various federal agencies for regulation of waterways and wetlands.

## **2. Key Plan Elements**

- a. Scope. Describe the natural communities and geographic area of the plan. Also identify the conservation goals for the plan area.
- b. Covered Species. Identify those species to be conserved and managed within the plan area and may therefore be authorized for taking pursuant to Section 2835 and summarize how the ecological needs of those species are met by the plan.
- c. Anticipated Activities. Describe the activities or categories of activities anticipated to be authorized by plan participants, which will result in the taking of species pursuant to Section 2835 within the plan area. Activities shall be described in sufficient detail to allow the department to evaluate the impact of such activities on the ecosystems, natural communities, and species identified in the plan. The combined effect of these activities must not negate the conservation benefits of the plan for any covered species.
- d. Principles of Conservation Biology. Delineate the scientifically sound principles of conservation biology used in formulating those provisions of the plan to protect, restore, or enhance the ecosystems, natural communities and habitat types within the plan area. Demonstrate accepted principles of conservation biology for species covered have been used in formulating the plan.
- e. Conservation Strategy

- *Conservation Measures*. Identify those actions to be undertaken to protect, restore or enhance the natural communities within the plan area.
  - *Compatible Uses*. Identify appropriate activities, and any restrictions on activities, within the conserved areas.
  - *Schedule*. Set forth a schedule for the implementation of conservation measures.
  - *Measurable Goals*. Set forth objective, measurable goals to ensure that the conservation measures identified in the plan are carried out in accordance with the schedule and goals set forth in the plan.
- f. Monitoring. The plan must include a monitoring program that provides periodic evaluations of monitoring results and other new information to be used to:
  - evaluate compliance with plan implementation mechanisms;
  - evaluate biological performance of the plan; and
  - determine whether management objectives remain appropriate and whether new or different techniques could be utilized to better achieve management goals.
- g. Adaptive Management. Each plan will develop a management plan which will provide for adaptive management. The plan will provide for the implementation of an adaptive management program which establishes a flexible, iterative approach to long-term management of natural communities, habitat types, and species within the plan area. Management will be refined and improved over time based upon the results of ongoing monitoring activities and other relevant information. Elements of a management plan subject to adaptive management may include, but are not limited to, habitat management and enhancement, fire management, management of human impacts, and exotic species control.
- h. Funding. Set forth an adequate funding source or sources to ensure that the conservation actions identified in the plan are carried out in accordance with the schedule and goals set forth in the plan.
- i. Assurances. An NCCP may include, in both the plan and in a separate implementing agreement, assurances that provide for the long-term reconciliation of new land development in the planning area and the conservation and protection of endangered species. Departmental assurances will be determined for individual plans according to the level of conservation each plan affords. If warranted, the Department will provide its assurance that the NCCP provides measures sufficient to conserve the species addressed in the plan and that no further land dedications, land use restrictions, water use commitments, or financial compensation will be required by the Department of plan participants, except in defined extraordinary circumstances.

**C. Implementation Agreement.** NCCP participants commit to implementing the NCCP by preparing and signing an Implementation Agreement. The Implementation Agreement:

- defines the obligations of the signatories and other parties;
- provides legally binding and enforceable assurances that the plan will be implemented and adequately funded; and
- provides a process for amendment of the plan.

The Implementation Agreement may provide that a separate management plan or plans will be adopted in the future or at periodic intervals provided that the management plan(s) meets criteria set forth in the NCCP. Where appropriate, the Department may require additional memoranda of understanding that the Department believes would assist in the implementation of the plan.

#### **D. Take Authorization**

- 1. Section 2835.** Section 2835 of the Fish and Game Code allows the Department to authorize incidental take in an NCCP. Take may be authorized for any identified species whose conservation and management is provided for in the plan, whether or not the species is listed as threatened or endangered under the federal or state Endangered Species Acts.
  - a. Identified species that are not listed shall be treated as if listed pursuant to the California Endangered Species Act (CESA) either by addressing the species themselves or by addressing species whose habitat and survival needs are demonstrably similar to those of the identified species.
  - b. Within the area subject to the plan, should demonstrate that it contributes to the recovery of listed species authorized for take.
- 2. Section 2081 Compliance.** To ensure compliance with CESA, authorization for taking of species identified in the plan shall also meet the following conditions required by 2081(b) of the Fish and Game Code:
  - a. The taking is incidental to an otherwise lawful activity.
  - b. The impacts of the authorized take shall be minimized and fully mitigated. Impacts of taking include all impacts on the identified species that result from any act that would cause the proposed taking.
    - The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species.
    - Where various measures are available to meet this obligation, the measures required shall maintain the applicant's objectives to the greatest extent possible.
    - All required measures shall be capable of successful implementation.
  - c. The authorization is consistent with any regulations adopted pursuant to Sections 2112 and 2114 of the Fish and Game Code (Recovery Strategies).
  - d. The applicant shall ensure adequate funding to implement the measures required and for monitoring with, and effectiveness of, those measures.

**E. Environmental Documentation.** NCCPs shall provide for appropriate compliance with CEQA as required by 2825(b) of the Fish and Game Code and, to the extent applicable, with the National Environmental Policy Act (NEPA). The CEQA document for the plan shall include a specific mitigation and implementation monitoring program, consistent with the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. Ordinarily, the Department will act as a CEQA responsible agency for the purpose of approving an NCCP. In certain circumstances, the Department may act as a CEQA lead agency. In either case, CEQA review of NCCPs must be coordinated with the Department.

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## IV. Relationship to Other Guidelines

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- A. Coastal Sage Scrub Guidelines.** The Department has previously adopted both process guidelines and conservation guidelines for the Southern California Coastal Sage Scrub (CSS) NCCP pilot project. Those guidelines remain in effect. NCCPs within the CSS planning region, that incorporate CSS habitat, will comply with those guidelines.
- B. Further Guidelines.** Further guidelines may be adopted in the future for specific plans being developed under the NCCP Act or for the application of the NCCP Act to specific ecosystems or regions of the state. Such guidelines will be consistent with these general guidelines. Such guidelines will be circulated for appropriate public review before their adoption by the Department.
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## V. Adoption and Effective Date

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These guidelines are adopted by the Department of Fish and Game this **22nd day of January, 1998**. These guidelines are effective immediately and apply to all NCCPs hereafter approved by the Department.

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JACQUELINE E. SCHAFER Director

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