

Agreements with Assurances. A property owner (including anyone with a fee simple, leasehold, or other property interest sufficient to carry out the proposed management activities, subject to applicable State law) must submit an application for a permit under paragraph (d) of this section to the appropriate Regional Director, U.S. Fish and Wildlife Service, for the Region where the applicant resides or where the proposed activity is to occur (for appropriate addresses, see 50 CFR 10.22). * * *

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(3) * * *

(ii) When appropriate, a requirement for the permittee to give the Service reasonable advance notice (generally at least 30 days) of when he or she expects to incidentally take any listed species covered under the permit. Such notification will provide the Service with an opportunity to relocate affected individuals of the species, if possible and appropriate; and

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(5) * * *

(i) *Changed circumstances provided for in the Agreement.* If the Director determines that additional conservation measures are necessary to respond to changed circumstances and these measures were set forth in the Agreement, the permittee will implement the measures specified in the Agreement.

(ii) *Changed circumstances not provided for in the Agreement.* If the Director determines that additional conservation measures not provided for in the Agreement are necessary to respond to changed circumstances, the Director will not require any conservation measures in addition to those provided for in the Agreement without the consent of the permittee, provided the Agreement is being properly implemented.

(iii) * * *

(B) If the Director determines additional conservation measures are necessary to respond to unforeseen circumstances, the Director may require additional measures of the permittee where the Agreement is being properly implemented, but only if such measures maintain the original terms of the Agreement to the maximum extent possible. Additional conservation measures will not involve the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under

the original terms of the Agreement without the consent of the permittee.

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(7) *Criteria for revocation.* The Director may not revoke a permit issued under paragraph (d) of this section except as provided in this subsection. The Director may revoke a permit for any reason set forth in § 13.28(a)(1) through (4) of this subchapter. The Director may revoke a permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and recovery in the wild of any listed species or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species. Before revoking a permit for either of the latter two reasons, the Director, with the consent of the permittee, will pursue all appropriate options to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, capturing and relocating the species, compensating the landowner to forgo the activity, purchasing an easement or fee simple interest in the property, or arranging for a third-party acquisition of an interest in the property.

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6. Amend § 17.32 by revising the first sentence of paragraph (c)(1), paragraphs (c)(1)(ii), (c)(2)(ii), (c)(3)(ii), (c)(5)(ii), (c)(7), the first sentence of paragraph (d)(1), paragraphs (d)(3)(ii), (d)(5)(i)-(ii), (d)(5)(iii)(B), and (d)(7) to read as follows:

§ 17.32 Permits—general.

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(c)(1) *Application requirements for permits for the enhancement of survival through Safe Harbor Agreements.* A property owner (including anyone with a fee simple, leasehold, or other property interest sufficient to carry out the proposed management activities, subject to applicable State law) must submit an application for a permit under paragraph (c) of this section to the appropriate Regional Director, U.S. Fish and Wildlife Service, for the Region where the applicant resides or where the proposed activity is to occur (for appropriate address see 50 CFR 10.22), if the applicant wishes to engage in any activity prohibited by § 17.31. * * *

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(ii) A description of how incidental take of the covered species pursuant to the Safe Harbor Agreement is likely to occur, both as a result of management

activities and as a result of the return to baseline;

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(2) * * *

(ii) The implementation of the terms of the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the affected listed species by contributing to the recovery of listed species included in the permit, and the Safe Harbor Agreement otherwise complies with the Safe Harbor policy available from the Service;

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(3) * * *

(ii) When appropriate, a requirement for the permittee to give the Service reasonable advance notice (generally at least 30 days) of when he or she expects to incidentally take any listed species covered under the permit. Such notification will provide the Service with an opportunity to relocate affected individuals of the species, if possible and appropriate; and

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(5) * * *

(ii) The Director and the permittee may agree to revise or modify the management measures set forth in a Safe Harbor Agreement if the Director determines that such revisions or modifications do not change the Director's prior determination that the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the listed species. However, the Director may not require additional or different management activities to be undertaken by a permittee without the consent of the permittee.

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(7) *Criteria for revocation.* The Director may not revoke a permit issued under paragraph (c) of this section except as provided in this paragraph. The Director may revoke a permit for any reason set forth in § 13.28(a)(1) through (4) of this subchapter. The Director may revoke a permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and recovery in the wild of any listed species or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species. Before revoking a permit for either of the latter two reasons, the Director, with the consent of the permittee, will pursue all appropriate options to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, capturing and relocating the species,