

**Eligibility Determination Form for the
General Conservation Plan for Oil and Gas Activities in
Santa Barbara County**

The following steps will help you determine whether your proposed project may be eligible for an Incidental Take Permit (ITP) pursuant to Endangered Species Act (ESA) Section 10(a)(1)(B) under the General Conservation Plan for Oil and Gas Activities in Santa Barbara County (GCP). The GCP and associated documents can be found here: <https://www.fws.gov/ventura>. The GCP is designed to cover specific non-Federal oil and gas activities that overlap with California tiger salamanders (*Ambystoma californiense*), California red-legged frogs (*Rana draytonii*) and their habitats as well as the Lompoc yerba santa (*Eriodictyon capitatum*) within Santa Barbara County. If you determine that your proposed project is not eligible for coverage under the GCP, recommendations are provided in the steps below to assist you with compliance with the ESA. If you determine that your project may be eligible for coverage, you will need to submit this completed and signed along with the other required application materials described below for an Incidental Take Permit (ITP) pursuant to ESA Section 10(a)(1)(B).

1. Does your proposed project have the potential to result in take¹ of California tiger salamanders or California red-legged frogs or their habitats, or adversely impact Lompoc yerba santa? At this permit application stage, you may assume potential take or conduct protocol-level presence/absence surveys in accordance with U.S. Fish and Wildlife Service (Service) and California Department of Fish and Wildlife (CDFW) Guidance. A more detailed analysis of impacts will be required in the Individual Permit Package (see Section 6 of the GCP) along with copies of environmental documentation prepared in compliance with the California Environmental Quality Act (CEQA) as well as the associated CEQA findings and Mitigation, Monitoring, and Reporting Program (MMRP).
 - a. If yes, proceed to Step 2.
 - b. If no, coordinate with the Ventura Fish and Wildlife Office to receive documentation for your records that your proposed project will not result in take of the California tiger salamander or California red-legged frog or their habitats, or adversely impact Lompoc yerba Santa. ITPs issued through the GCP only address these species. Contact the Service if any other species maybe affected as the potential for take of other federally listed species are not addressed under the GCP.

2. Is the proposed project a “Covered Activity” under the GCP? For a description of Covered Activities, see Section 2 of the GCP
 - a. If yes, check the boxes below for the activity you are requesting coverage for and proceed to Step 3.
 - Upstream Activities (as described in Section 2 of the GCP)
 - Midstream Activities (as described in Section 2 of the GCP)
 - Operation and Maintenance Activities (as described Section 2 of the GCP)

¹ Section 9 of the ESA prohibits “take” of threatened and endangered species. The term “take” means to “harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S. Code [USC] §1532(3)(19)). The term “harm” is defined to include any act “which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essentially behavioral patterns, including breeding, feeding, or sheltering” (50 Code of Federal Regulations [CFR] §17.3). The term “harass” is defined 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, or sheltering” (50 CFR §17.3).

- b. If no, your proposed project cannot address ESA compliance needs through the GCP. Please contact the Service to determine next steps to address any potential impacts to listed species or their habitats.
3. Will take of California tiger salamanders or California red-legged frogs be incidental to the proposed project? Section 10(a)(1)(B) authorizes the issuance of permits for take resulting from non-Federal activities that may occur incidentally to otherwise lawful measures with the provision of a Habitat Conservation Plan (HCP). The term “*incidental take*” is defined as take that is “*incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.*”
- a. If yes, proceed to Step 4.
- b. If no, your proposed project cannot address ESA compliance needs through the GCP. Please contact the Service to determine next steps to address any potential impacts to listed species or their habitats.
4. Is your proposed project an otherwise lawful activity? The ESA statute and the associated implementing regulations and policies of the Service require that the proposed project must be otherwise lawful. This standard requires that the proposed action must comply with all applicable Federal, state, and local laws, regulations, and ordinances.
- a. If yes, proceed to Step 5.
- b. If no, the Service cannot issue an ITP for proposed projects that do not meet this requirement. Contact the Service to determine if there are other pathways to comply with the statute.
5. Has a CEQA-compliant document been prepared for the proposed project?
- a. If yes, proceed to Step 6. (The Service will use the CEQA-compliant document in conjunction with the Low Effect Screening Form and coordination with the Service’s Cultural Resources Team to determine if the proposed project qualifies for a Categorical Exclusion or whether a project-specific Environmental Assessment would be required. If the CEQA-compliant document identifies significant and unavoidable impacts and requires a Statement of Overriding Considerations, an Environmental Impact Statement may be required and the proposed project would not be eligible for take coverage under the GCP.)
- b. If no, the proposed project may not be in compliance with the Service's Environmental Assessment of the GCP for which a Finding of No Significant Impact was issued. , the Service cannot issue an ITP for proposed projects that do not meet this requirement. Contact the Service to determine if there are other pathways to comply with the statute.
6. Do you agree to: 1) provide a record of consultation with appropriate Federal, state, and local agencies as well as appropriate Native American tribes; and 2) to conduct a historical/cultural review of your project site and incorporate measures, if necessary, to overcome any significant impacts; avoid any impacts to Indian sacred sites; and not limit access to Indian sacred sites on Federal lands?
- a. If yes, proceed to Step 7.
- b. If not, the proposed project may not be in compliance with the Service’s Environmental Assessment of the GCP for which a Finding of No Significant Impact was issued. Contact the Service to determine if there are other pathways to comply with the statute.
7. If your proposed project will located be on or will otherwise impact any park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains

(Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas under Federal ownership or jurisdiction, do you agree to work with managing entities and meet their requirements?

- a. If yes, proceed to Step 8.
 - b. If no, the proposed project may not be in compliance with the Service's Environmental Assessment of the GCP for which a Finding of No Significant Impact was issued. Contact the Service to determine if there are other pathways to comply with the statute.
8. Has your company been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, where such assessment or conviction evidences a lack of responsibility?
- a. If yes, please contact the Service to determine if such penalty may preclude you from being eligible for this GCP.
 - b. If no, proceed to Step 9.
9. Is your project located within the Coastal Zone or does your project have the potential to result in downstream resources within the Coastal Zone?
- a. If yes, consistency with the California Coastal Management Program (CCMP) is required. Check the boxes indicating that the following information can be provided and proceed to Step 10.
 - Copy of the Applicant-prepared Consistency Certification;
 - Documentation of concurrence from the Coastal Commission. (Consistent with 15 Code of Federal Regulations [CFR] §930.64, the Service shall not issue an ITP under the GCP following an objection to a consistency certification provided by the Coastal Commission, except as provided in 15 CFR Part 930, Subpart H.)
 - b. If no, proceed to Step 10.
10. Does your project involve potential impacts to jurisdictional water features?
- a. If yes, a wetland delineation, jurisdiction determination, and all appropriate Clean Water Act (CWA) permits would be required. Proceed to Step 11.
 - b. If no, proceed to Step 11.
11. Do you agree to provide a copy of the MMRP, if necessary pursuant to CEQA, and implement minimization and mitigation measures, provide funding assurances for mitigation and changed circumstances, and meet reporting requirements as described in the GCP?
- a. If yes, proceed to Step 12.
 - b. If no, your proposed project cannot address ESA compliance needs through the GCP. The Applicant should, to the maximum extent practicable minimize their impacts to federally-listed species and provide assurances of funding for mitigation and changed circumstances. Contact the Service to determine next steps to address any project impacts to listed species or their habitats.
12. Do you acknowledge that a complete Permit Application Package, which includes an Individual Project Package, must be submitted to the Service and approved? See Section 6 of the GCP for additional information on the submittal process.
- a. If yes, proceed to Step 13.
 - b. If no, your Section 10(a)(1)(B) application cannot be approved. An ITP cannot be issued until your Permit Application Package has been approved by the Service.

13. Your proposed project may be eligible for coverage under the GCP. Your next step is to submit this document (completed and signed) along with a Section 10(a)(1)(B) permit application, and the other documents identified in the checklist on the following page. For more information on the permit application process, see Section 6 of the GCP. If your proposed project has any potential Federal nexus, we recommend that you contact the Service before preparing your permit application.

Certification: I hereby certify the information submitted in this Eligibility Determination Form for the GCP is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 USC §1001 (50 CFR §13.12[a][5]).

Signature of Applicant / Person Responsible for Permit

Date of Signature (mm/dd/yyyy)

Name: _____ Company Name: _____

Company Address: _____

Phone Number: _____ E-mail: _____

GCP Permit Application Checklist:

- Complete and signed Eligibility Determination Form (i.e., this document)
- Complete Section 10(a)(1)(B) permit application and processing fee (currently \$100.00). The permit application and step-by-step application guidance can be found here: <https://www.fws.gov/ventura>.
- General map and list of counties to be included for the Area of Permit Cover (may be the entire Planning Area)
- Complete Individual Project Package (see Section 6 of the GCP)
- Copy of the CEQA-compliant documentation, CEQA findings, and the MMRP (if applicable).
- Record of consultation with appropriate Federal, state, and local agencies as well as appropriate Native American Tribes
- If within the Coastal Zone, copy of the Applicant-prepared Consistency Certification as well as documentation of concurrence from the Coastal Commission.

All information above should be submitted electronically to: sbc-oilandgasgcp@fws.gov, with a subject line of "GCP [Company Name] Permit Application." Additionally, the original signed permit application should be submitted to the following address:

U.S. Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

For additional discussion on the Section 10(a)(1)(B) permit application and implementation process, see Section 6 of the GCP.