Habitat Conservation Plan

IV. Previous and Future Shoreline Protection

Will My Existing Armoring Structure be Covered for Take Under the County's HCP and ITP?

No. The County's HCP and ITP would only cover take that occurs from shoreline protection measures permitted by the County under emergency authorization subsequent to the date of issuance of the ITP. In other words, only future structures would be covered. Take coverage will apply to any future temporary measures implemented under the County's emergency authorization, as well as any permanent structures that may result from those temporary measures. For example, if a temporary sheet pile seawall is installed under a future County emergency permit and the property owner applies for and receives a permit from the FDEP to retain the seawall as a permanent structure, any take caused by either the temporary or permanent structure would be covered over the life of the ITP. The HCP would establish specific criteria governing future issuance of emergency shoreline protection permits, such as when the County can exercise its emergency permitting authority, what structures are eligible for emergency shoreline protection, and what shoreline protection measures are authorized. The HCP would also contain a variety of requisite conditions for minimizing and mitigating take. Mitigation would involve a variety of programs related to the conservation of protected species along the County's Gulf coastline. A number of mitigation funding options are under consideration. In an effort to streamline the process, we anticipate that one such option would be an impact fee. That fee would be proportional to the amount of habitat impacted by the shoreline protection structure.

If My Armoring Structure Was Installed Under a Previous County Emergency Authorization, Can I be Covered for Take?

There is no provision under the ESA for after-the-fact take coverage. However, temporary armoring structures permitted under Walton County's emergency authorization following the passage of Hurricane Dennis may be covered for future take under a separate "umbrella" HCP/ITP being developed by the USFWS. To be eligible for this take authorization, the property owner must have been issued an emergency permit by the County between July 15, 2005 and October 28, 2005, must have installed the structure prior to April 30, 2006, ***and*** must have applied to FDEP for a CCCL permit to retain the structure within 60 days of issuance of the emergency permit. Upon issuance of the County's ITP, individual property owners who meet the above criteria and whose CCCL permit applications to FDEP have been determined to be consistent with State law can apply to the USFWS for coverage under the umbrella ITP. Upon issuance of a "certificate of inclusion" by the USFWS, the FDEP will issue a CCCL permit to retain the structure. Any take that results from the permitted structure subsequent to issuance of the certificate of inclusion would be covered over the life of the Federal umbrella ITP. In applying for individual take coverage, property owners must agree to comply with all terms and conditions of the Federal umbrella HCP/ITP, including mitigation. One mitigation option may be the payment of an impact fee to help fund the conservation of protected species along the County's Gulf coastline. The amount and use of this fee would be consistent with the standards established under the County's HCP for future shoreline protection structures. Property owners may also propose alternative mitigation to the USFWS for consideration.

What if I've Already Have Been Issued a FDEP CCCL Permit?

There are several classes of structures for which no additional action is needed. These include:

- Any structure built prior to Hurricane Dennis under a standard FDEP CCCL permit;
- Any structure built between July 15, 2005 and April 30, 2006 under a temporary emergency permit from Walton County and for which a FDEP CCCL permit has already been issued; and
- Any structure built after April 30, 2006 under a standard FDEP CCCL permit.

In each of the above cases, the State has made, or will make, a determination that take of sea turtles from the permitted structure is not likely to occur and thus no Federal ITP is required.

What If I Was Issued an Emergency Permit After Hurricane Dennis But Did Not Construct Any Shoreline Protection?

If Walton County issued you an emergency permit between July 15, 2005 and October 28, 2005, and if you did not implement any shoreline protection measures prior to April 30, 2006, it is assumed that the emergency condition no longer exists. Consequently, the emergency permit has expired. You must now undergo the standard FDEP CCCL permitting process to install a shoreline protection structure, if needed.

What If I Was Issued an Emergency Permit After Hurricane Dennis But Did Not Construct Any Shoreline Protection Until After April 30, 2006?

If Walton County issued you an emergency permit between July 15, 2005 and October 28, 2005 and you installed a structure after April 30, 2006, you may be required to remove the structure. Removal of such structures must be done outside the sea turtle nesting season and conform to State laws. Any take of endangered or threatened species that occurs between the date of construction and the time the structure is either removed from the beach or permitted by FDEP will not be covered under the County's ITP. Furthermore, you will not be eligible to apply for individual coverage under the Federal umbrella HCP/ITP. You must now undergo the standard FDEP CCCL permitting process to retain the armoring structure.

What If I Installed a Shoreline Protection Structure under a Previous Emergency Permit But Did Not Apply to FDEP for a CCCL Permit in a Timely Manner?

If Walton County issued you an emergency permit between July 15, 2005 and October 28, 2005 and you installed a structure prior to April 30, 2006 but did not make application to FDEP for a CCCL permit within 60 days of issuance of the emergency permit, you may be required to remove the structure. Removal of such structures must be done outside the sea turtle nesting season and conform to State laws. Any take of endangered or threatened species that occurs between the date of construction and the time the structure is either removed from the beach or permitted by FDEP will not be covered under the County's ITP. Furthermore, you will not be eligible to apply for individual coverage under the Federal umbrella HCP/ITP. You must now undergo the standard FDEP CCCL permitting process to retain the armoring structure.

How will FDEP Process My CCCL Application to Retain A Temporary Armoring Structure Installed Under the County's Previous Emergency Authorization?

If a property owner made timely application to FDEP for a CCCL permit to retain a temporary structure installed under Walton County's past emergency authorization, FDEP will first review the application for consistency with State laws. If it is determined that it does not comply with State law, the FDEP may deny the application or recommend alternative shoreline protection. In either event, the temporary structure may have to be removed from the beach. Removal of such structures must be done outside the sea turtle nesting season and in accordance with State law. Any take of endangered or threatened species that occurs between the date of construction and the time the structure is removed from the beach will not be covered under the County's ITP.

Furthermore, you will not be eligible to apply for individual coverage under the Federal umbrella HCP/ITP. You must now undergo the standard FDEP CCCL permitting process to retain the armoring structure.

If FDEP determines that a timely application for a CCCL permit conforms to State law, it will then make a determination as to whether or not the proposed shoreline protection measure is likely to cause take. If it is determined that the structure is not likely to cause take of a sea turtle, a CCCL permit will be issued and no Federal ITP is required. However, if it is determined that the structure is likely to cause take of a sea turtle, FDEP will request the applicant to "put to sleep" the application until such time that the property owner obtains coverage under the Federal umbrella HCP/ITP. Once the USFWS issues a certificate of inclusion, the FDEP will complete the application process and issue a CCCL permit.

What Happens if Another Hurricane Occurs Prior to Completion of the County's HCP?

The IGA between Walton County, FDEP, FWC and the USFWS provides specific guidelines for the declaration of a local emergency and issuance of emergency permits should another storm impact the County's coastline before the ITP application process is completed. All emergency shoreline protection permits issued by Walton County after October 28, 2005 must conform to FDEP's "Interim Guidelines to Local Governments for Emergency Temporary Coastal Armoring Seaward of the Coastal Construction Control Line" dated June 2, 2006. The IGA also prescribes specific actions that will be undertaken by each agency with respect to development of the County's HCP, the companion Federal umbrella HCP, and FDEP's processing of CCCL permits for structures permitted under the County's emergency authority between July 15, 2005 and October 28, 2005. Click here to view or print a copy of the Intergovernmental Agreement in effect in Walton County.