



Regional Road Maintenance ESA Program Guidelines Newsletter

NOAA App to Identify ESA Habitat

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NOAA Fisheries has launched a new Protected Resources Application that quickly and easily displays the locations of marine and anadromous species and their habitats protected under the Endangered Species Act.

The app draws on geographic information system data, making it simple for the public, tribes, and government agencies, among others, to identify protected habitats. For example, users can easily create detailed maps comparing the habitat of different ESA-listed salmon and steelhead stocks and see where their habitats overlap. The app also displays real-time data from external sources such as the U.S. Census Bureau, which provides congressional district and tribal boundary information.

Read the full article: <http://www.cbulletin.com/442250.aspx>

Try the app:

<https://www.webapps.nwfsc.noaa.gov/portal/apps/webappviewer/index.html?id=7514c715b8594944a6e468dd25aaacc9>

Governor Signs Five Orca Recovery Bills into Law

On May 8, governor Jay Inslee signed five orca recovery bills into law that protect the safety and livelihood of the Southern Resident orca. The bills focus on protecting orcas from vessel noise and traffic, improving the safety of oil transportation through the Salish Sea, and increasing fish forage habitat and Chinook salmon for the orca's food source.

Read the full article: <https://www.governor.wa.gov/issues/issues/energy-environment/southern-resident-orca-recovery>

Bill 5135 to Prevent Toxic Pollution

An Act relating to preventing toxic pollution that affects public health or the environment will become law.

The law provides funding and requires Ecology to identify:

- Priority chemicals of concerns to sensitive populations (e.g., children) and sensitive species (e.g., orca, salmon).
- Consumer products that are a significant source of those priority chemical, and the availability of safer alternatives.
- Regulatory actions to increase transparency and to reduce the use of priority chemicals in consumer products.

By June 2020, Ecology shall create a stakeholder advisory process to provide input to Ecology on this process. Ecology shall provide the public with an opportunity for review and comment on the regulatory determinations. Regulatory rulemaking resulting from this effort must be adopted by 2023 so enforcement can begin. Enforcement may include civil penalties to manufacturers that violate rulemaking.

Read the final bill language: <https://app.leg.wa.gov/bills/summary?BillNumber=5135&Year=2019>

Upcoming Events and

Hot Topics:

BMP classes scheduled (see page 7 for details)

In-Water Work BMP Classes:

September 16—Monroe

September 17—Monroe

Erosion and Sediment Control Field BMP Classes:

October 1—Monroe

October 2—Monroe

Negotiating Team and Committee Update

Committees are the working component of the Regional Forum. The Regional Forum identifies key decision points and assigns committees to research or report on them. The Forum establishes timelines and provides guidance to committees.

Committee meetings are open to any Regional Forum member and all Regional Forum members are encouraged to participate and/or monitor these meetings. The following is a description of the negotiating team and the committee's accomplishments and functions since the last newsletter:

- Report

Reports are due August 15. Please send them to Gregor Myhr at myhrg@wsdot.wa.gov and Janine Johanson at janine.johanson@kingcounty.gov.

- Negotiating Team

No update

- Program Review and Approval

The next biennial report to NMFS is due at the end of 2020.

- Training

Regional Road Maintenance Program Quarterly Meetings will continue to provide for coordination on planning for upcoming training opportunities. Training courses will also be announced through Highway and Local Programs LTAP distribution list.

See page 7 for training information.

- Part 3 Framework

No New Part 3 Applications have been submitted for approval.

- Biological Review

See Negotiating Team.

- Stormwater

See page 3 for stormwater updates.

- Implementation

No update.

- Scientific Research

BMP research continues at training sites. BMP research of BMPs used in the training program continues as classes are developed and presented.

- Permit

No update

- Integrated Vegetation Management (IVM)

No update.

Ecology's Chemical Action Plan for PFAS

Per- and polyfluorinated alkyl substances (PFAS) are a group of over 4,700 synthetic organic chemicals. They are used in the manufacture of coatings, surface treatments, and specialty chemicals used in cookware, carpets, food packaging, clothing, cosmetics, and other common consumer products. PFAS also have many industrial applications and are an active ingredient in certain types of fire-fighting foams (aqueous film-forming foams, or AFFF). PFAS coatings resist oil, grease, and water. PFAS can withstand high temperatures, and survive highly corrosive environments.

In March 2018, two laws passed in Washington that impact the use of PFAS in firefighting foam and food packaging. Chemical Action Plans (CAPs), developed by Ecology and the Department of Health, identify the potential health and

environmental effects of persistent, bioaccumulative, and toxic chemicals, and recommend actions to reduce or eliminate those impacts. An [Interim PFAS CAP](#) was developed to identify immediate actions to address problems with PFAS. Development of the Final PFAS CAP will continue into 2019.

The Interim PFAS CAP is currently being updated to include new chapters and preliminary recommendations. The draft updates can be found at the link below. Comments can be submitted online until June 3rd. Ecology plans to publish the Draft PFAS CAP for formal 60-day public review and comment later this summer in the hopes of finalizing the PFAS CAP early in 2020.

Additional information can be found:

<https://www.ezview.wa.gov/?alias=1962&pageid=37105>



Fish Passage Video

State highways cross streams and rivers in thousands of places in Washington State, which can impede fish migration. WSDOT has worked for nearly three decades to improve fish passage and reconnect streams to help keep our waterways healthy. WSDOT Fish Barrier Correction is a priority.

Learn more at WSDOT's Fish Passage webpage: <http://www.wsdot.wa.gov/Projects/FishPassage/default.htm>

Fish Passage video: <https://www.youtube.com/watch?v=1oFZ1VSzMjA&feature=youtu.be>

EPA Action on WA WQ Standards

On November 15, 2016, the EPA partially approved and partially disapproved certain human health criteria (HHC), often called the "fish consumption rule", that Ecology submitted for review. Ecology's submittal contained 192 HHC for 97 priority pollutants. EPA approved 45 of the 192, disapproved 143 (for which the EPA promulgated standards), and deferred action on 4.

On May 10th, the EPA sent a letter to Ecology announcing the reversal of its disapproval of 141 of Ecology's HHC, reaffirming its disapproval of the 2 HHC associated with arsenic, and approving the 4 HHC for which they originally deferred action.

The HHC approved in this action will not be in effect until the EPA promulgated HHC are withdrawn — the EPA intends to initiate rulemaking to withdraw the EPA promulgated HHC.

Additional information, including the Technical Support Document for the EPA's action on May 5th, can be found: <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington>

BMP Feature: Fish Screens

This article is intended to provide a quick summary of the guidelines and required considerations for planning and conducting legal fish screening and dewatering of construction sites in accordance with state and federal law.

The Washington Department of Fish and Wildlife (WDFW) is dedicated to preserving, protecting, and perpetuating the state's fish, wildlife, and ecosystems while providing sustainable fish and wildlife recreational and commercial opportunities. One aspect in which WDFW works toward these goals is to promote the use of compliant fish screens.

Fish screens are different from common debris screens or foot valves and their use is required any time water is diverted from fish-bearing systems in Washington State. A fish screen is required for all agricultural, domestic, and construction dewatering activities (see RCW chapter 77.57 (<https://app.leg.wa.gov/RCW/default.aspx?cite=77.57>)). WDFW can provide technical assistance with project scoping and fish screen recommendations and our staff would look forward to helping you select the best screen for your specific needs.



A typical homemade non-compliant fish screen made from a bucket and screen door mesh

BMP Feature: Fish Screens

Instream activities often require isolation and by-passing of water around a worksite. Typically, portable pumps with a debris or trash screen placed on the end of the intake line are used. Debris screens and foot valves often look similar to a compliant fish screen, but they do not have the necessary features to adequately protect fish while the pump is operating. Compliant fish screens have undergone rigorous testing to assure consistency with NOAA and WDFW requirements and can often be purchased off the shelf to simplify the process. Some aspects that make a fish screen compliant are the size of screen openings, presence of engineered internal baffling, smooth joints and edges,

appropriate screening area, and percentage of open area. All guidelines are listed in the *Fish Passage Inventory, Assessment, and Prioritization Manual* (<https://wdfw.wa.gov/publications/02061>).

WDFW can provide technical assistance for any fish screening need. Screening experts are available to conduct a site visit and recommend a fish screen based on project needs and site conditions, often at no cost. Contact a member of the fish screening team for any surface water diversion or dewatering needs.



A compliant fish screen that can be utilized for dewatering construction projects.



WDFW Screening Staff:

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ESA Species Updates

This section highlights ESA species updates:

1. On March 15, 2019 USFWS proposed to delist and remove the ESA protections for the **gray wolf** (*Canis Lupus*) in the lower 48 states (FR 50 CFR Part 17 V. 84, 9648-9687). The Northern Rocky Mountain Distinct Population Segment (DPS) of gray wolves in eastern Washington was previously delisted (finalized in 2011), but wolves in part of Eastern Washington and all of Western Washington are currently listed as endangered.
2. On December 13, 2018, NMFS issued a draft [Recovery Plan](#) for the distinct population segment (DPS) of **Puget Sound steelhead** (*Onchorhynchus mykiss*), listed in 2007. A 2016 status review indicated most DPS steelhead continued to show downward trends in estimated abundance. The NMFS review team concluded the DPS was at very low viability, as were all three of its constituent Major Population Groups, and many of its 32 Demographically Independent Populations.
3. **Pygmy rabbits** will continue to be classified as an endangered species based on a report to the state Fish and Wildlife Commission that they face ongoing risks in central Washington's sagebrush habitat.
4. On April 12, 2018 USFWS proposed listing the **Island marble butterfly** (*Euchloe ausonides insulanus*) as endangered under the Endangered Species Act (ESA) (50 CFR Part 17 p 15900-15936). They also proposed to designate critical habitat. USFWS will receive comments until June 11, 2018 and make a final decision in April 2019 (approximate date). Occupied butterfly habitat is only found on San Juan Island, and does not intersect with state or federal highways.
5. The USFWS completed a five-year review of the **Canada lynx** (*Lynx canadensis*), a feline carnivore listed as threatened under the ESA. The review concluded that the lynx may no longer need protection under the ESA and can be considered for delisting. The delisting process would include the USFWS proposing to delist the species in the Federal Register. That process would take a minimum of a year from first publication in the Federal Register. Canada lynx are found in small populations in the Northern Cascades in Washington, with critical habitat designated in north central Washington. Lynx are also found in other states.
6. On January 23, 2017 the NMFS issued a final rule to delist the Puget Sound/Georgia Basin distinct population segment (DPS) of **canary rockfish** (*Sebastes pinniger*) under the ESA (CFR Vol 82 NO 13 77-11-



- 7731).
7. On October 17, 2016 the USFWS published a final rule downlisting the Columbia River distinct population segment (DPS) of **Columbia white-tailed deer** (*Odocoileus virginianus leucurus*) from endangered to threatened (50 CFR Part 17 V 81, 71386-71410).
8. On September 21, 2016 the USFWS made listing findings under the ESA for four species that may occur in WA, but the species are not warranted for listing (50 CFR Part 17 64843-64857). Guadalupe Murrelet (*Synthliboramphus hypoleucus*) formerly known as the Xantus's murrelet is now recognized as two species, the **Guadalupe Murrelet** and the **Scripps's murrelet** (*S. scrippsi*). **Northern Wormwood** (*Artemisia campestris* var. *wormskioldii*) known populations are stable. **Washington Ground Squirrel** (*Urocitellus Washington*) populations are not as isolated as previously thought.
9. Critical habitat designated for the **Oregon Spotted frog** (*Rana pretiosa*) in Whatcom, Skagit, Thurston, Skamania, and Klickitat Counties in Washington. Final Rule effective May 11, 2016 (50 CFR 17).
10. Critical habitat designated for Lower Columbia River **Coho Salmon and Puget Sound Steelhead**. Final Rule effective March 25, 2016. (81 FR 9251)
11. On October 7, 2014, the U.S. Fish and Wildlife Service proposed to list the West Coast distinct population segment (DPS) of the **fisher** (*Pekania pennant*) as threatened under the ESA (50 CFR 17 60419-60443).
12. On October 3, 2014 the USFWS issued a final rule listing for the Western DPS of the **yellow-billed cuckoo** (*Coccyzus americanus*) as threatened under the ESA (50 CFR 17 59992-60038). The ruling went into effect on November 3, 2014.
13. On September 12, 2014 the USFWS published a final rule designating rule designating revised **Canada lynx** (*Lynx canadensis*) critical habitat, and adjusting the boundary of the lynx distinct population segment (DPS) (50 CFR 17 54782-54846) under the ESA. The final rule takes effect on October 14, 2014. (USFWS Vol 11, Issue 4)
14. On August 29, 2014, the USFWS published a final rule to list the **Oregon Spotted frog** (*Rana pretiosa*) as a threatened species under the ESA (50 CFR 17 51658-51710). The Service will make its final determination on critical habitat sometime in the future. (USFWS Vol 11, Issue 4)
15. On May 9, 2014 the final rule to list four subspecies of **Mazama pocket gopher** as



(Continued on page 7)



Regional Road Maintenance Training

The Regional Forum typically schedules classes in the spring and fall. Field BMP classes will be announced through the WSDOT Local Technical Assistance Program (LTAP) webpage:

www.wsdot.wa.gov/LocalPrograms/Training/LTAP.htm

Currently scheduled fall season classes in Monroe, WA:

In-Water Work BMP: 9/16 or 9/17

Erosion and Sediment Control Field BMP: 10/1 or 10/2

If you have other training questions, please contact Gregor Myhr (MyhrG@wsdot.wa.gov), Jeff Rudolph (jrudolp@co.pierce.wa.us), or Janine Johanson (Janine.johanson@kingcounty.gov).



BMP Training at Pierce County May 2018

ESA Species Update (continued)

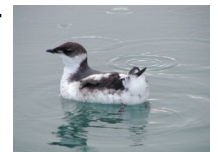
threatened species under the ESA, along with designated critical habitat became effective. (50 CFR Part 17 19760-19796 and 19712-19757). (USFWS Volume 11, Issue 3 and Volume 10, Issue 1)

16. The final rule to delist the Eastern DPS of the **Steller sea lion** was published on November 4, 2013 (50 CFR Parts 223 and 224 66140-66199). (Volume 11, Issue 1)
17. On October 3, 2013 the USFWS listed the **Taylor's checkerspot butterfly** as an endangered species (50 CFR 17 61452-61503) and also designated critical habitat (50 CFR 17 61506-61589). (Volume 11, Issue 1; Volume 10, Issue 1)
18. On October 3, 2013 the USFWS published a final rule to list the **streaked horned lark** (*Eremophila alpestris strigata*) as threatened (50 CFR 17 61452-61503) and also designate critical habitat (50 CFR 17 61506-61589). A 4(d) rule will also be implemented (Volume 11, Issue 1; Volume 10, Issue 1).
19. The USFWS listed two plants as threatened under the ESA and designated critical habitat for **Umtanum Desert buckwheat** and **White Bluffs bladderpod** with an effective date of May 23, 2013.
20. On February 4, 2013, the USFWS proposed to list the North American distinct population segment (DPS) of the **wolverine** (*Gulo gulo luscus*). Wolverine critical habitat could not be determined at this time. (USFWS Volume 10, Issue 2).
21. On January 14, 2013, the NOAA proposed to designate critical habitat for **Lower Columbia River Coho Salmon and Puget Sound Steelhead**. Comments are due April 15, 2013.
22. The NOAA accepted a petition to delist



Puget Sound's killer whales from the ESA. NOAA is seeking information on the southern resident killer whales during its review until January 28, 2013. (NOAA Fish Volume 10, Issue 1).

23. The USFWS revised critical habitat for the **northern spotted owls** across federal lands in Washington, Oregon and Northern California on November 21, 2012 (proposed March 2012). Today 9.6 million acres are designated as Critical Habitat. (USFWS Federal Register Vol 77 No 233, Dec 4, 2012; Volume 9, Issue 3—proposal to revise critical habitat)
24. On September 4, 2012, the USFWS announced that the **Mardon skipper butterfly** (*Polites mardon*) does not warrant protection under the Endangered Species Act (ESA) (50 CFR 17, 77:54332-54352). (Volume 9, Issue 4)
25. In June 2012, The USFWS announced a modification of **Marbled Murrelet** nesting season in Washington. The USFWS will use the new definition to conduct their analyses for any actions that will be implemented in the 2013 breeding season. Biological Assessments submitted after December 1, 2012 should reflect this new nesting season information (USFWS; Volume 9, Issue 3)
26. On June 19, 2012, the USFWS published a final rule designating revised critical habitat for the Pacific Coast distinct population segment (DPS) of the **western snowy plover** (*Charadrius nivosus nivosus*) (50 CFR 77, 36728-36869). 24,527 acres were designated in the final rule in Washington, Oregon, and California. Washington critical habitat areas formerly totaled 2,526 acres, and now total 6,077 acres in the final rule.



Future Meetings - Update Your Schedule!

Forum meetings are typically held on the second Thursdays of January, April, July, and October.

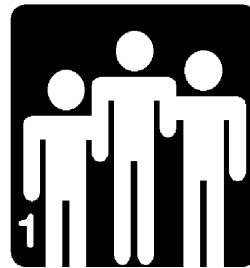
Current scheduled meetings include:

- July 11, 2019 @ Cathcart Road Maintenance Facility, 8915 Cathcart Way, Snohomish 98296

If you are interested in hosting a Regional Forum meeting, please speak up at the next Regional Forum meeting or contact Janine Johanson.

Committee meetings are scheduled on an as-needed basis. If you would like to be part of a committee, contact Gregor Myhr (MyhrG@wsdot.wa.gov).

If you would like to be added to the e-mail list, have questions or need directions contact Janine Johanson (janine.johanson@kingcounty.gov).



**Program Element 1:
Regional Forum**

Regional Forum Members

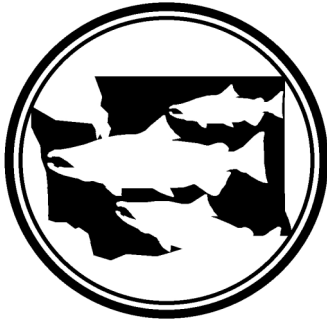
Agencies that received a Biological Opinion from NOAA Fisheries

1. City of Bellevue
2. City of Bremerton
3. City of Burien
4. Cowlitz County
5. Clallam County
6. Clark County
7. City of Covington
8. City of Edgewood
9. City of Everett
10. City of Kenmore
11. City of Kent
12. King County
13. Kitsap County
14. Kittitas County
15. City of Lake Forest Park
16. City of Lakewood
17. Lewis County
18. City of Maple Valley
19. Mason County Public Works and Utilities and Waste Management
20. City of Mill Creek
21. City of Monroe
22. City of Newcastle
23. Pierce County
24. City of Poulsbo
25. City of Renton
26. City of Sammamish
27. City of SeaTac
28. City of Shoreline
29. Skagit County
30. Skamania County
31. Snohomish County
32. City of Sumner
33. City of Tacoma
34. Thurston County
35. City of University Place
36. City of Winlock
37. WSDOT





RRMP Contacts



For more information regarding the Regional Road Maintenance ESA Program please contact any of the following individuals:

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Matt Barnhart: Mbarnha@co.pierce.wa.us

Common Acronyms

ACOE	Army Corps of Engineers
BA	Biological Assessment
BMP	Best Management Practice
BO	Biological Opinion
CEU	Continuing Education Unit
CWA	Clean Water Act
DPS	Distinct Population Segment
Ecology	Washington State Department of Ecology
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
ESU	Evolutionarily Significant Unit
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
HB	House Bill
MS4	Municipal separate storm sewer system
NOAA Fisheries	National Marine Fisheries Service
NPDES	National Pollutant Discharge Elimination System
ORA	Office of Regulatory Assistance
RCW	Revised Code of Washington
RRMP(G)	Regional Road Maintenance ESA Program (Guidelines)
RF	Regional Forum
SB	Senate Bill
SBE	Sequential Biological Evaluation
USFWS	United States Fish and Wildlife Service
UW	University of Washington
WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation
WSU	Washington State University

THE RRMPG IS ON THE WEB!

<http://www.wsdot.wa.gov/Maintenance/roadside/esa.htm>