



Regional Road Maintenance ESA Program Guidelines Newsletter

USFWS IPaC Tool Streamlines Environmental Review

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The USFWS upgraded their IPaC online project planning tool that streamlines the environmental review process including; exploring species and habitat, conducting a regulatory review, and performing an impact analysis. The goal of the updates were to further improve efficiency of project planning. The benefit of IPaC is that the information is online and available to anyone when they need it, rather than when USFWS personnel are available.

IPaC now allows users to create an account, allowing them to save progress, update species lists and track various projects. Additionally, IPaC now offers an *endangered species review process*, a step-by-step consultation for certain species and/or project types. This feature helps prepare agencies for consultation with the USFWS, and in some cases the consultation process can be completed online. IPaC logs the projects in the USFWS database used for tracking consultations (TAILS) automatically which also saves time.

IPaC Online: <https://ecos.fws.gov/ipac/>

ESA Revisions Press Release

The Department of the Interior (U.S. Fish and Wildlife Service, USFWS) and the Department of Commerce (National Marine Fisheries Service, NMFS) issued a series of three final rules pertaining to the Endangered Species Act (ESA) on August 27, 2019. Two of the final rules were issued jointly by both Services, and one final rule was issued by the USFWS. After proposed rules in these areas were issued in July 2018, the Services received more than 100,000 comments. Much of the language in the final rules is devoted to addressing these comments and justifying the final rule language. All of the rules will go into effect on September 26, 2019.

Two of the rules applied to ESA listing and delisting process (Section 4) and ensuring protections for USFWS threatened species (Section 4(d)). The revisions most pertinent to the regulated community were several changes to the Section 7 consultation process, most of them clarifications and definitions. Several changes were made to the formal consultation procedures.

Find the Federal Register announcement for the rule affecting Section 7: <https://www.govinfo.gov/content/pkg/FR-2019-08-27/pdf/2019-17517.pdf>

Several environmental groups and state governments have already expressed displeasure with the new rules and have indicated that they will bring lawsuits against the Services, so we may see additional changes in the future.

EPA Rulemaking Section 401 CWA

On August 8, 2019 the EPA signed a proposed rule to implement the CWA Section 401 and replace and modernize the existing water quality certification regulations at 4 CFR Part 121. The 60-day public comment period ends October 21, 2019: <https://www.epa.gov/cwa-401/proposed-rule-updating-regulations-water-quality-certification-0>

Upcoming Events and

Hot Topics:

BMP classes scheduled (see page 7 for details)

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 April 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.



New Mapping Reveals Lost West Coast Estuary Habitat

A new mapping survey revealed the loss of about 85% of historical tidal wetlands in California, Oregon and Washington. Scientists combined precise elevation mapping known as LIDAR with NOAA water level modeling to establish the extent of tides that define estuary habitat. Based on these maps, they estimated that all West Coast estuaries once covered nearly 2 million acres. The new report highlights lost estuary acreage that could be targeted restoration.

Find the report at:

https://www.eurekalert.org/pub_releases/2019-08/nfwc-nmr081419.php



● Estuary included in tidal wetland loss assessment



Ecology's SWMMEW

Ecology announced a post-publication update to their Stormwater Management Manual for Eastern Washington (SWMMEW). The updated sections are:

- 5.6 Subsurface Infiltration (UIC)
- 6.3.3 General Criteria for Infiltration BMPs
- BMPs for concrete handling and wash-out
- Appendix 8-B Management of Street Waste Solids and Liquids
- BMPs for Pet Waste
- BMPs for Goose Waste

Find the updated SWMMEW here:

<https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMEW/2019SWMMEW.htm>

NPDES Municipal Permit Appeals

The Washington Association of Sewer and Water Districts, Clallam County, and the Puget Soundkeeper Alliance have filed appeals with the Pollution Control Hearings Board for the Phase I and Phase II NPDES Municipal Stormwater Permits.

The Puget Soundkeeper Alliance posted an article about it's appeals at:

<https://pugetsoundkeeper.org/2019/08/01/soundkeeper-appeals-municipal-stormwater-permits-issued-by-wa-dept-of-ecology/>

BMP Feature: Remotely Operated Vehicles (ROVs) or Drones

Advancements in computer processing and minimization have led to smaller and more affordable remotely operated vehicles (ROVs). Aerial and underwater ROVs or drones are used in roadway and bridge infrastructure inspections, asset management, fish and wildlife surveys, and habitat restoration monitoring. See: <https://fishbio.com/field-notes/the-fish-report/flying-high-drone-use-fisheries-research>

ROV units can capture high-quality video in low light conditions and carry onboard illumination. Operation is simple and the information gathered can be very valuable for planning purposes. There is no license needed to operate the unit as compared with Unmanned Aerial Vehicles (UAVs) which require an FAA certificate. The benefits of using an ROV, submersible cameras and robotic devices will only continue to become apparent in the ongoing quest to maintain aging infrastructure while preserving our valuable habitat resources.



OpenROV Trident system with controller



Insta360 One X camera



Unzipped image taken from an Insta360 ONE X camera with housing, coho juvenile

BMP Feature: Remotely Operated Vehicles (ROVs) or Drones

Cost effective-culvert condition inventories

Challenging infrastructure inspections, such as submerged culverts and bridge foundation footings, are easy with an ROV. Usually it's necessary to isolate a submerged culvert so dewatering can occur enabling staff to inspect. This can be expensive; a recent estimate of \$3,383 for one culvert does not include associated costs such as permitting and fish removal. A high-quality underwater drone could be purchased for less than this estimate. A local county government estimated that it would cost around \$362,437 to permit and conduct culvert inspections for its 59 (known) submerged culverts.

360 degree cameras

Cameras with can take both video and photos, can be a used individually or attached to an underwater drone.

Under-Water Drones (tethered)

Versatile, durable, and simple to operate, underwater drones are being used by some county road maintenance divisions to conduct culvert and bridge bulkhead/pier inspections. Use will likely expand to monitoring restoration effectiveness and fish presence (LWD placement and dike breaching) monitoring.



Zipped image taken with an Insta360 ONE X camera with housing, showing 4 fish, Coho and coastal cutthroat



Trident-Aug-16-161433

Image snipped from Sofar Trident video inside of a culvert

Resource Contacts

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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:

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

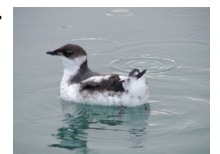
If you have other training questions, please contact Gregor Myhr (MyhrG@wsdot.wa.gov), Jeff Rudolph (jrudolp@co.pierce.wa.us), or Janine Johanson (Janine.johanson@kingcounty.gov).



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.

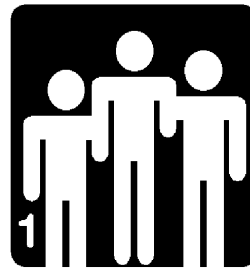
Current scheduled meetings include:

- October 10th Pierce County Road Maintenance

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

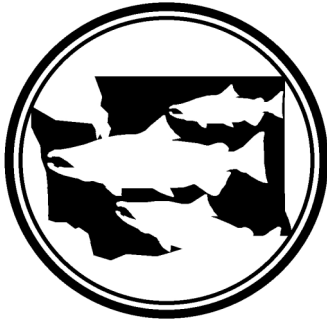
Agencies that received a Biological Opinion from NOAA Fisheries

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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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>