



Endangered Species Act Alert 2002-2

RE: ESA Protection for Road Maintenance in Washington
DATE: February 25, 2002

In July 2001, the National Marine Fisheries Service (NMFS) published a final 4(d) rule to protect salmon and steelhead in the Pacific Northwest under the Endangered Species Act. As part of this rule, Oregon Department of Transportation (ODOT) was granted protection from "take" of listed species for its Routine Road Maintenance Program. Now, various jurisdictions within Washington State are attempting to do the same as a regional collaboration. Washington's Regional Routine Road Maintenance Program attempts to obtain the same protection that was granted to ODOT by NMFS last year. The Washington plan identifies current road maintenance practices that could potentially impact salmon habitat and water quality, and outlines Best Management Practices (BMPs) to minimize those impacts.

The Washington proposal was submitted to NMFS by a coalition that includes Washington State Department of Transportation (WSDOT), 7 counties and 17 cities¹. The proposal includes a "Regional Forum" to address multi-jurisdictional concerns as well as individual road maintenance plans from each city and county. The Regional Forum includes representatives from each participating jurisdiction, and will coordinate acceptance of additional jurisdictions into the coalition. The Forum will also address regional training, compliance monitoring, scientific research and case studies, interdisciplinary coordination, stormwater, biological reviews and interagency coordination.

The proposal is now posted for public comment and can be accessed at <http://www.metrokc.gov/roadcon/bmp/pdfguide.htm>. After the public comment period closes today, NMFS will review the comments and ultimately make a final determination on the Washington proposal. If the current proposal is approved by NMFS, it could pave the way for additional jurisdictions in Washington and Oregon to obtain exemptions under the 4(d) rule. Additional cities and counties can apply for their own take limits either jointly or independently.

As an example, when NMFS issued the final 4(d) rules last summer granting ESA protection to ODOT, it left the door open for Oregon jurisdictions other than ODOT to secure protection against liability for take of listed species. Parametrix was contracted by the Oregon Association of County Engineers and Surveyors (OACES) in 2001 to develop a template that counties can use to gain similar protection by adopting the ODOT manual or similar protective BMPs. This

¹ The coalition includes: WSDOT; King, Pierce, Snohomish, Clallam, Kitsap, Mason, and Thurston counties; and the cities of Bellevue, Bremerton, Burien, Covington, Edgewood, Everett, Kenmore, Kent, Lake Forest Park, Lakewood, Maple Valley, Newcastle, Renton, Sammamish, Shoreline, Tacoma, and University Place.

template is now available to Oregon counties through OACES, and several are currently using it to prepare submittals to NMFS.

Additional Resources:

NMFS main 4(d) page <http://www.nwr.noaa.gov/1salmon/salmesa/final4d.htm>

Citizen's Guide to 4(d) Rule <http://www.nwr.noaa.gov/1salmon/salmesa/4ddocs/citguide.htm>

Information and Links from the Salmon Information Center

<http://www.salmoninfo.com/4d0620.htm>

Need More Information?

If you have questions or comments about this ESA Alert, please contact Megan Callahan Grant (mcallahan@parametrix.com), ESA Program Policy Analyst, who can direct them to the appropriate specialist.