

# Streamlining Endangered Species Act Consultation



## FACT SHEET

### Eligible Fish

#### Limit 8

Lower Columbia River  
Chinook Salmon

Puget Sound Chinook  
Salmon

Snake River  
Spring/Summer-run Chinook  
Salmon

Lower Columbia River Coho  
Salmon

Columbia River Chum

Hood Canal Summer-run  
Chum Salmon

Lower Columbia River  
Steelhead

Middle Columbia River  
Steelhead

Puget Sound Steelhead

Snake River Steelhead

#### Fish Passage and Habitat Restoration Programmatic

Bull Trout

### Contact

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### Faster, Easier, Cheaper

Recreation and Conservation Office grant recipients may reduce cost, uncertainty, and time by using streamlined federal reviews for projects affecting fish and wildlife listed under the federal Endangered Species Act (ESA).<sup>1</sup>

The streamlined reviews take two pathways, *Limit 8* and *Fish Passage and Habitat Restoration Programmatic*, both of which may be used individually or in combination.

#### Limit 8<sup>2</sup>

This pathway applies only to threatened (not endangered) marine and anadromous species under the jurisdiction of the National Marine Fisheries Service. It does not cover land or freshwater species, such as bull trout, under the jurisdiction of the U.S. Fish and Wildlife Service.

This pathway requires a grant recipient to submit a one-page Self-certification Form to the project's Recreation and Conservation Office grants manager (via PRISM<sup>3</sup>) and to the U.S. Army Corps of Engineers (if a Corps permit is required). The Self-certification Form certifies the project meets the eligibility requirements of the state's Habitat Restoration Program.

#### Fish Passage and Habitat Restoration Programmatic<sup>4</sup>

This pathway applies only to projects that require a U.S. Army Corps of Engineers [permit](#) (i.e. a Section 404 or Section 10 authorization) and that affect land or freshwater species under the jurisdiction of the U.S. Fish and Wildlife Service. Permit applicants submit a Specific Project Information Form to the Corps along with permit application materials describing the project and its environment.

**NOTE:** Projects that receive federal funding directly may qualify for additional streamlined ESA review.<sup>5</sup> Contact the local U.S. Fish and Wildlife Service office and the National Marine Fisheries Service geographical branch chief for more information and technical assistance to avoid take. Projects that don't qualify for streamlined review may require individual ESA consultation. Projects with no federal connection (i.e. funding, permitting, on federal land, or having other significant federal involvement) do not require ESA consultation.



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### Limit 8

Limit 8 applies to threatened (not endangered) marine and anadromous species under the jurisdiction of the National Marine Fisheries Service.

### Eligibility Criteria to Apply

Projects must meet the following criteria:

- Must have the potential to impact species listed as *threatened*, not endangered, under the ESA.
- Must involve anadromous or marine species, such as steelhead and salmon, under the jurisdiction of the National Marine Fisheries Service. It does not cover freshwater or land species, such as bull trout, marbled murrelet, and Oregon spotted frog, under the jurisdiction of the U.S. Fish and Wildlife Service.
- Must be funded by the Recreation and Conservation Office's restoration category of the Aquatic Lands Enhancement Account, Estuary and Salmon Restoration Program, the Salmon Recovery Funding Board, or Washington Wildlife and Recreation Program's Habitat Conservation Account.
- Must be consistent with technical and procedural criteria outlined by the relevant Recreation and Conservation Office grant program.
- Must be done for the purpose of habitat restoration.
- Must fit within the following list of eligible actions: in-stream passage, in-stream diversion screening, in-stream habitat restoration, riparian habitat restoration, upland habitat restoration, estuarine and marine nearshore habitat restoration, or related monitoring.
- Must be part of the habitat portion of a salmon recovery plan that has been approved by a regional salmon recovery organization and the State of Washington, and has been published in the federal register by the National Marine Fisheries Service.
- Must be part of an adopted implementation work schedule developed by a regional organization to implement the habitat portion of its salmon recovery plan.
- Must not be on U.S. Forest Service or Bureau of Land Management lands. A separate programmatic consultation covers restoration actions on these lands and applicants should work with a local office of those agencies.



### How to Apply

- Fill out the [restoration activity Self-certification Form](#). It certifies that your project meets ALL of the above criteria.
- Attach the completed Self-certification Form to your project in PRISM.
- If the project requires a Corps regulatory permit, send a copy of the form with your [Joint Aquatic Resource Permit Application](#) and project drawings to the Corps' Regulatory Office.

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### Fish Passage and Habitat Restoration Programmatic

In the past, the Fish Passage and Habitat Restoration Programmatic applied to all ESA-listed species. However, in 2015, it changed to apply only to land and freshwater species under the jurisdiction of the U.S. Fish and Wildlife Service. It may not be used for marine and anadromous species, such as salmon or steelhead, which are under the jurisdiction of the National Marine Fisheries Service.<sup>6</sup>

If the project has the potential to affect *threatened* National Marine Fisheries Service-listed species, submit the Limit 8 Self-certification Form along with the permit application to the Corps. If the project has the potential to affect *endangered* National Marine Fisheries Service-listed species (e.g. upper Columbia River spring-run Chinook salmon or upper Columbia River steelhead), contact an ESA coordinator at the Corps' Seattle District Regulatory Branch (206-764-3495) early in the permitting process to determine the most efficient ESA consultation pathway.



### Eligibility Criteria to Apply

The Fish Passage and Habitat Restoration Programmatic applies only to projects that require a [Corps permit](#) (i.e. a Section 404 or Section 10 authorization) and meet ALL of the following criteria:

- Must have the potential to impact species listed as threatened or endangered under the ESA.
- Must involve freshwater or land species, such as bull trout, marbled murrelet, and Oregon spotted frog, under the jurisdiction of the U.S. Fish and Wildlife Service. Since 2015, it does not cover anadromous or marine species, such as steelhead and salmon, under the jurisdiction of the National Marine Fisheries Service.
- Must be a restoration action included in at least one of the nine categories of restoration listed in the [Programmatic Biological Assessment: Restoration Actions in Washington State](#), including fish passage, in-stream structures, levee removal and modification, side channel and off-channel habitat restoration and reconnection, salmonid and forage fish spawning gravel restoration, irrigation screens, and debris or structure removal. Note that channel re-designs and artificial spawning channels may not be covered. Permit applicants should review the programmatic biological assessment, identify the action categories that appear to cover the project, identify any project elements that may not be covered, and coordinate with the Corps to verify their specific projects are eligible.
- Must not be on U.S. Forest Service or Bureau of Land Management lands. A separate programmatic consultation covers restoration actions on these lands and permit applicants should work with the local office of these agencies.



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### How to Apply

- Send a completed [Specific Project Information Form](#), [Joint Aquatic Resource Permit Application](#), Limit 8 Self-certification Form (if threatened species under the jurisdiction of the National Marine Fisheries Service are present), and project drawings to the Corps' Regulatory Office.
- Corps staff will review the material and send it to the U.S. Fish and Wildlife Service. Electronic approval generally occurs within 30 days. The Corps will issue a regulatory permit and may require a sediment monitoring report.

### Resources

- [Curtis McFeron](#), NOAA Fisheries for questions about Limit 8
- [Governor's Salmon Recovery Office](#)
- Governor's Office of Regulatory Innovation and Assistance for [general permitting assistance](#)
- [Streamlined ESA Consultation Pathways](#) for restoration and recovery actions funded by Bonneville Power Administration, NOAA Fisheries, and U.S. Fish and Wildlife Services

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<sup>1</sup>The federal law requires prior authorization if actions may "take" a threatened or endangered species listed under the ESA. Take is defined as harass, harm, kill, pursue, hunt, shoot, wound, trap, capture, collect, or attempt to do these things. The National Marine Fisheries Service manages marine and anadromous species, while the U.S. Fish and Wildlife Service manages land and freshwater species. The [Information for Planning and Conservation](#) planning tool can help identify proposed or listed ESA species that occur in the project area, what the impacts are likely to be, and provide suggestions for addressing them.

<sup>2</sup>Limit 8 is named for Section 4(d) in the ESA.

<sup>3</sup>PRISM is the Recreation and Conservation Office's online database for grant management.

<sup>4</sup>The Fish Passage and Habitat Restoration Programmatic is named for the programmatic biological opinion adopted to satisfy ESA Section 7 consultation requirements.

<sup>5</sup>Projects that receive funding from Bonneville Power Administration, National Marine Fisheries Service, or U.S. Fish and Wildlife Service may qualify for additional expedited ESA consultation pathways known as the Habitat Improvement Program (HIP III) and the Programmatic Restoration Opinion for Joint Ecosystem Conservation by the Services (PROJECTS). Contact those other funding sources for information on HIP III and PROJECTS.

<sup>6</sup>Negotiations with the National Marine Fisheries Service are ongoing so check with an ESA coordinator at the Corps' Seattle District Regulatory Branch (206-764-3495) for current information.