

# WMAC & HUD Disclaimer

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# Endangered Species Act

The Endangered Species Act (ESA) of 1973, as amended, and its implementing regulations were designed to protect and recover species in danger of extinction and the ecosystems that they depend upon. *The best way to protect species is to conserve their habitat*



California Red Legged Frog



Chinook Salmon



Desert Tortoise

# Endangered Species Act

The Endangered Species Act is administered by the Secretaries of the Interior and Commerce. **The U.S. Fish and Wildlife Service (FWS)** is responsible for terrestrial and freshwater species and the **National Marine Fisheries Service (NMFS)** is responsible for marine species and fish such as salmon.



**NOAA  
FISHERIES**

***HUD must ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of a listed species in the wild or destroy or adversely modify its critical habitat.***

# Endangered Species Act

To determine if the project will impact endangered/threatened species; define the **Action Area or Impact Area** - all areas where the proposal will affect either directly, indirectly, and/or cumulatively, and is not merely the immediate area involved in the project. (50 CFR 402.02)

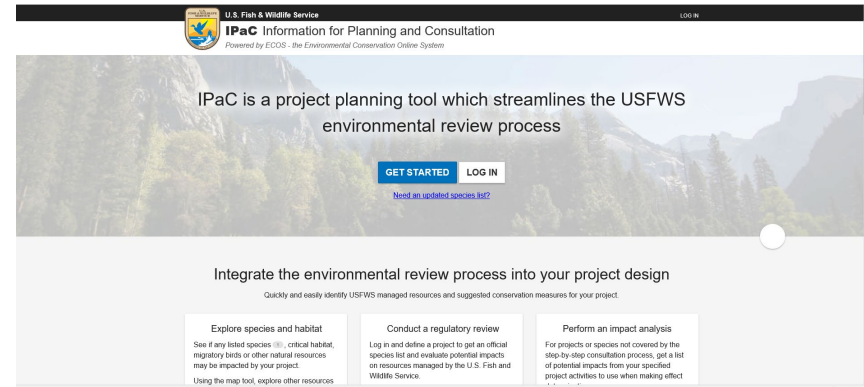
Then obtain a list of protected species by contacting your local USFWS and NMFS office:

# Endangered Species Act

For USFW,

- **Information for Planning and Consultation (IPaC)** is a project planning tool which streamlines the USFWS environmental review process
  - <https://ecos.fws.gov/ipac/>

*IPaC is an informal consultation that provides immediate results of any species of concern and identifies final critical habitat occurrences in the impact area of the project.*



# Endangered Species Act

## Example: IPaC Official Species List

### Endangered Species Act Species

There is a total of 14 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

### Birds

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. (specific portions of Arizona, Nevada, and Utah) There is <b>proposed</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/8193">https://ecos.fws.gov/ecp/species/8193</a>	Experimental Population, Non-Essential
Mexican Spotted Owl <i>Strix occidentalis lucida</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/8196">https://ecos.fws.gov/ecp/species/8196</a>	Threatened
Southwestern Willow Flycatcher <i>Empidonax traillii extimus</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/6749">https://ecos.fws.gov/ecp/species/6749</a>	Endangered
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is <b>proposed</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/3911">https://ecos.fws.gov/ecp/species/3911</a>	Threatened

### Reptiles

NAME	STATUS
Desert Tortoise <i>Gopherus agassizii</i> Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/4481">https://ecos.fws.gov/ecp/species/4481</a>	Threatened
Desert Tortoise <i>Gopherus agassizii</i> Population: AZ south and east of Colorado R., and Mexico, when found outside of Mexico or said range in AZ No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4481">https://ecos.fws.gov/ecp/species/4481</a>	Similarity of Appearance (Threatened)

### Fishes

NAME	STATUS
Virgin River Chub <i>Gila seminuda (=robusta)</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/1772">https://ecos.fws.gov/ecp/species/1772</a>	Endangered

### Flowering Plants

NAME	STATUS
Dwarf Bear-poppy <i>Arctomecon humilis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5492">https://ecos.fws.gov/ecp/species/5492</a>	Endangered
Siler Pincushion Cactus <i>Pediocactus (=Echinocactus, =Utahia) sileri</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/3607">https://ecos.fws.gov/ecp/species/3607</a>	Threatened

### Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

# Endangered Species Act


Important Reminder: Projects *must* consider protected species of BOTH USFWS and NMFS

*For NMFS, the Part 50 review must determine if the project will impact habitat and a listed species*

- <https://www.fisheries.noaa.gov/national/endangered-species-conservation/critical-habitat>

NOAA FISHERIES | West Coast Region  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

West Coast Region Home » Maps & Data

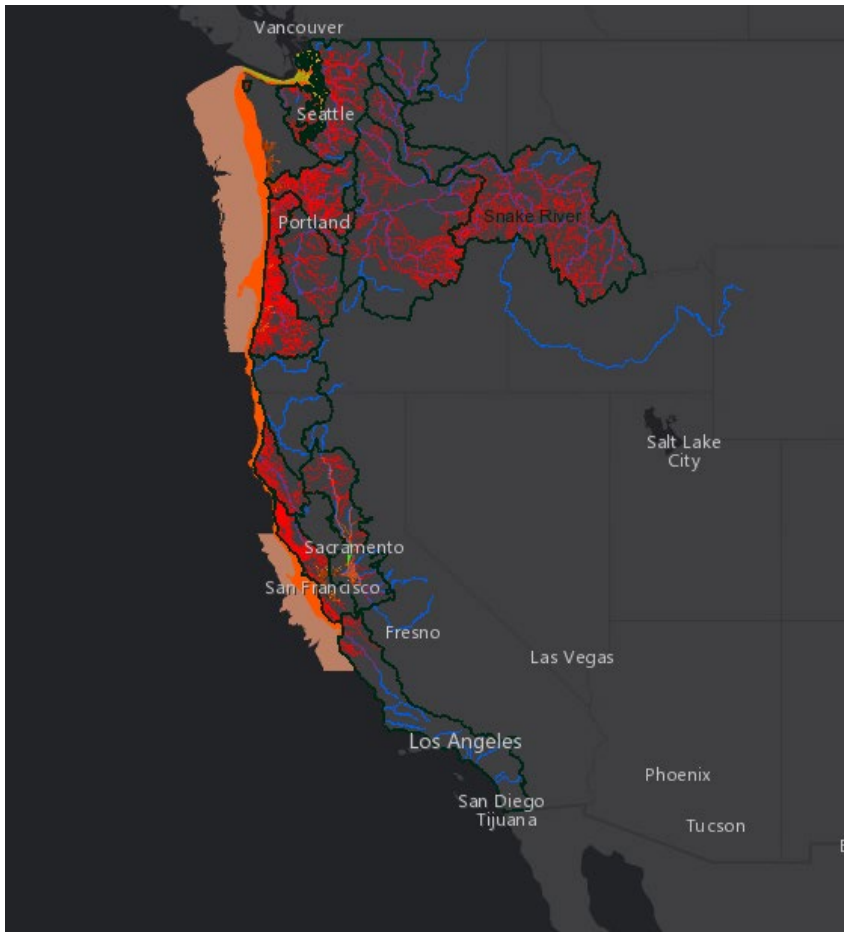


### Endangered Species Act Critical Habitat

Species	Maps	Data for GIS	Google Earth KML
<b>Chinook</b>			
Chinook, California Coastal	Map ↘ 573kb	GIS Data (Shapefile)	
Chinook, Central Valley Spring-run	Map ↘ 859kb	GIS Data (Shapefile)	
Chinook, Lower Columbia River	Map ↘ 728kb	GIS Data (Shapefile)	
Chinook, Puget Sound	Map ↘ 1.12MB	GIS Data (Shapefile)	
Chinook, Sacramento River Winter-run	Map ↘ 1.45MB	GIS Data (Shapefile)	KML 3.72MB
Chinook, Snake River Fall-run	Map ↘ 1.49MB	GIS Data (Shapefile)	
Chinook, Snake River Spring/Summer-run	Map ↘ 654kb	GIS Data (Shapefile)	
Chinook, Upper Columbia River Spring-run	Map ↘ 831kb	GIS Data (Shapefile)	
Chinook, Upper Willamette River	Map ↘ 692kb	GIS Data (Shapefile)	
<b>Chum</b>			
Chum, Columbia River	Map ↘ 602kb	GIS Data (Shapefile)	KML 4.73MB
Chum, Hood Canal Summer-run	Map ↘ 654kb	GIS Data (Shapefile)	



# Endangered Species Act



For NMFS species and designated critical habitat go to:

- List of ESA Species on the West Coast:  
[https://www.fisheries.noaa.gov/species-directory/threatened-endangered?species\\_title=&field\\_species\\_categories\\_vocab\\_target\\_id=All&field\\_species\\_status\\_value=All&field\\_region\\_vocab\\_target\\_id=1000001126](https://www.fisheries.noaa.gov/species-directory/threatened-endangered?species_title=&field_species_categories_vocab_target_id=All&field_species_status_value=All&field_region_vocab_target_id=1000001126)
- Species Maps & GIS Data:  
[https://archive.fisheries.noaa.gov/wcr/maps\\_data/Species\\_Maps\\_Data.html](https://archive.fisheries.noaa.gov/wcr/maps_data/Species_Maps_Data.html)
- Critical Habitat Maps & GIS Data:  
[https://archive.fisheries.noaa.gov/wcr/maps\\_data/endangered\\_species\\_act\\_critical\\_habitat.html](https://archive.fisheries.noaa.gov/wcr/maps_data/endangered_species_act_critical_habitat.html)
- ESA Species & Critical Habitat Mapper Web Application:  
<https://www.webapps.nwfsc.noaa.gov/portal/apps/webappviewer/index.html?id=7514c715b8594944a6e468dd25aaacc9>

# Endangered Species Act

What effects, if any, will the project have on federally listed species or designated critical habitat? There are three possible determinations:

- No Effect;
- May Affect, Not Likely to Adversely Affect; and
- May Affect, Likely to Adversely Affect.

**Environmental Conservation Online System (ECOS)** – Provides habitat information for each species. <https://ecos.fws.gov/ecp/report/table/critical-habitat.html>

[ECOS](#) / Species Profile for western snowy plover (*Charadrius nivosus* ssp. *nivosus*)

## Western snowy plover (*Charadrius nivosus nivosus*)

[Range Information](#) | [Federal Register](#) | [Recovery](#) | [Critical Habitat](#) | [SSA](#) | [Conservation Plans](#) | [Petitions](#) | [Biological Opinions](#) | [Life History](#)

Taxonomy: [View taxonomy in ITIS](#)

**Listing Status:** **Threatened**

### General Information

The Snowy Plover is a small shorebird with moderately long legs and a short neck. Their back is pale tan while their underparts are white, and have dark patches on the sides of their neck which reach around onto the top of their chest. Juveniles are similar to nonbreeding adults, but have scaly pale edging on their back feathers.

### Habitat Requirements

Barren to sparsely vegetated sand beaches, dry salt flats in lagoons, dredge spoils deposited on beach or dune habitat, levees and flats at salt-evaporation ponds, river bars, along alkaline or saline lakes, reservoirs, and ponds. Nests are a natural or scraped depression on dry ground usually lined with pebbles, shell fragments, fish bones, mud chips, vegetation fragments, or invertebrate skeletons.



# Endangered Species Act

By using the FWS Endangered Species List with the ECOS information, describe the characteristics of the site, and how it compares to each species habitat to determine what effects the development will have on the endangered/threatened species.

Based on the site being previously used for housing and being in a developed area, it is extremely unlikely that the listed species exist on site. No signs of any of these species were observed during my 4-12-2018 site visit.

**Canada Lynx (*Lynx canadensis*):** The distribution of lynx in North America is closely associated with the distribution of North American boreal forest. The range of lynx populations extends south from the classic boreal forest zone into the subalpine forest of the western United States, and the boreal/hardwood forest ecotone in the eastern United States. Forests with boreal features extend south into the contiguous United States along the North Cascade and Rocky Mountain Ranges in the west, the western Great Lakes Region, and northern Maine. Within these general forest types, lynx are most likely to persist in areas that receive deep snow and have high-density populations of snowshoe hares, the principal prey of lynx. Lynx are very unlikely to be on this non-forest, previously developed site.

If the project will have **No Effect** on listed species or critical habitats, there is no need to consult with the Services. The ERR should contain evidence the habitat will not be altered or species be affected (e.g. species list; habitat assessment conducted by a qualified expert; letter from local planning or natural resource departments; contracted study).

# Endangered Species Act

A project **May Affect**, but is **Not Likely to Adversely Affect** listed species and/or critical habitats if all potential effects will be beneficial, discountable, or insignificant. A project whose impacts on listed species and/or critical habitats may be greater than beneficial, discountable, or insignificant is considered **Likely to Adversely Affect**.

**Informal consultation** is required if the project is found Not Likely to Adversely Affect. Incorporate all appropriate mitigation measures into project plans for review. The Services may either concur with the finding or find that formal consultation is required. If the Services concur with the finding that the project is Not Likely to Adversely Affect, consultation is complete. The ERR should contain all documentation, including the biological evaluation and concurrence(s).

Even if the Service does not initially concur with the determination, it is valuable to work with the service to develop mitigation measures that could result in a concurrence, instead of immediately going to formal consultation.

**Formal consultation** is required if the project is found Likely to Adversely Affect. Work with the Services to ensure that the project is not likely to jeopardize listed species or destroy or adversely modify critical habitat. Incorporate all appropriate mitigation measures into project plans, and include in the ERR all documentation, including the biological evaluation or assessment and biological option(s) issued by the Services.

# Endangered Species Act

The federal funding agency is responsible for interacting with the Fish and Wildlife Services and/or the National Marine Fisheries Service (the Services). It is the responsibility of HUD to make the determination and conduct all consultation.

*It is not appropriate for a consultant or other non-federal entity to consult directly with the Services, although they may provide information to the federal agency for it to make its determination.*



Big Horn Sheep



Grey Wolf

# Endangered Species Act

**Biological Assessments (BA)** may serve multiple purposes, but the primary role is to document an agency's conclusions and the rationale to support those conclusions regarding the effects of their proposed actions on protected resources. [https://www.fws.gov/midwest/endangered/section7/ba\\_guide.html](https://www.fws.gov/midwest/endangered/section7/ba_guide.html)

- Project description - Describe the what, when, where, and how of the project.
- Describe the project area - For determining whether a species or critical habitat “may be present,” it is necessary to delineate the “action area.”
- Describe the physical and biological attributes of the action area (e.g., topography, vegetation, condition and trend).
- For each species that “may be present,” describe the current habitat conditions within the action area.
- Describe how the action may affect each protected resource - This section should document your conclusion and supporting rationale.

Following this analysis, make a Section 7 finding (no effect; may affect, but not likely to adversely affect; may affect, and is likely to adversely affect) for proposed or listed species and proposed or designated critical habitat that may be present in the action area.

# Endangered Species Act

Projects in coastal states must also consider possible impacts to endangered species under the **NOAA National Marines Fisheries Service** – who is responsible for the protection, conservation, and recovery of endangered and threatened marine and anadromous species under the Endangered Species Act.

Planning and consideration should be made for minimizing the impervious surface area of proposed developments. Minimize the impacts of stormwater runoff that drains into waterways which is a habitat for many endangered species.



*Chinook Salmon*

# Endangered Species Act

When preparing a **Biological Assessment (BA)** or **Biological Evaluation (BE)** keep in mind that the people who read or review this document may not be familiar with the project area or what is proposed by the project.

What is the difference between a Biological Evaluation and a Biological Assessment?

- **Biological Assessment** is prepared for “major construction activities” and is required if listed species or critical habitat may be present in the action area. A BA also may be recommended for other activities to ensure the agency’s early involvement and increase the chances for resolution during informal consultation. Recommended contents for a BA are described in 50 CFR 402.12(f).
- **Biological Evaluation** is a generic term for all other types of analyses in support of consultations. If a listed species or critical habitat is likely to be affected, the agency must provide the Service with an evaluation on the likely effects of the action. Often this information is referred to as a BE. The Service uses this documentation along with any other available information to decide if concurrence with the agency’s determination is warranted. Recommended contents are the same as for a BA, as referenced above.



# Endangered Species Act

## Endangered Species – Best practices

- Listed species must be evaluated on an individual basis to determine whether they could be present in the project impact area.
- Avoidance and minimization.
- Consultation provisions are designed to ensure that Federal agency actions do not jeopardize a listed species or adversely modify a critical habitat.
- An overriding factor in carrying out consultations should always be the use of the best available scientific and commercial data to make findings regarding the status of a listed species, the effects of a proposed action on the species or critical habitat, and the determination of **jeopardy/no jeopardy** to listed species or destruction or **adverse modification/no destruction** or **adverse modification** to designated critical habitats.
- Protected species are protected even if they are not observed.
- Habitat corridors provide numerous benefits for plants and animals and can play a critical role for endangered species with fragmented habitats.

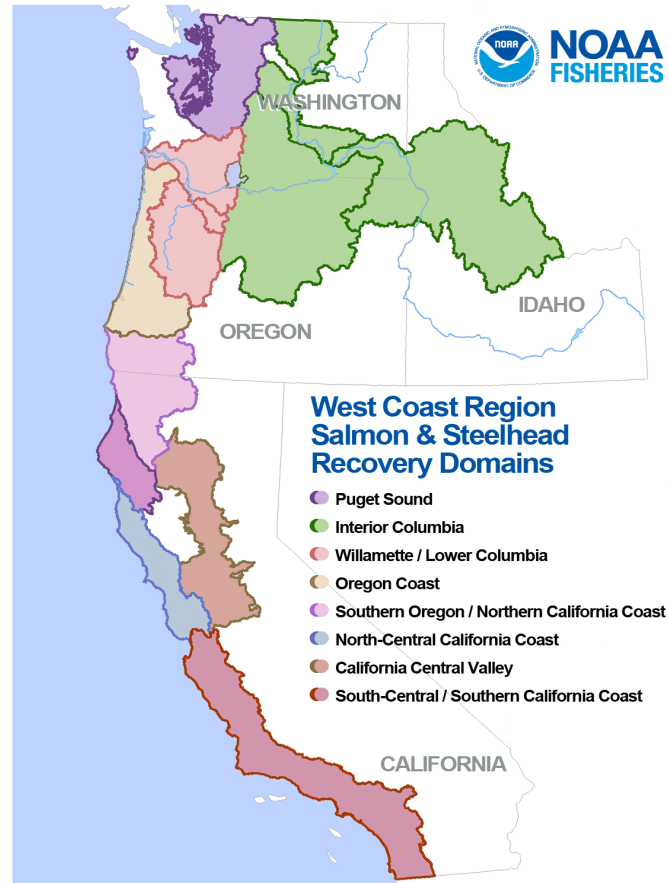
# Coastal Waters (also water running into the Coastal Waters)

- Endangered Species
- Does your project pass NOAA requirements?
  - If yes, might satisfy HUD standards.
  - Idaho/Oregon/WA have special requirements as posted on the HUD CPD Website
  - Note on Salmon: Live both upstream and in ocean, therefore, Fish and Wildlife and NOAA consultation may be needed and documented.
  - NMFS has jurisdiction on salmonids regardless of their life stage (i.e. in marine and fresh water). The only species that are managed by both Services are six sea turtle species, when on land – USFWS, when in water NMFS.

# Bald Eagle Fishing Salmon...

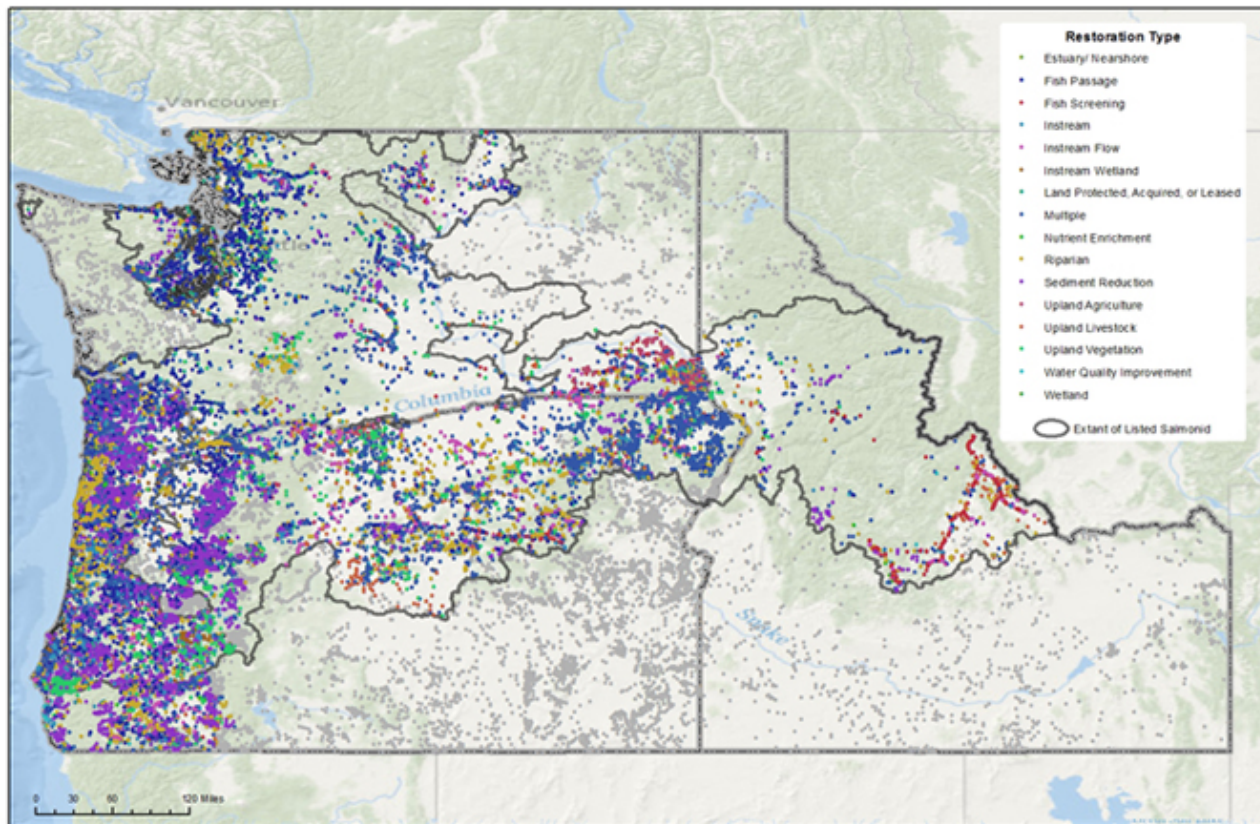


# Endangered Salmon (migrating species)



# Pacific NW Salmon Habitat

Pacific Northwest Salmon Habitat Project Database



Map prepared July 2015  
NOAA Northwest Fisheries Science Center  
Monica Diaz  
Basemap by ESRI

# Best Practices -- 221d4

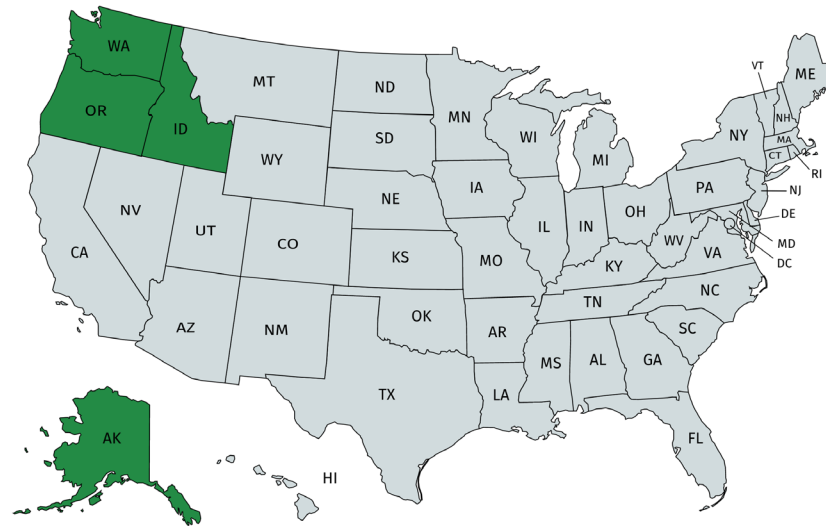
Have 3<sup>rd</sup> Party Environmental Consultant Fully Complete Partner Worksheets. Even Better – in the HEROS system with necessary Reports Uploaded!

- Fully Outline Env. Issues and Mitigation Plans
- Hire only qualified reviewers with HUD D4 Experience
- Complete preliminary Phase 1 Prior to Concept Meeting
- Obtain all reports for Pre-App. Waiting until Firm is always a problem.

# Doing Business in Region X

Region X provides additional guidance that is specific for certain states located in the Northwest. This guidance should be reviewed as there may be a process/procedure or special guidance that is unique for that law and authority in the state listed.

<https://www.hud.gov/states/shared/working/r10/environment>



# For more information and always changing:

MAP Guide 2016, soon to be revised

24 CFR Parts 50, 55

HEROS system, including checklists

HUD Noise Guidebook, Ch 4

CA SHPO Agreement with HUD

CPD Environmental Website

CPD Training in Seattle! (July 21-23)



## For Assistance:

West	Larry Ferguson or	<a href="mailto:Laurence.J.Ferguson@hud.gov">Laurence.J.Ferguson@hud.gov</a>	415-489-6618
Region	Tim Sovold	<a href="mailto:Tim.Sovold@hud.gov">Tim.Sovold@hud.gov</a>	303-839-2617