

ESA Listing Updates

(This information is available online at: <http://www.wsdot.wa.gov/Environment/Biology/BA/default.htm#SpeciesList>
And <http://www.wsdot.wa.gov/Environment/Biology/compliance.htm#esa>)

Species Proposed For Listing

Species	Date of Proposed Rule	Anticipated Listing Date	Comments
Eulachon (Columbia River Smelt)★	March 13, 2009	March 13, 2010	On Friday, March 13, 2009, the National Marine Fisheries Service (NMFS) published in the Federal Register a proposed rule to delineate Pacific Eulachon (Columbia River smelt) into two or more distinct population segments (DPS) and to list the Southern DPS as threatened under the Endangered Species Act. An important consideration for projects is that Columbia River smelt spawn in freshwater rivers in the Columbia River Basin from late winter through mid spring, primarily the mainstem of the Columbia River and the Cowlitz River. They have also been documented infrequently in coastal rivers and tributaries to Puget Sound. Columbia River smelt spend 3 to 5 years in saltwater before returning to freshwater to spawn. Destruction and modification of spawning habitat has been a primary cause for smelt population declines. More information is available at: http://www.nwr.noaa.gov/Other-Marine-Species/Eulachon.cfm
Bocaccio, Canary, and Yelloweye Rockfish★	April 23, 2009	April 23, 2010	April 23, 2009, the National Marine Fisheries Service (NMFS) published the results of the 12-month scientific status review of five species of rockfish and proposal to list three species under the Endangered Species Act. Based on the review, NMFS has proposed the Georgia Basin Distinct Population Segment (DPS) of bocaccio (<i>Sebastes paucispinis</i>) as an endangered species and the Georgia Basin DPS's of yelloweye rockfish (<i>S. ruberrimus</i>) and canary rockfish (<i>S. pinniger</i>) as threatened species. The Georgia Basin DPS boundaries for yelloweye and canary rockfish and bocaccio refers to all of Puget Sound, including the area around the San Juan Islands, and the Strait of Georgia north to the mouth of the Campbell River in British Columbia. The western boundary of the DPS runs along the Victoria sill from east of Port Angeles to Victoria across the Strait of Juan de Fuca. More information is available at: http://www.nwr.noaa.gov/Other-Marine-Species/Puget-Sound-Marine-Fishes/ESA-PS-Rockfish.cfm .
Dolly Varden	January 9, 2001	Unknown - likely to remain a proposed species	This species is proposed for listing under the ESA "Similarity of Appearance" provision, section 4(e). However, WSDOT does not address this species in biological assessments.

Species Proposed For Delisting

Species	Date of Proposed Rule	Anticipated Delisting Date	Comments
Brown Pelican	February 20, 2008	Feb-2009	Once delisted, brown pelicans will remain protected under the MBTA. Most WSDOT projects will not impact Brown Pelicans. Draft Post-delisting monitoring plan released October 2009.

Critical Habitat, Protective Regulations & Other Notices/Proposed Rules

Species	Status	Anticipated Date of Final or Proposed Rule	Comments
Puget Sound DPS Steelhead Critical Habitat★	Listed as Threatened, effective June 11, 2007. At the time of listing, critical habitat designation was not yet determinable, and will be proposed in a separate rulemaking.	June 2008, based on effective date of listing and Section 4(b)* of the ESA.	The status of development of a proposed rule for critical habitat is unknown at this time - proposed rule for critical habitat may come out much later than June 2008 if critical habitat designation is still not determinable.
Southwestern Washington/Columbia River DPS of Coastal Cutthroat Trout★	April 5, 1999 – NMFS & USFWS issue a joint proposal to list this DPS as threatened (64 FR 16397). April 21, 2000 – USFWS assumes sole regulatory jurisdiction of coastal cutthroat trout. July 5, 2002 – USFWS withdraws the 1999 proposed rule to list as threatened. March 24 2009 – USFWS reopens public comment period on 1999 proposed rule.	September 18, 2009	As a result of litigation, the USFWS have reopened the public comment period to reexamine their 1999 proposed rule and will determine if the marine and estuarine areas (areas of saltwater intrusion) constitute a significant portion of the range of the Southwestern WA/Columbia R. DPS, and if so, whether that portion is warranted for listing as threatened or endangered. The DPS range includes the Columbia River and its tributaries from the mouth to the Klickitat River; Willapa Bay and its tributaries; and Grays Harbor and its tributaries. http://edocket.access.gpo.gov/2009/pdf/E9-5890.pdf

Petition Findings and Species Undergoing 12-Month Status Reviews***

Species	Date Petition Received by Services	Petitioned Action	Date of 90-day Petition Finding	Petition Finding	Anticipated Publication Date of 12-Month Status Review	Anticipated Date Petitioned Action Would be Finalized if Proposed Based on 12-Month Status Review	Comments
Loggerhead Sea Turtle	7/16/2007	Requests reclassifying loggerhead turtles in the north Pacific Ocean as a DPS with endangered status and designate critical habitat.	11/16/2007	Substantial - petitioned action may be warranted. Status review initiated.	7/16/2008	7/16/2009	The loggerhead sea turtle is currently listed as threatened. WSDOT projects are not expected to impact this species.

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Leatherback Sea Turtle	10/2/2007	Requests to revise critical habitat to include waters along the U.S. West Coast.	12/28/2007	Substantial - petitioned action may be warranted. Status review initiated.	10/2/2008	10/2/2009	Does not affect WSDOT - no waters off the Washington coast are included in the area requested for the revised critical habitat designation.
Lake Sammamish Kokanee★	7/9/2007	Requests listing as threatened or endangered under the ESA.	5/6/2008	Substantial - petitioned action may be warranted. Status review initiated.	2/6/2009	2/6/2010	The petition states that the Interstate-90 culvert restricts winter/late-run kokanee to 0.75 mile of spawning habitat on Lewis Creek, blocking access to approximately 0.49 acres of spawning habitat. The petition asserts that highway runoff and increases in impervious surface are impacting water quality and altering hydrology in kokanee spawning streams. This petition includes the summer-run Issaquah Creek kokanee, which was petitioned for listing and found not warranted on 10/23/2007.
Western¹/Greater Sage-Grouse★	1/24/2002	Requests listing as threatened or endangered under the ESA.	4/29/2008	Substantial - petitioned action may be warranted. Status review initiated.	5/2009	5/2010	The 12-month status review includes the Columbia Basin DPS in Washington, even though this DPS is already recognized as a candidate for listing based on a 12-month petition finding published on May 7, 2001.
American pika	10/1/2007	Requests listing as threatened or endangered under the ESA.	5/7/2009	Substantial - petitioned action may be warranted. Status review initiated.	5/7/2010	5/7/2011	The USFWS found that the petition presented information suggesting that "climate change may have effects, resulting in individual mortality, population extirpations, and reduced species range" for the pika and it may warrant listing.
Northern Leopard frog★	6/5/2006	Requests listing as threatened under the ESA	7/1/2009	Substantial - petitioned action may be warranted. Status review initiated.	7/1/2010	7/1/2011	WDFW has determined this species as endangered. Two remaining known Washington populations exist in the Potholes Reservoir and Gloyd Seeps in Grant County. These two areas are directly adjacent to I-90 and SR 17. Fragmentation and loss of habitat have been identified as a major threat to the species. For WSDOT, wetlands, streams, ponds or river habitat located near highways in Eastern Washington (specifically in Grant County) may contain northern leopard frog.
Meltwater lednian stonefly	7/24/2007	Requests listing as threatened under the ESA	8/18/2009	Substantial - petitioned action may be warranted. Status review initiated.	8/18/2010	8/18/2011	Currently, this species is only documented in Logan Creek, Logan Pass Montana. However, NatureServe indicates that glacier stream habitat found in Washington, South Dakota and Canada may represent sites for the species. The species occurs in very cold glacial meltwater streams with substantial canopy cover and immatures usually on undersides of rocks (typically 40-100 cm diameter) or on pieces of bark or wood. Climate change modeling and predictions indicate that this may be the largest factor affecting the long-term viability of the species.
Pale blue-eyed grass	7/24/2007	Requests listing as threatened under the ESA	8/18/2009	Substantial - petitioned action may be warranted. Status review initiated.	8/18/2010	8/18/2011	The pale blue-eyed grass is endemic to Klickitat, Skamania and Yakima Counties in south-central Washington and Clackamas County, Oregon. The species is listed as a state threatened species in Washington. Pale blue-eyed grass occurs in seasonally moist meadows and openings from 1600-4200 feet in elevation dominated by grasses and sedges. The sites are often flat, covered in snow during winter and bordered by lodgepole pine, Engelmann spruce and hardhack. Known sites in Washington are located in the vicinity of Mt. Adams, but other unknown sites may occur on Gifford Pinchot, Yakama Nation Reservation and private lands. The largest threats to the species are identified as cattle grazing, development, gene flow reduction and ORV use.

Bold = U.S. Fish & Wildlife Service Jurisdiction; Non-bold = NOAA Fisheries National Marine Fisheries Service Jurisdiction

* Section 4(b) of the ESA states that designation of critical habitat should occur at the same time as the final ruling, unless the secretary deems that critical habitat is not then determinable, in which case the time to critical habitat designation maybe extended by 1 year.

** Section 4(d) of the Endangered Species Act (ESA) directs NOAA Fisheries to issue regulations to conserve species listed as threatened. This applies particularly to "take," which can include any act that kills or injures fish, and may include habitat modification. The ESA prohibits ANY take of species listed as endangered, but some take of threatened species that does not interfere with salmon survival and recovery can be allowed.

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*** If the 12-month status review finds in favor of the petitioned action, species will be proposed for listing and removed from this table, and added to the "Species Proposed for Listing" table above.

★ These species are the species that are likely to be most affected by WSDOT projects.

Red text – Anticipated Federal Register publication dates that have not yet happened.

Blue text – Final Rule has been published in the Federal Register.

¹ See Vol. 73 of the Federal Register, pages 23170-23173, April 29, 2008 for more information. Available: <http://ecos.fws.gov/speciesProfile/SpeciesReport.do?scode=B06W>