Washington State
Department of Transportation
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Secretary of Transportation

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January 2, 2013

RE: SEPA Exemption Determination

SUBJECT: WSDOT's Statewide Bridge Structures and Ferry Terminals Routine Maintenance Activities

WSDOT's bridge structures and ferry terminal require ongoing maintenance to protect the integrity of the infrastructure for the traveling public in accordance with local, state, and federal regulations.

The work includes, but not limited to, inspecting, cleaning, washing, painting and replacing defective or damaged material on WSDOT's bridge structures and ferry terminal. Work below the Ordinary High Water line will be limited to the conditions as found in the General HPA issued to WSDOT by WDFW for these activities.

In addition, the maintenance activities will follow the requirements per WSDOT's permits and agreements with the Department of Fish &Wildlife and the Department of Ecology.

We have evaluated these activities and found the work to be consistent with those activities adopted under SEPA on Jan 1, 2008 through the NEPA DNS issued by NOAA Fisheries for the Regional Road Maintenance Program as well as categorically exempt from a SEPA threshold termination pursuant to WAC 468-12-800 (1) (u).

Sincerely,

Eric Wolin
Permit and Compliance Manager
WSDOT Environmental Services Office

KS:ks

Adoption of Existing Environmental Document

Adoption for: Determination of Nonsignificance (DNS)

Description of current proposal: Road maintenance activities conducted by Washington State Department of Transportation (WSDOT) Maintenance and Operation Program under the Regional Road Maintenance Endangered Species Act (ESA) Program Guidelines (RRMP).

The RRMP 10 program elements define covered road maintenance activities. The Introduction (page x) defines how to implement the guidelines including what maintenance operations it applies to, the definition of maintenance, road maintenance is mitigation (page xi), defines Right of Way Structure (page xii) and the 15 Maintenance Categories included in Program Element 10 - BMPs and Conservation Outcomes (pages 1.33 to 1.112) defines maintenance activities, purpose, BMP outcomes, guidance on BMP implementation and use of both part 1 and part 2 BMPs that are included in the RRMP (http://www.wsdot.wa.gov/maintenance/pdf/Guidelines/Part1.pdf),

Activities that are covered in the definition of "maintenance" are included in the Regional Maintenance Program. The covered areas include the repair and maintenance activities that are conducted on currently serviceable structures, facilities, and equipment, involve no expansion of or change in use of such structures, facilities, and equipment; beyond those that existed previously and do not result in significant negative hydrological impact. Repair and maintenance include those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems or to replace dysfunctional facilities.

Road maintenance activities can be scheduled and non-scheduled activities needed to maintain the functional integrity of any part of the road right-of-way structure. Road maintenance activities protect the environment, public safety, public infrastructure, structures and systems including the services necessary for the daily operation of the state highway system.

The RRMP is divided into three parts. Part 1, describes the program framework including the 10 program elements that comprise the program (Regional Forum, Program Review and Approval, Training, Compliance Monitoring, Scientific Research, Adaptive Management, Emergency Response, Biological Data Collection, Biennial Reports, Best Management Practices (BMPs) and Conservation Outcomes which includes the following 15 Maintenance Categories; Roadway Surface, Enclosed Drainage Systems, Cleaning Enclosed Drainage Systems, Watercourses and Streams, Stream Crossings, Gravel Shoulders, Street Surface Cleaning, Bridge Maintenance, Snow and Ice Control, Emergency Slide/Washout Repair, Concrete, Sewer Systems, Water Systems and Vegetation). In Part 2, the RRMP elaborates on site specific BMPs and provides detailed instructions to crews, supervisors, environmental support staff, design personnel and managers. Part 3 describes a process by which additional counties, cities and ports in Washington State may develop road maintenance programs by adopting RRMP Parts 1

and 2, and then submit their RRMP to NOAA Fisheries for review, public comment, and approval. WSDOT Part 3 application can be found at http://www.wsdot.wa.gov/maintenance/pdf/wsdot_agreement.pdf. WSDOT Maintenance and Operations ESA 4(d) program was approved by NOAA Fisheries on August 2, 2004 (http://www.wsdot.wa.gov/maintenance/pdf/approval.pdf). The Regional Forum of which WSDOT is a member is required to resubmit RRMP every five years with any proposed revisions base on Program Element 6, Adaptive Management, that was learned from field experience and research that will improve the program over time, as specified under Limit 10 of the 4(d) rules (50 CFR Part 223, July 10, 2000).

Proponent: WSDOT

Location of current proposal: All WSDOT road right-of-way structures located in all Counties in the state except San Juan County. There are no WSDOT maintained road right-of-way structures in San Juan County.

Title of document being adopted: NOAA Fisheries Northwest Region Sequential Environmental Assessment (EA) for ESA Section 4(d) Limit 10 Routine Road Maintenance Program Submittal from Jurisdictions in Washington State.

Agency that prepared document being adopted: NOAA Fisheries Northwest Region 525 NE Oregon Street, Suite 500. Portland, Oregon 97232.

Date adopted document was prepared: January 10, 2003

Description of document (or portion) being adopted: EA and Findings of No Significant Impact (FONSI).

The Federal Action of approving the RRMP under Limit 10 required environmental review under the National Environmental Policy Act (NEPA). NOAA Fisheries used a sequential approach to conduct its NEPA reviews. The first review was conducted in the Limit 10 Programmatic EA (National Marine Fisheries Service 2002), which assessed environmental impacts associated with the implementation of Limit 10 as a NOAA Fisheries policy. The Limit 10 Programmatic EA forms the basis for subsequent NEPA analyses by broadly assessing all Evolutionary Significant Units (ESUs) that could be impacted by future Road Maintenance submittals, and by analyzing the potential impacts of implementing the Limit 10 as a policy against the No Action Alternative scenario of not implementing a 4(d) rule or associated limit options. The programmatic EA also compared a Limit 10 policy against the alternative of implementing the 4 (d) rule, but without the limit options (National Marine Fisheries Service 2002).

The above document completed the second review which was conducted at the program submittal stage. NOAA Fisheries prepared this Limit 10 Sequential EA to "tier off" the larger scale Limit 10 Programmatic EA (NOAA Fisheries 2002) (subsection 1.4, Environmental Review Process). In doing so, NOAA Fisheries compared the broader Limit 10 policy implementation as well as potential impacts to ESUs affected by road

maintenance activities conducted by the 25 Washington jurisdictions that submitted applications for 4 (d) coverage in the state of Washington. Of the 25 jurisdictions WSDOT was one. This EA evaluates the environmental consequences associated with the RRMP submitted by the 25 Washington State jurisdictions, as well as three other alternatives to the proposed RRMP (including the No Action Alternative.). The proposed action (approving the 25 applications for 4(d) coverage) was determined to have no direct or indirect negative impacts on land use, geology, physiography, soils, climate, air quality, water quantity, vegetation, salmonid or non salmonid fish, wildlife, demographic trends, economy, recreation, cultural resources, tribal treaty rights, or environmental justice issues, but it would provide beneficial impacts. The RRMP provides the opportunity to perform road maintenance activities and avoid liability under the ESA and at the same time provide NOAA Fisheries with an additional management tool for conserving listed species. Therefore, its cumulative effect would be to add to the ongoing and planned state, local, and private integrated planning efforts that may directly or indirectly benefit these resources. Over all, the RRMP augments past, present and foreseeable planning efforts within the geographic range of the 14 ESUs and add a conservation tool for protecting these salmon and steelhead populations.

Extensive public outreach was preformed by both NOAA Fisheries and the Tri-County Salmon Conservation Coalition (TCSCC). After proposing the 4(d) rule NOAA Fisheries held 25 public hearing and attended approximately 100 workshops and meetings with constituents. After examining over 1,500 written comments and participating in negotiation and informational sessions NOAA fisheries produced the 4 (d) rule comprising 13 (total) limits on the ESA section 9 take prohibitions (65 FR 42422).

Public outreach performed on the sequential EA included two public notices. On January 25, 2002, a Federal Register Notice was published (67 FR 3688) announcing the availability of the RRMP for public comment. A 30-day extension of the public comment period was announced on March 13, 2002 (67 FR 11285). The public comment period closed on April 12, 2002. NOAA Fisheries completed its review and response to public comments in September 2002 (http://www.wsdot.wa.gov/maintenance/pdf/comments/Final%20Response%20to%20Comments%20received%201-15-03.pdf). NOAA Fisheries initiated ESA section 7 consultation on March 28, 2003 and issued ESA Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the RRMP, Pursuant to Limit No. 10(ii) of the NMFS 4(d) Rule (F/NWR/2003/00313), on August 15, 2003 (http://www.wsdot.wa.gov/maintenance/pdf/bo.pdf.).

If the document being adopted has been challenged (WAC 197-11-630), please describe: There have not been any challenges.

The document is available to be read at:

http://www.wsdot.wa.gov/maintenance/pdf/sequentialenvironmentalassessment.pdf

or contact Sandra Stephens for a CD at: stephes@wsdot.wa.gov.

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker.

Name of agency adopting document: WSDOT Maintenance and Operations Program

Contact person, if other than responsible official:

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