

PART 3
4(D) APPLICATION
FOR INDIVIDUAL AGENCY





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PART 3 4(D) APPLICATION FOR INDIVIDUAL AGENCY



OVERVIEW

The Regional Road Maintenance Endangered Species Act Program (“Regional Program”) consists of the following three parts:

- Part 1: Regional Program Elements.
- Part 2: Best Management Practices.
- Part 3: 4(d) Application for Individual Agency.

Part 1 of the Regional Program describes the ten program elements along with the goals and outcomes of the program.

Part 2 of the Regional Program contains Best Management Practices (BMPs) that require more detailed, site-specific information than routine BMPs, which are presented in Part 1.

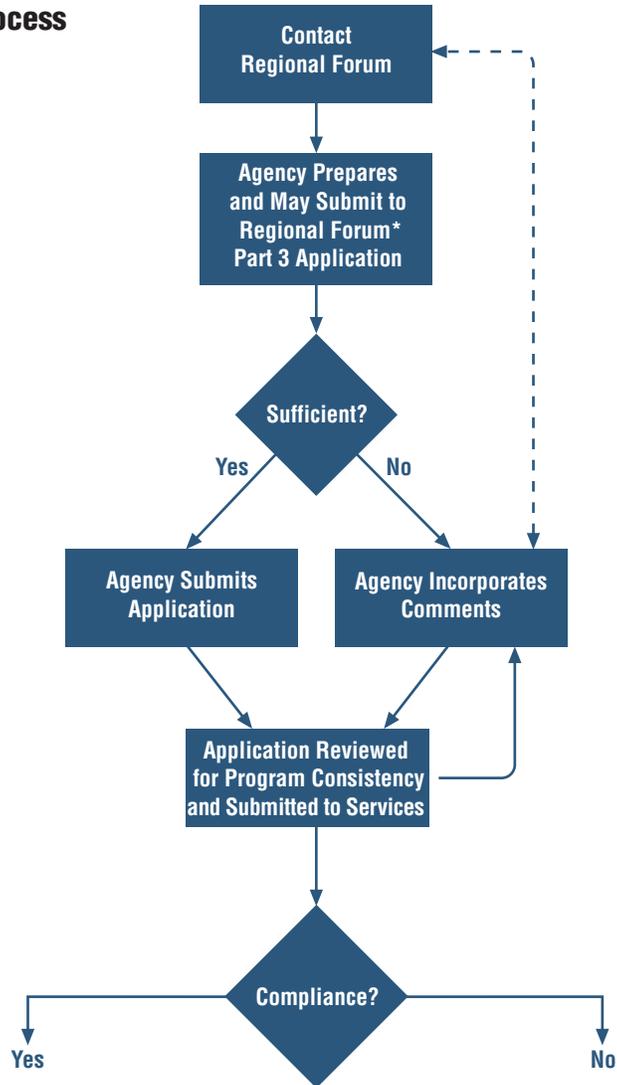
Part 3 of the Regional Program is an *Application for Individual Agencies*. Under the Regional Program, each agency must prepare a Part 3 Application. The Part 3 Application is presented in a “plug-and-play” format that allows applicants to “plug” into Parts 1 and 2 of the program to receive a take limit under the NMFS Salmon and Steelhead 4(d) Rule, special 4(d) Rule and/or Section 7 take exemption (provided through the incidental take statement of biological opinion) through the USFWS.

National Marine Fisheries Service/United States Fish and Wildlife Services (the Services) will review and approve each agency’s Part 3 Application. Before submittal to the Services, the Washington State Department of Transportation (WSDOT) Highways and Local Programs (H&LP) or the Regional Program will screen Part 3 Applications for compliance with the Regional Program. Each agency will submit a Part 3 Application to receive a take limit under the NMFS Salmon and Steelhead 4(d) Rule, special 4(d) Rule and/or Section 7 take exemption (provided through the incidental take statement of biological opinion) through the USFWS. For more information on the Part 3 Application review see Element 2, Program Review and Approval, in Part 1 of the Regional Road Maintenance ESA Program *Guidelines* (*Guidelines*). The Part 3 Application Process is shown on the following pages.



Part 3 Application Process

Figure 8

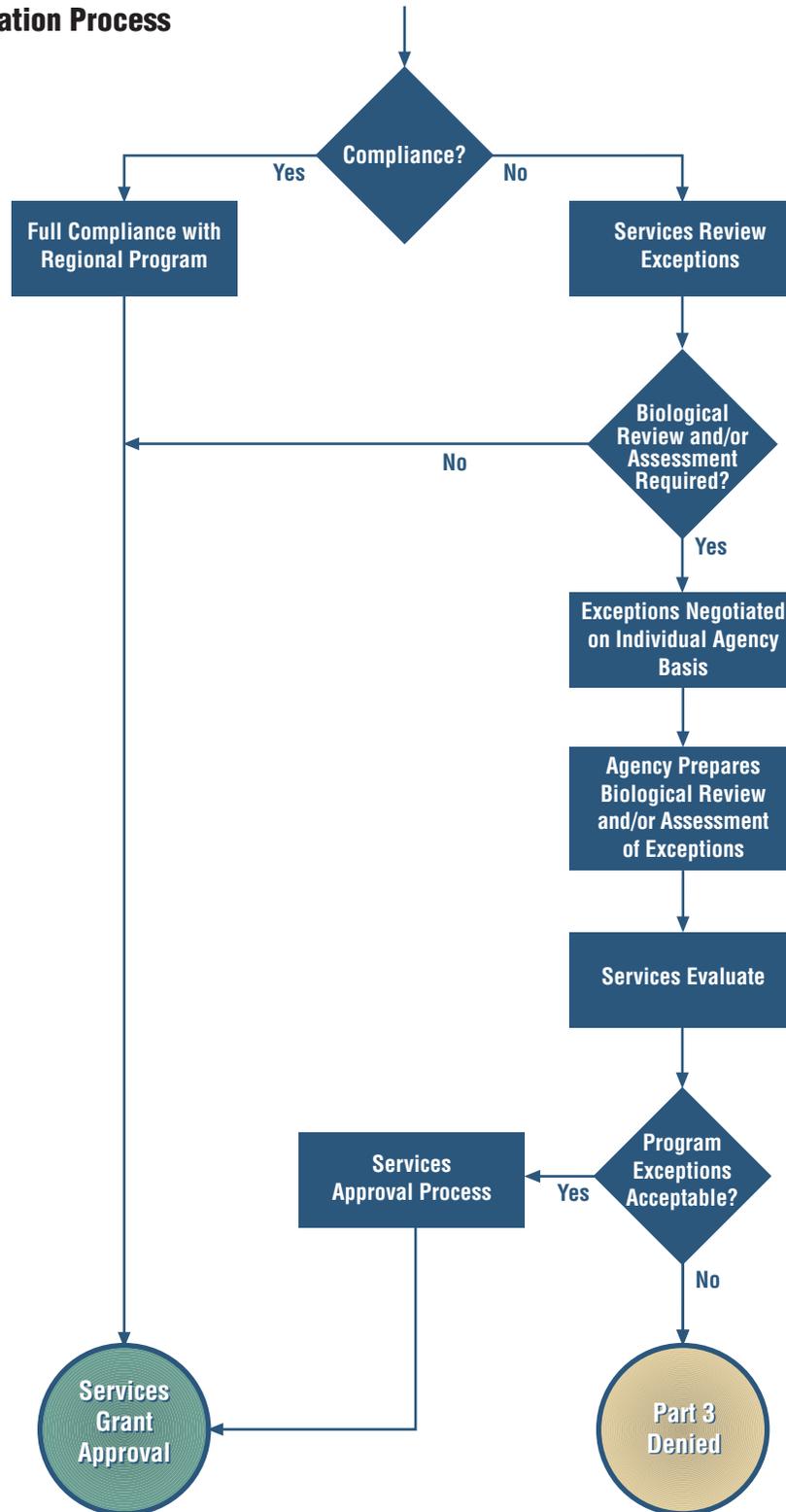


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Part 3 Application Process

Figure 8 continued





HOW TO USE PART 3 OF THE *GUIDELINES*

This part of the *Guidelines* is a model for filling out your application. It allows applicants to agree to meet Parts 1 and 2 of the program—effectively creating a plug-and-play into Regional Program—by completing the examples provided in each section. If desired, your agency can also use the application to propose and explain procedural exceptions from the Regional Program.

The Part 3 Application has the following four sections.

- **Section 1: Letter of Commitment.** This section is a letter of commitment requesting the Services to approve plug-and-play for an agency to use Parts 1 and 2 of the Regional Program to receive a take limit under the NMFS Salmon and Steelhead 4(d) Rule, special 4(d) Rule and/or Section 7 take exemption (provided through the incidental take statement of biological opinion) through the USFWS.
- **Section 2: Compliance with Part 1 and Part 2.** This section contains the ten program elements in the Regional Program. Agencies must commit to complying with all Regional Program elements at both the regional and local levels to obtain a take limit under the NMFS Salmon and Steelhead 4(d) Rule, special 4(d) Rule and/or Section 7 take exemption (provided through the incidental take statement of biological opinion) through the USFWS.
- **Section 3: General Procedures.** This section contains the general procedures of an agency. It outlines organizational structure and processes for maintenance selection, BMP selection and implementation, checklists, and adaptive management.
- **Section 4: Exceptions from the Regional Program.** This section contains any exceptions from the Regional Program including the following:
 - Any agency programs not included in the Regional Program.
 - Any deviations.
 - Any additional maintenance categories not listed in Part 1 of the *Guidelines*.
 - Checklist process(es) if they differ from those in the *Guidelines*.
 - Any additions or changes outside of the *Guidelines*.



To adopt the Regional Road Maintenance ESA Program *Guidelines* **without changes**, any agency can use the examples in each of the four sections to develop their submittal. By inserting the agency's name in place of "(Agency)", applicants can directly create a Part 3 Application submittal. Each section in the Part 3 Application gives instructions for filling in the information.

Or if your agency wishes to add to the Regional Program or to use a maintenance category other than those in the *Guidelines*, those exceptions from the program must be included and highlighted in Section 4 of your Part 3 Application.

Agencies that are unfamiliar with the Regional Road Maintenance ESA Program *Guidelines* or the Part 3 Application process should attend a Regional Forum meeting. The Regional Forum can help applicants better understand the Regional Program and the Part 3 Application process.



PART 3 APPLICATION

The Part 3 Application components are outlined below. Each of the four sections of the application gives italicized instructions and clearly marked boldface areas for you to insert the name of your agency. Inserting your agency's name and submitting the Part 3 Application means you agree to the Regional Program without changes.

If your agency wishes to develop their own Part 3, you must highlight those areas you wish to include or exclude from the Regional Program.

PART 3 APPLICATIONS HAVE FOUR SECTIONS

The following is a detailed listing of what you must provide in each of the four sections of the Part 3 Application. Instructions and examples are on the following pages:

Section 1: Letter of Commitment to Implement the Regional Program

1. Complete Letter of Commitment to NMFS
2. Complete Letter of Commitment to USFWS

Section 2: Commitment to Part 1 and Part 2 of the Regional Program

1. Commit to regional action
2. Commit to local action

Section 3: General Procedures

Provide the following information:

1. Organizational structure.
2. Maintenance activity or project selection process.
3. BMP selection and implementation process.
4. Checklist process.
5. Internal adaptive management process.

Section 4: Exceptions from the Regional Program

1. Describe any elements not included in the Regional Program.
2. Describe any deviations from the Regional Program.
3. Describe additional maintenance categories not listed in Parts 1 or 2 of *Guidelines*.
4. Provide an Agency-specific checklist.
5. Provide other additions or changes.



(Example of letter to United States Fish & Wildlife Service)

Date

Agency Official (*Contact Regional Forum for Current Name)
United States Fish & Wildlife Service
510 Desmond Drive; Suite 102
Lacey WA 98503

Subject: **(Agency)** Commitment to Implement the Regional Road
Maintenance ESA Program

Dear Agency Official
(*Contact Regional Forum for Current Contact Name):

This letter serves as a letter of commitment from the **(Agency)** to the United States Fish & Wildlife Service that the **(Agency)** will implement the measures, and abide by the commitment made in this Part 3 Application. In addition, we will work closely with the United States Fish and Wildlife Service as we evaluate and adjust the routine Road Maintenance ESA Program through adaptive management.

The **(Agency)** is committed to being a partner in the Regional Road Maintenance ESA Program. Part of this commitment is identifying and implementing best management practices (BMPs) to minimize potential environmental impacts associated with Road Maintenance activities. The accompanying Part 3 Application represents the minimization and avoidance measures identified for routine road maintenance activities.

The **(Agency)** will participate as an active member of the Regional Forum. The **(Agency)** will implement the program outlined in this Part 3 Application .

If you need additional information, or have any questions, please feel free to contact **(Agency Official)** at *** ***.

Sincerely,

(Title Block)

Enclosure

SECTION 2 (AGENCY) COMMITMENT TO PART 1 AND PART 2 OF THE REGIONAL PROGRAM



Instructions:

- This is a commitment to Part 1 and Part 2 of the Regional Program. There are ten program elements in the Regional Road Maintenance ESA Program. Agencies must comply with each of the ten program elements to obtain a take limit under the NMFS Salmon and Steelhead 4(d) Rule, special 4(d) Rule and/or Section 7 take exemption (provided through the incidental take statement of biological opinion) through the USFWS. Each element has a *regional* action and a *Local* action component.
- If your agency wishes to comply with the elements in Section 2 without changes, insert the agency's name in place of the boldface and italics "(Agency)". These paragraphs meet the minimum requirements as stated in the Regional Program.
- If your agency proposes exceptions to the Regional Program, these exceptions will need to be defined for both the Regional level and your Local level in section 4 for of the Part 3 Application.

The following are the ten elements of the Regional Program (see *Guidelines*)

Element 1. Regional Forum: A Regional Forum has been created from participating agencies. The Regional Forum provides a regional meeting for program discussion, coordination, and adaptive management.

Regional Action

The (Agency) Director or designee will be appointed as the Regional Forum member, representing the department. The appointed member shall have the knowledge, authority, and maintenance technical expertise in the field, to discuss, coordinate, and participate in adaptive management of the Regional Road Maintenance ESA Program. The member will have the maintenance knowledge and technical expertise to review the Regional Program, review adaptive management results, recommend program changes, request funding, and brief policy makers for their review and approval of the program. The (Agency) will participate in the Regional Forum, committee discussions, and activities as they pertain to the Regional Program.

Local Action

The (Agency) will develop a (Agency) ESA team that meets regularly. The team will consist of assigned maintenance and operation supervisors and maintenance environmental personnel. The (Agency) team will



implement the Regional Program, develop and update the (*Agency*) Part 3 application for (*Agency*) manager's review and approval. The team will also coordinate development and implementation of the (*Agency*) Part 3, which includes review, discussion, coordination, and adaptive management. The team will recommend program changes that evolve from adaptive management to improve the regional program and the (*Agency*) program. The team will prepare a quarterly Adaptive Management report for the Regional Forum meetings. This report will provide an overview of the implementation of the program. The Adaptive Management report will also recommend potential revisions to the Regional Program based on new information.

Element 2. Program Review and Approval: The program review and approval process will require that each agency participating in the Regional Program comply with the ten program elements. Each agency's Part 3 Application will be reviewed by the Washington State Department of Transportation (WSDOT) Highways and Local Program (H&LP) or the Regional Forum, to ensure that all ten program elements are included in the Part 3 Application. The Services will issue final approval for each agency.

Regional Action:

The Regional Forum has developed, in cooperation with the Washington State Department of Transportation (WSDOT) H&LP, and with the approval of the Services, a process for road maintenance Part 3 Application review. This review and approval process serves as an agency's commitment to comply with the approved program (Part 1 and Part 2). The (*Agency*), as part of the Regional Forum, will work with WSDOT H&LP or the Regional Forum and the Services in the evaluation of the process for reviewing local agency Part 3 Applications as they relate to the Regional Program.

Local Action:

The (*Agency*) team will work to develop the (*Agency*)'s Part 3 Application, and implement the Regional Program. The team will review the following documents: letter of commitment, commitment to the ten program elements, organization structure, activity selection process, selecting/ implementing the BMP process, the checklist process, and any local program exceptions from the regional program. The team will review the Part 3 application to ensure it meets the requirements of the Regional Program.



Element 3. Training: Courses will include the topics of basic ESA, design, biological review, permit, maintenance BMPs, and monitoring work activities. The WSDOT Technology Transfer (T2) Center, and University of Washington or WSDOT Operations & Maintenance Program, in conjunction with the Regional Forum, will develop a curriculum for training of road maintenance employees in the implementation of the Regional Program. The curriculum may be taught by T2 instructors, WSDOT Trainers, or other trainers that have passed the train-the-trainer course.

Regional Action:

The Regional Forum has, in cooperation with the WSDOT T2 Center, University of Washington, or WSDOT Operations & Maintenance Program, developed a program for formal training of road maintenance employees in the implementation of the regional program. The (*Agency*) will participate in the Regional Forum discussions as they pertain to Program Element 3 training activities.

The (*Agency*) may participate in the training committee, working with WSDOT (T2), the University of Washington (*TRANSPEED*) or WSDOT to develop and implement training curriculum as outlined in the *Regional Road Maintenance ESA Program Guidelines*. The (*Agency*) will support an adaptive management approach to training by reviewing course curriculum and proposing changes to incorporate new information into the program.

Local Action

The (*Agency*) will require maintenance employees to attend training courses relevant to their position within the organization as courses are developed and become available. New maintenance employees will be trained on relevant Regional Program courses within a reasonable amount of time.

The (*Agency*) team will review and recommend updates to the Regional Program training through adaptive management activities by reviewing course curriculum and implementation of the training program.

Element 4. Compliance Monitoring: Compliance monitoring will take place at a number of levels: local agency supervisory staff and local, state and federal agency permitting authorities evaluating BMPs for use and implementation. Each local jurisdiction will establish a formal compliance monitoring program for monitoring BMP implementation and monitoring that takes place as part of various research projects.



Regional Action:

The (*Agency*) will participate in the Regional Forum to review the compliance monitoring activities as they pertain to the *Regional Road Maintenance ESA Program Guidelines*. The Regional Forum process includes program implementation, adaptive management, planning process, performance assessments process, outcome assessments process and coordination with resource agencies.

Local Action

The (*Agency*) team will review implementation of the (*Agency*)'s program and through adaptive management recommend changes to the program if needed. The team will conduct planning meetings with environmental staff to identify maintenance activities, permits, BMPs, and in-water work requirements. The team will conduct performance assessments on selected BMPs. Performance assessment will involve site visits with environmental staff, supervisors, or resource agencies through the permit process. Monitoring will be done on a routine basis by crew leads, supervisors, maintenance inspectors, or environmental staff. Monitoring may include adequacy of BMPs, development or implementation of checklists, review of implemented BMPs, and their effectiveness. The team will evaluate BMP implementation and, through adaptive management, evaluate performance. The team will then review new information on BMPs and develop recommendations for incorporation in the Regional Program.

Element 5. Scientific Research: Case studies in the field, as well as literature review done by others, are included in this program element. The scientific research element will serve to verify effectiveness of BMPs and to recommend changes to BMPs based on the latest technologies.

Regional Action:

The Regional Forum is a meeting for cooperative research, professional maintenance interaction, information sharing and adaptive management. The research to be performed by the Regional Forum will be specific to road maintenance activities to verify the effectiveness of the BMPs used within the road maintenance right-of-way. Case studies and literature review may be performed both locally and regionally. The information gained may be shared through the Regional Forum. The (*Agency*) will participate in the Regional Forum discussions as they pertain to scientific research activities and shared experiences.



Local Action

The (*Agency*) Team will analyze specific road maintenance BMPs and jointly work with or support development of a research committee.

Element 6. Adaptive Management: The adaptive management philosophy will apply to all elements of the Regional Road Maintenance ESA Program. The training, research, biological data collection, and program monitoring elements are the basis for adaptive management.

Regional Action:

The Regional Forum provides a forum for adaptive management of the Regional Program. Adaptive management will apply to all elements of the Regional Program. Compliance monitoring, BMP effectiveness monitoring, review of the Regional Program, and scientific research shall provide some of the basis for adaptive management. Information gained from these elements, will be shared at the Regional Forum to provide the basis for adaptive management decisions. Adaptive management will allow new information and science based technology to be incorporated into recommended changes to the *Regional Road Maintenance ESA Program Guidelines*. The (*Agency*) will participate in the Regional Forum discussions as they pertain to adaptive management.

Local Action:

The (*Agency*) team will implement the program elements of the *Regional Road Maintenance ESA Program Guidelines* and apply adaptive management to the ten program elements. The team will implement a compliance monitoring effort to evaluate the effectiveness of selected BMPs used within program activities. The team will discuss BMPs as part of their routine meetings and make recommendations on incorporating new information, and changes to the Regional Forum.

Element 7. Emergency Response: This element provides a framework under which road maintenance agencies can operate during emergencies.

Regional Action:

Regional Program includes guidance on emergency response for road maintenance agencies. Emergency response is defined as actions undertaken to avoid imminent threat to public health and safety, public or private property, or prevent an imminent threat of serious environmental degradation.



The (*Agency*) will participate in Regional Forum discussions as they pertain to emergency response activities.

Local Action

The (*Agency*) will respond to emergency road maintenance situations and stabilize the situation. Sites will be reviewed with regulatory agencies (as required), and appropriate permits applied for following site stabilization. The (*Agency*) will develop a phone tree for resource contacts to be called during an emergency response. Where possible the emergency maintenance activities will employ the same BMPs as routine maintenance activities.

Element 8. Biological Data Collection: This element includes habitat location information within the right-of-way and development of a process to train and alert staff where these guidelines need to be utilized.

Regional Action:

The (*Agency*) will participate in the Regional Forum discussions as they pertain to the biological data collection process and share experiences or actions encountered.

Local Action:

The (*Agency*) team will work to identify aquatic habitat locations to make BMP decisions within the road maintenance right-of-way. The team will develop a process and train staff when and where to apply the BMPs.

Element 9. Biennial Reports: The Regional Forum will provide biennial (every two years) reports to the Services. Biennial reports will include a review of the ten program elements, updates on research, recommended BMP changes, and recommended updates to the program elements.

Regional Action:

As a member of the Regional Forum, the (*Agency*) will participate in providing the Services biennial reports on the progress of the ten program elements of the *Regional Road Maintenance ESA Program Guidelines*. This report will include a status report and updates on each program element, review of the training program, review of scientific research, review program implementation, and implementation of adaptive management, including recommended changes. The Services will be provided a copy of the quarterly newsletter. The biennial report will be provided to others upon request.



Local Action:

The (*Agency*) will provide quarterly and biennial report to the Regional Forum for use in compiling its biennial report on implementation of the Regional Program. This report will address implementation and progress of the (*Agency*)’s Part 3 Application and activities as they relate to the implementation of the ten program elements of the *Regional Road Maintenance ESA Program Guidelines*.

Element 10. Best Management Practices (BMPs) and

Conservation Outcomes: BMPs and desired conservation outcomes have been developed for road maintenance activities. The Regional Forum will annually review and update the BMPs. Local agencies and the Services will review whatever changes the Regional Forum recommends for adoption.

Regional Action:

The Regional Forum will provide a forum for review and update of the BMPs, and the development of a training program outlined in Program Element 3. The Regional Forum will evaluate the training program and through adaptive management recommend changes to incorporate new information as needed. The (*Agency*) may participate in the Regional Forum discussions and activities as they pertain to the Regional Program.

Local Action:

The (*Agency*) team will implement the Regional Program. As the training program is developed and made available, the training program will be implemented. The team will develop a decision process to identify when environmental staff is to be consulted. The implementation of Program Element 10, BMPs and Conservation Outcomes, will be reviewed and updated annually.



SECTION 3 (AGENCY) GENERAL PROCEDURES

Instructions:

- Complete this section by providing the following materials on your agency's general procedures: Instructions for each subsection will guide you through this section.

GENERAL PROCEDURES MATERIALS

3a Organizational Structure

3b Maintenance Activity/Project Selection Process

- Classification responsible for making decisions
- Biological oversight/support

3c Selecting/Implementing the BMP Process

3d Checklist Process

3e Internal Process for Adaptive Management

3a (Agency) Organizational structure

Instructions:

- This is a commitment to identify staff participating in the Regional Program
- Complete this section by including your organizational structure for road maintenance activities. The organizational structure will help your agency define who is covered under the Regional Program.

3b (Agency) Maintenance Activity/Project Selection and Authorization Process

Instructions:

- This is a commitment to a maintenance activity/project selection and authorization process. As you develop your process you may use this framework as a guide.
 - The boldface items are the key components your need to define for your process.
-



Input for Activity or Project may include, but are not limited to, the following:

- Management Team
- Customer Request
- Inspection
- Environmental Planner/Permit Coordinator

Selection for Activity or Project may include, but are not limited to, the following:

- Directors
- Superintendent
- M & O
- Supervisors

Conceptual Planning for Activity or Project may include, but are not limited to, the following:

- Design Engineers/Consultant
- Superintendent
- M & O
- Supervisors

Budget for Activity or Project may include, but are not limited to the following:

- Director
- Superintendent

Schedule for Activity or Project may include, but are not limited to, the following:

- Superintendent
- Supervisor



Environmental Support for Activity or Project may include, but are not limited to, the following:

- Environmental Planner/Permit Coordinator
- In House
- USFWS
- NMFS
- WDFW
- Consultants

3c (Agency's) BMP Selection and Implementation Process

Instructions:

- This is your agency's commitment to a BMP Selection and Implementation Process.
- If you are planning to use the *Guidelines* without changes, the following sample checklist matches that of the Regional Program.
- If you develop a different process, it must be outlined in Section 4 of this Part 3 Application.

Regional Program BMP Selection and Implementation Process

- Use checklists in Appendix D of the *Guidelines* or develop and use your own checklists as defined in Section 4 of your Part 3 Application.
- Become familiar with the *Guidelines*.
- Identify the "Maintenance Category (ies)" to be performed and BMP categories.
- Define the activity, scope and limits.
- Conduct a site visit.
- Review the BMP options.
- List those BMPs (both part 1 and Part2) applicable to the Maintenance Category or Categories.
- Select the BMP(s) that will meet the desired outcome.
- Secure permits.
- Prepare a maintenance sequence and/or schedule.
- Conduct a pre-maintenance/pre-construction meeting to go over the



activity, roles and responsibilities, and BMP(s) installation, monitoring/maintenance, and removal.

- Gather the necessary crew(s), equipment and material.
- Implement the BMP(s) by following the *Guidelines'* instructions, permits or plans.
- Ask for help (if required).

3d Checklist Process

Instructions:

- This is a commitment to use a checklist process in your agency.
- If you are planning to use the *Guidelines* without changes, use the following sample checklists from the Regional Program.
- If you develop a different process, it must be outlined in this section under a heading “Your Checklist Process” and in section 4 of this Part 3 Application.

3d (1) Activity or BMP Planning and Selection Checklist

1. Make site visit before starting work.
2. Define activity, scope and limits.
3. Identify sensitive areas and drainage features.
4. Is Environmental staff required to review plans or provide crew support?
5. Are fish present (or likely to be present) in the work area or activity impact area? (If yes, contact environmental support staff or WDFW.)
6. Will fish exclusion be required? (If yes, coordinate with designated staff or agency.)
7. Review Maintenance Category BMP options related to site-specific conditions.
8. Select applicable BMP(s) from Part 1 & 2 of the *Guidelines*.
9. Secure permits.
10. Read and understand permit conditions. Resolve permit conditions before moving forward.
11. Prepare construction or maintenance sequence (including installation, monitoring, maintaining and removing BMP(s)).



-
12. Schedule a pre-maintenance or a pre-construction meeting as necessary.
 13. Review activity as possible model for training and/or adaptive management discussions.

3d (2) Pre-Construction or Pre-Maintenance Meeting Checklist

1. Invite appropriate personnel and/or agencies.
2. Prepare agenda and attendance/sign in form.
3. Outline construction/maintenance, schedule, and/or sequence (including installation, monitoring, maintaining and removing BMP(s)).
4. Identify sensitive areas and drainage features.
5. If fish exclusion required, follow Fish Exclusion Protocol in Appendix E.
6. Clarify roles and responsibilities of personnel and agencies related to aspects of the activity.
7. Discuss permits, approvals and their conditions.
8. If environmental staff is required to be onsite during work activities: introduce personnel and their role(s).

3d (3) Activity or BMP Installation, Monitoring, Maintaining and Removal Checklist

1. Identify/mark work area and location of BMP(s).
2. Arrange for delivery of BMP(s) products.
3. Environmental staff support as appropriate.
4. Make sure BMP(s) are installed in accordance with *Guidelines*, permit conditions and/or specifications.
5. Monitor/check BMP(s) routinely to make sure BMP outcomes are achieved, and make repairs, adjustments, and/or additions as necessary.
6. Remove BMP(s) and re-vegetate in accordance with the *Guidelines*.



3e Internal Process for Adaptive Management

Instructions:

- This is a commitment to use an adaptive management process in your agency.
- If you are planning to plug into the *Guidelines* without changes, use the following adaptive management framework. (See the *Guidelines*).
- If you develop a different adaptive management process, it must be outlined in this section and listed in section 4 of this Part 3 Application.

(*Agency*) staff will participate in the Regional Forum, described in Part 1 of the Regional Program *Guidelines*.

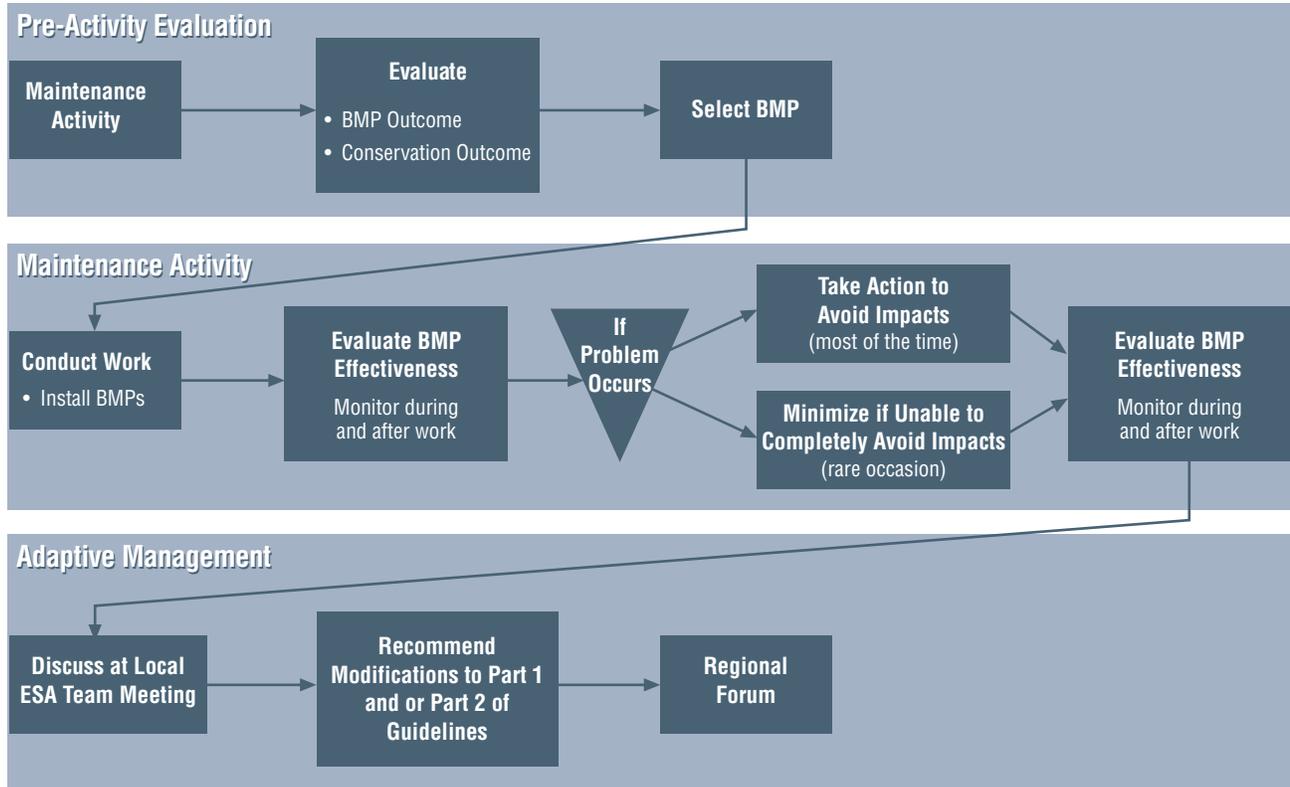
(*Agency*) will develop a team in which information and experiences can be shared and reviewed to improve the implementation of the Regional Program. The team will do the following:

- Share information.
- Review and evaluate the implementation progress of each Regional Program element.
- Gather and analyze information in order to develop and implement alternatives to correct unproductive BMP(s).
- Review and evaluate new information for possible incorporation into the Program.
- Any Program modifications will be reviewed/approved by (*Agency*) policy makers.

The figure on the next page shows the local agency adaptive management process:



Agency Adaptive Management



SECTION 4

EXCEPTIONS FROM REGIONAL PROGRAM



Instructions:

- Any exceptions to the Regional Program may require a full program review and negotiation. The Services will determine the level of review. This review could include any or all of the following:
 - Biological review.
 - Negotiations with the Services.
 - Public notice.
 - Comment period.
- Highlight any changes or additions to the Regional Program under the proper headings below:
 - If agency has no exceptions indicate so under 4E.

GENERAL PROCEDURES

- 4a** Describe any local program elements not included in the Regional Program.
- 4b** Describe any deviations from the Regional Program.
- 4c** Additional Maintenance Categories/Activities, not listed in Parts 1 and 2 of the *Guidelines*.
- 4d** Agency-specific checklists, if different from those in Part 1 of the *Guidelines*.
- 4e** Other additions or changes.



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