



**NOAA
FISHERIES**

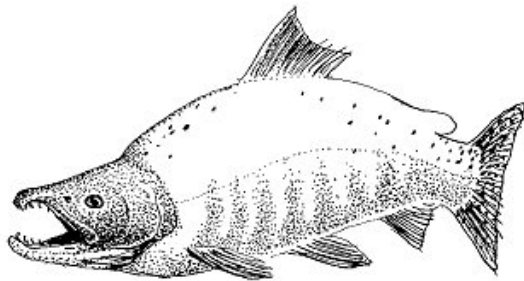
**West Coast
Region**

Oregon and Washington Dreissenid Exercise Rapid Response Working Group

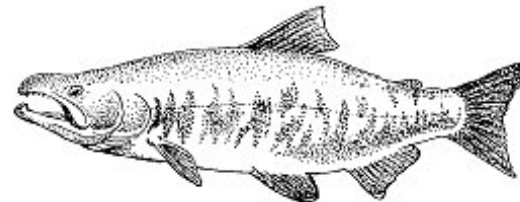
Endangered Species Act Compliance

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SOCKEYE SALMON



CHUM SALMON

Endangered Species Act

- Signed into law by President Nixon in 1973
- Designed to protect critically imperiled species from extinction as a “consequence of economic growth and development untempered by adequate concern and conservation.”
- The U.S. Supreme Court found that “the plain intent of Congress in enacting” the ESA “was to halt and reverse the trend toward species extinction, whatever the cost.”
- The ESA is administered by two federal agencies, US Fish and Wildlife Service and NOAA’s National Marine Fisheries Service

Jurisdiction

NMFS

Anadromous fish

Marine fish

Marine mammals

Marine turtles

Marine invertebrates & plants

USFWS

Freshwater fish

Terrestrial birds & mammals

Terrestrial & freshwater
plants

Terrestrial & freshwater
invertebrates



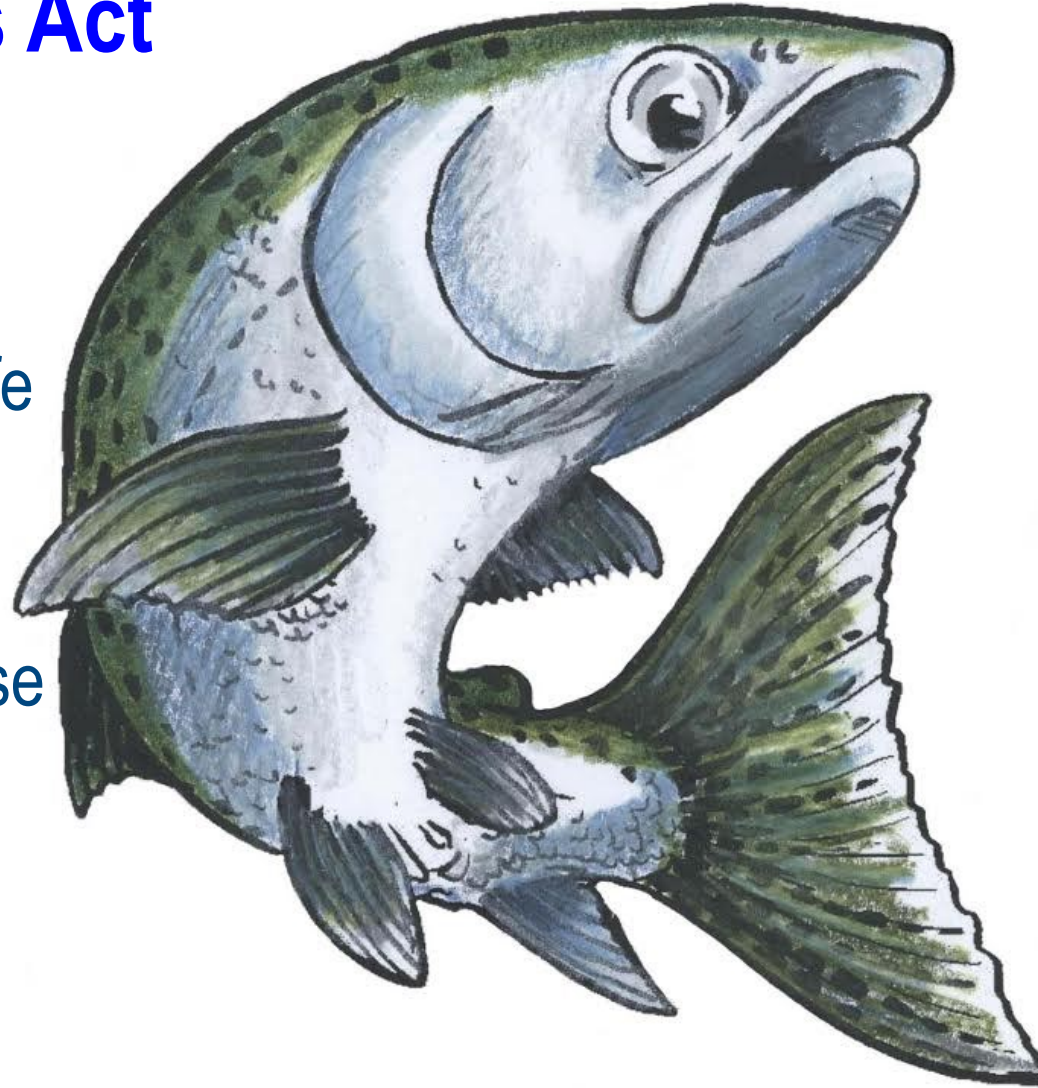
Endangered Species Act

Primary goal

- To prevent the extinction of imperiled plant and animal life

Secondary goal

- To recover and maintain those populations by removing or lessening threats to their survival



Status of ESA Listings & Critical Habitat Designations for West Coast Salmon & Steelhead

PUGET SOUND DOMAIN

- Puget Sound Chinook (T) [FCH 9/2/05]
- Hood Canal Summer Chum (T) [FCH 9/2/05]
- Ozette Lake Sockeye (T) [FCH 9/2/05]
- Puget Sound Steelhead (T) [CH under dev.; ANPR 1/10/11]

WILLAMETTE/LOWER COLUMBIA DOMAIN

- Columbia River Chum (T) [FCH 9/2/05]
- Lower Columbia River Coho (T) [CH Under dev.; ANPR 1/10/11]
- Lower Columbia River Chinook (T) [FCH 9/2/05]
- Lower Columbia River Steelhead (T) [FCH 9/2/05]
- Upper Willamette River Chinook (T) [FCH 9/2/05]
- Upper Willamette River Steelhead (T) [FCH 9/2/05]

OREGON COAST DOMAIN

- Oregon Coast Coho (T) [FCH 2/11/08]

SOUTHERN OREGON/NORTHERN CALIFORNIA COAST DOMAIN

- Southern Oregon/Northern California Coast Coho (T) [FCH 5/5/99]

CENTRAL VALLEY DOMAIN

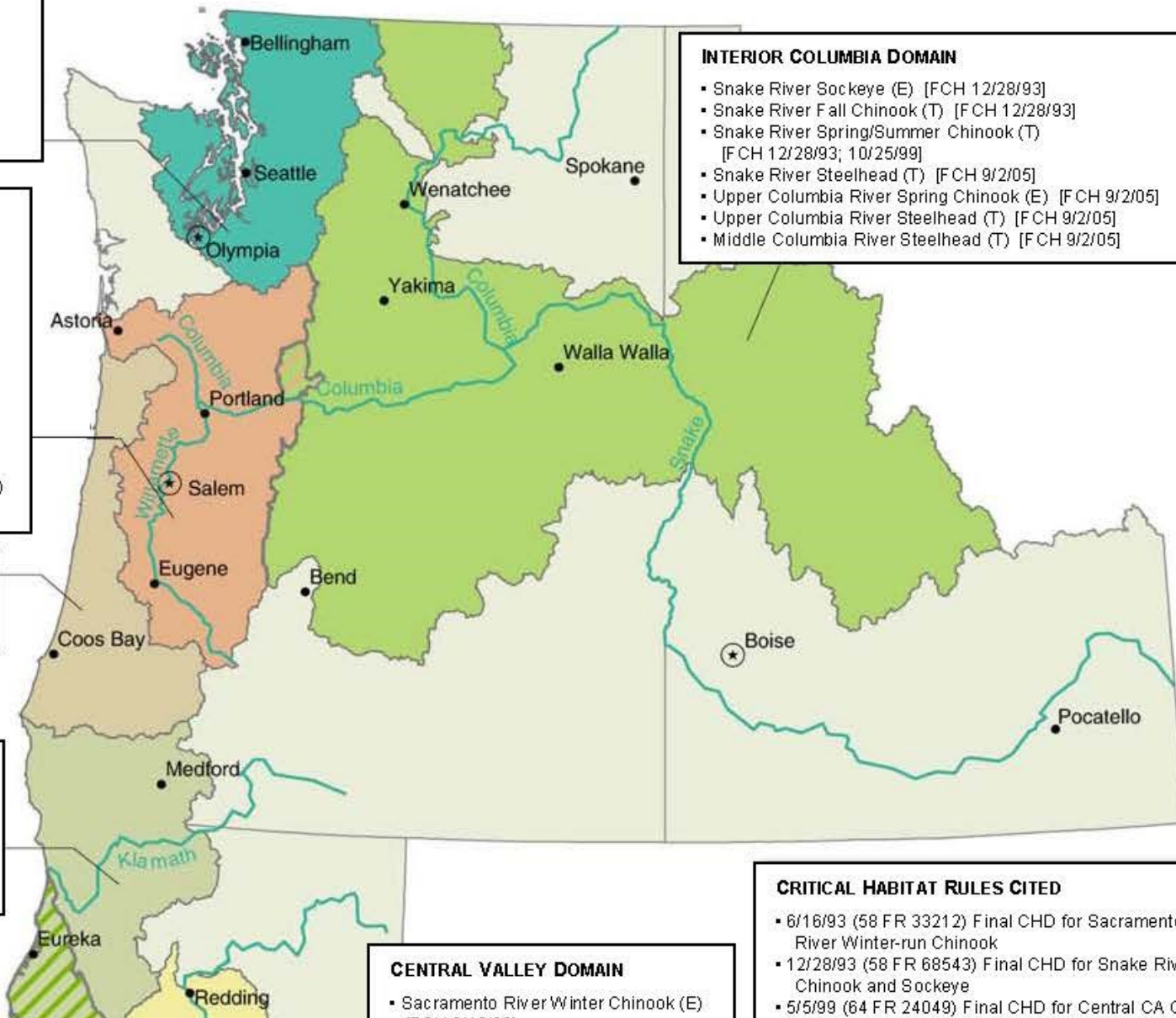
- Sacramento River Winter Chinook (E)

INTERIOR COLUMBIA DOMAIN

- Snake River Sockeye (E) [FCH 12/28/93]
- Snake River Fall Chinook (T) [FCH 12/28/93]
- Snake River Spring/Summer Chinook (T) [FCH 12/28/93; 10/25/99]
- Snake River Steelhead (T) [FCH 9/2/05]
- Upper Columbia River Spring Chinook (E) [FCH 9/2/05]
- Upper Columbia River Steelhead (T) [FCH 9/2/05]
- Middle Columbia River Steelhead (T) [FCH 9/2/05]

CRITICAL HABITAT RULES CITED

- 6/16/93 (58 FR 33212) Final CHD for Sacramento River Winter-run Chinook
- 12/28/93 (58 FR 68543) Final CHD for Snake River Chinook and Sockeye
- 5/5/99 (64 FR 24049) Final CHD for Central CA Coast



Listed Species in the Columbia River Basin under the Jurisdiction of NOAA Fisheries

Columbia River Chum

Lower Columbia River Coho

Lower Columbia River Chinook

Lower Columbia River Steelhead

Upper Willamette River Chinook

Upper Willamette River Steelhead

Snake River Sockeye

Snake River Fall Chinook

Snake River Spring/Summer Chinook

Snake River Steelhead

Upper Columbia River Spring Chinook

Upper Columbia River Steelhead

Middle Columbia River Steelhead

Eulachon (Columbia River Smelt)

Green Sturgeon

Endangered Species Act

- Listing
- Protective regulations (take prohibitions, section 4)
- Critical habitat
- Section 7 consultations (federal)
- Section 10 HCPs (non-federal)
- Section 4(d) (non-federal)
- 3rd party lawsuits
- Recovery plans

ESA – Protective Regulations

The ESA protects endangered and threatened species and their habitats by prohibiting the “take” of listed animals and the interstate or international trade in listed plants and animals, including their parts and products, except under Federal permit. Such permits generally are available for conservation and scientific purposes.

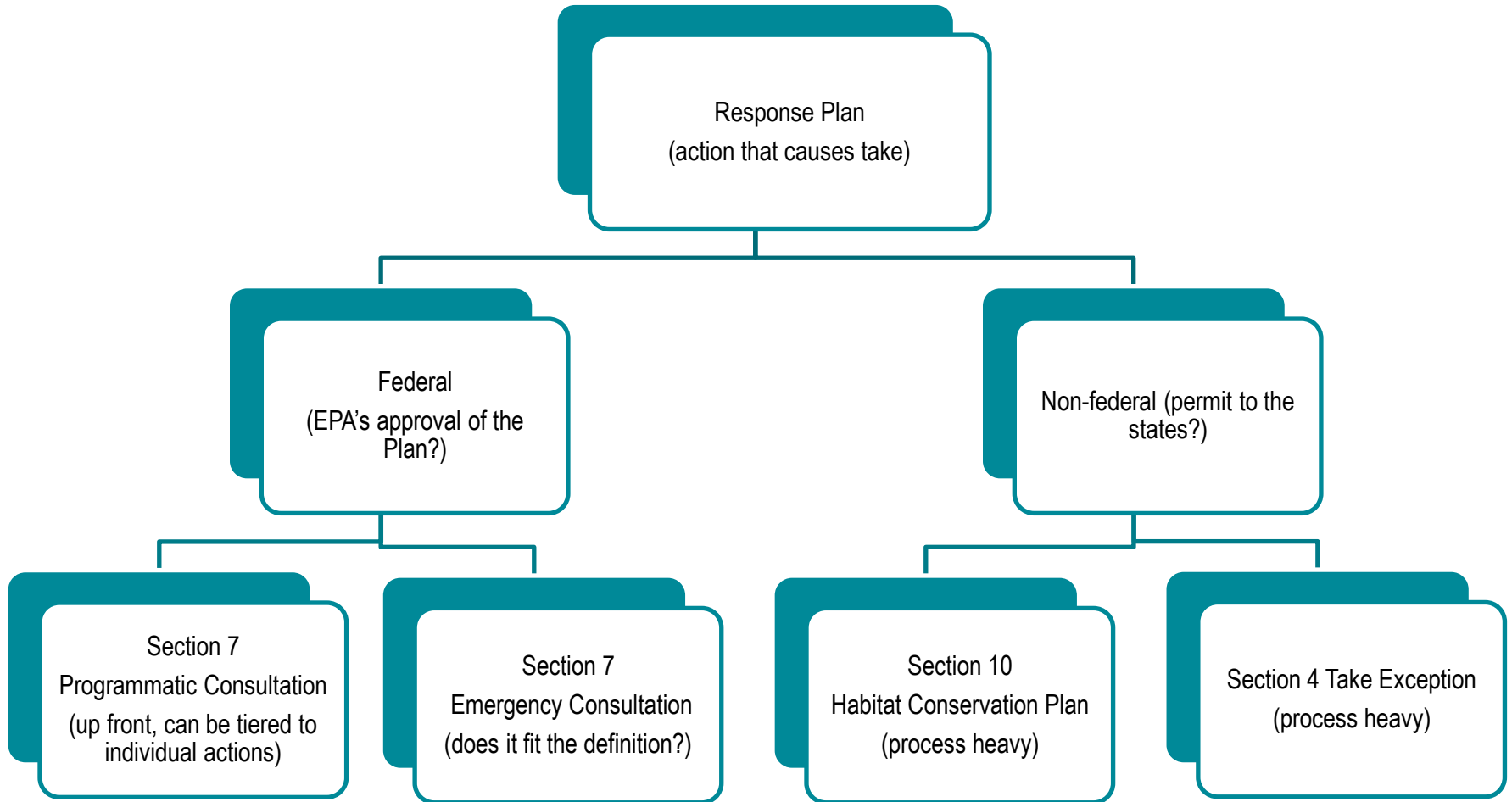
The ESA makes it unlawful for a person to take a listed animal without a permit. Take is defined as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct.” Through regulations, the term “harm” is defined as “an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.”

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ESA Compliance Options



Incidental Take and Take Permits

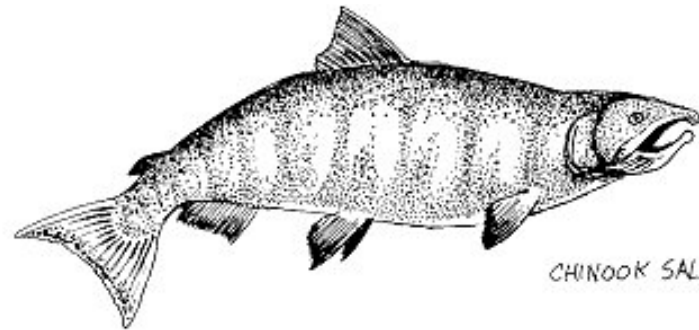
Thus, to 'take' a listed species requires either an:

- Incidental* take statement (section 7 of the ESA)
 - For federal actions
 - Often called section 7 consultation
 - Results in a biological opinion with a jeopardy/no jeopardy decision
 - Timeline 135 days (+ or -)
 - Provisions for emergency consultation and programmatic consultations
- Incidental take permit (section 10 of the ESA)
 - For non-federal actions
 - Usually includes a Habitat Conservation Plan (HCP)
 - Timeline typically takes several years, NEPA analysis, public involvement

*Incidental- the take is incidental to otherwise lawful activities

NMFS's Recommendation

- Federalize the action (EPA approval of the response plan?)
- Engage in a programmatic consultation, that provides for the opportunity to engage in a tiered approval process (e.g. LRMPs and SLOPES)
- BMPs could be developed for the mainstem Columbia R and tributary watersheds



CHINOOK SALMON



Questions?