SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal,** even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in "Part B: Environmental Elements" that do not contribute meaningfully to the analysis of the proposal.

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A. Background [Find help answering background questions]

1. **Name of proposed project, if applicable:**

   WDFW and Tribal Co-Manager Hatchery Policy

2. **Name of applicant:**

   Washington Department of Fish and Wildlife

3. **Address and phone number of applicant and contact person:**

   Natural Resources Building
   1111 Washington St. SE
   Olympia WA, 98501
   360-902-2595
   Contact Person: Kenneth Warheit

4. **Date checklist prepared:**

   April 3, 2023

5. **Agency requesting checklist:**

   Washington Department of Fish and Wildlife

6. **Proposed timing or schedule (including phasing, if applicable):**

   If approved by the Fish and Wildlife Commission (FWC) and at least one Tribal Co-Manager, the policy will take effect in the applicable geographic region of the state (see #11 below) at the time when both parties have approved and signed the policy. After approval by the FWC and until at least one Tribal Co-Manager signs the policy, the controlling hatchery policy for Washington Department of Fish and Wildlife (WDFW) continues to be the FWC's Anadromous Salmon and Steelhead Hatchery Policy (Policy C-3624). Policy C-3624 will continue to be the hatchery policy for WDFW for hatchery programs in geographic regions where there isn't at least one Tribal Co-Manager that has signed the policy.

7. **Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

   Yes, there are further activities connected to this proposal. This proposal concerns a policy between FWC, on behalf of the WDFW, and Tribal Co-Managers. As discussed in #11 below this policy is a nonproject action that commits WDFW and Tribal Co-Managers to collectively abide by stated high-level principles as they engage in ongoing and future planning for individual hatchery programs, as discussed in the full text of the policy (see Appendix) and in #11 below. Many of the individual plans will require or have required the

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development of Hatchery Genetic Management Plans (HGMPs), which go through NEPA review by NOAA Fisheries and sometimes USFWS. All WDFW hatchery program plans associated with this proposal will go through either NEPA and/or SEPA review.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

No environmental information has been prepared as a direct result of this proposal. However, since this proposal is a nonproject that directs the development of a series of connected actions of narrow scope (see #11 below), and those connected actions are current or future hatchery program plans, environmental information has been prepared directly associated with existing hatchery program plans. For ESA-listed species the existing hatchery program plans are the HGMPs that are submitted to NOAA Fisheries and sometimes USFWS for their ESA consultation and NEPA evaluations of the environmental effects of the hatchery programs.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

As discussed in #7 and #8 above, this proposal is a nonproject that guides the development of a series of connected actions of narrow scope in a phased SEPA review (see #11 below). This proposal is the first phase of the SEPA review, and there are no pending applications for governmental approval directly associated with this proposal. The second phase of this SEPA review is the series of actions that are connected to this proposal – actions which involve updates to or adoptions of specific HGMPs or hatchery management plans. Although those actions are not the subject of this phase of the SEPA review, those actions will require their own environmental evaluations. Many of those connected actions concern hatchery production with potential environmental effects to ESA-listed species. For hatchery programs, WDFW develops HGMPs that are submitted to NOAA Fisheries and sometimes USFWS for their NEPA evaluations of the potential environmental effects. WDFW runs approximately 172 anadromous salmon and steelhead hatchery programs, approximately 121 of these programs require the development of HGMPs. Although many of these HGMPs are linked to this proposal (see #11 below), they have been developed independently of the proposal, and are wholly consistent with the proposal. Since 2014, WDFW has submitted to NOAA Fisheries HGMPs for each of these 121 programs, and has received approval for 72 programs.

10. List any government approvals or permits that will be needed for your proposal, if known.

There are no government approvals or permits that are required for this proposal. See #9 above.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on

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this page. (Lead agencies may modify this form to include additional specific information on project description.)

This proposal concerns a draft policy between FWC on behalf of WDFW, and Tribal Co-Managers on the management of anadromous salmon and steelhead hatcheries in Washington State. The full content of this draft proposal is provided as an Appendix to this checklist. We provide here a summary of the Purpose, Scope, and Principles of the policy.

Purpose: Establishes expectations for collaborative management of tribal and WDFW salmon and steelhead hatchery programs in Washington State.

Scope of the Policy: The policy becomes active once the FWC approves the policy and at least one Tribal Co-Manager signs the policy. It is possible that not all Tribal Co-managers will sign the policy. Therefore, this policy applies to those anadromous salmon and steelhead hatchery programs operated by WDFW and Tribal Co-Managers in the geographic areas associated with the specific Tribal Co-Managers that are signatories to this policy. For those hatchery programs that fall under this Co-Manager Hatchery Policy, this policy will supersede all elements of the FWC's Anadromous Salmon and Steelhead Hatchery Policy (Policy C-3624). All other hatchery programs will be operated based on existing legal requirements and C-3624.

Principle 1: Co-Managers acknowledge and re-commit to follow all court orders and management agreements arising under U.S. v. Washington, Hoh Indian Tribe v. Baldrige, and U.S. v. Oregon pertaining to salmonid hatchery operations and management.

Principle 2: Hatchery fish support Treaty Right fishing obligations that cannot be provided by natural-origin salmonid populations alone.

Principle 3. Hatcheries produce fish for state-regulated recreational and commercial fishing opportunities beyond that provided by natural-origin salmonid populations.

Principle 4. The Co-Managers will develop and/or operate in accordance with hatchery program plans that include clearly-defined hatchery goals and describe hatchery operations at the regional and/or watershed level. The hatchery plans should indicate how the hatchery production is integrated with habitat, hydropower, and harvest. Hatchery program plans should: (1) support ecosystem function; (2) consider how natural-origin salmonids support ecosystem function; (3) consider how hatchery production can contribute to productive natural-spawning populations that are locally adaptive and diverse genetically; (4) consider how hatchery operations can maintain or enhance the genetic diversity and adaptability of hatchery broodstock; and (5) include program goals that strive to balance harvest opportunities, cultural, economic, conservation, and ecological benefits with potential genetic and ecological risks to natural-origin salmonid populations, while considering current environmental conditions.

Principle 5: Hatcheries are to be designed and operated in a scientifically-sound and defensible manner, including adaptive management processes for informing decisions that include monitoring, evaluation, and research programs.

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Principle 6: Co-Managers shall work to secure adequate financial resources to meet current and future challenges to the successful use of salmonid hatcheries in accomplishing the purpose of this Policy. This includes planning for the negative effects of climate change on salmonid survival and the resources needed to support them.

This proposal fits the definition of a nonproject action that governs the development of a series of connected actions (WAC 197-11-704(2)(b)(iii)). The series of connected actions is the management of specific hatchery programs. Since this proposal concerns a nonproject, WDFW considers this SEPA review as a phased review; the sequence of the review process moving from this nonspecific nonproject policy to future documents of narrower scope (WAC 197-11-060(5)(c)(i)). The documents of narrower scope are specific hatchery program plans (see Principle 4 above), which themselves will be subjected to a NEPA and/or SEPA review process.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

If the WDFW and Tribal Co-Manager Hatchery Policy (this proposal) is approved by the FWC and at least one Tribal Co-Manager, the policy will take effect in the applicable geographic region of the state (see #11 above) at the time when both parties have approved and signed the policy. As additional Tribal Co-Managers sign the policy, the geographic scope of the policy will increase. FWC's Anadromous Salmon and Steelhead Hatchery Policy (Policy C-3624) will continue to be the hatchery policy for WDFW for hatchery programs in geographic regions where there is not at least one Tribal Co-Manager that has signed the policy (see #6 and #11 above).

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B. Environmental Elements

This proposal is a nonproject action (WAC 197-11-704(2)(b)(iii); see #11 above). For nonproject proposals, the lead agency may exclude questions in Part B that do not contribute meaningfully to the analysis of the proposal (WAC 197-11-315(1)(e), WAC 197-11-960, see also SEPA Checklist instructions). However, Part D is required for nonproject proposals (WAC 197-11-960, see also SEPA Checklist instructions). Washington Department of Fish and Wildlife (WDFW) is the Lead Agency for this SEPA review since it initiated the proposal (WAC 197-11-926). WDFW has determined that for this proposal Part B and Part D are redundant, and the environmental effects of this proposal are best described in Part D. Therefore, Part B is left blank intentionally and Part D is the responsive section describing the environmental effects of this proposal.

See Page 10 for Part D.

To conserve space, Part B has been compressed.

1. Earth Find help answering earth questions

a. General description of the site:

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

2. Air Find help answering air questions

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any.

3. Water Find help answering water questions

a. Surface Water: Find help answering surface water questions

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**
2. **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**
3. **Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**
4. **Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**
5. **Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**
6. **Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

b. Ground Water: Find help answering ground water questions

1. **Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**
2. **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals…; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

c. Water Runoff (including stormwater):

1. **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

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2. Could waste materials enter ground or surface waters? If so, generally describe.
3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.
4. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any.

4. Plants Find help answering plants questions

a. Check the types of vegetation found on the site:
- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ shrubs
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ orchards, vineyards, or other permanent crops.
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other
- ☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?
c. List threatened and endangered species known to be on or near the site.
d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.
e. List all noxious weeds and invasive species known to be on or near the site.

5. Animals Find help answering animal questions

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.
Examples include:
- Birds: hawk, heron, eagle, songbirds, other:
- Mammals: deer, bear, elk, beaver, other:
- Fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened and endangered species known to be on or near the site.
c. Is the site part of a migration route? If so, explain.
d. Proposed measures to preserve or enhance wildlife, if any.
e. List any invasive animal species known to be on or near the site.

6. Energy and Natural Resources Find help answering energy and natural resource questions

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.

7. Environmental Health Find help with answering environmental health questions

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

1. Describe any known or possible contamination at the site from present or past uses.
   a. Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.
   b. Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.
   c. Describe special emergency services that might be required.
   d. Proposed measures to reduce or control environmental health hazards, if any.

b. Noise

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?
3. Proposed measures to reduce or control noise impacts, if any.

8. Land and Shoreline Use Find help answering land and shoreline use questions

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.
b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?
   1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?
c. Describe any structures on the site.
d. Will any structures be demolished? If so, what?
e. What is the current zoning classification of the site?
f. If applicable, what is the current shoreline master program designation of the site?
g. Has any part of the site been classified as a critical area by the city or county? If so, specify.
h. Approximately how many people would reside or work in the completed project?
i. Approximately how many people would the completed project displace?
j. Proposed measures to avoid or reduce displacement impacts, if any.
k. Proposed measures to ensure the proposal is compatible with existing and projected land

uses and plans, if any.

l. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any.

9. Housing Find help answering housing questions

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

c. Proposed measures to reduce or control housing impacts, if any.

10. Aesthetics Find help answering aesthetics questions

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

b. What views in the immediate vicinity would be altered or obstructed?

c. Proposed measures to reduce or control aesthetic impacts, if any.

11. Light and Glare Find help answering light and glare questions

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

b. Could light or glare from the finished project be a safety hazard or interfere with views?

c. What existing off-site sources of light or glare may affect your proposal?

d. Proposed measures to reduce or control light and glare impacts, if any.

12. Recreation Find help answering recreation questions

a. What designated and informal recreational opportunities are in the immediate vicinity?

b. Would the proposed project displace any existing recreational uses? If so, describe.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

13. Historic and Cultural Preservation Find help answering historic and cultural preservation questions

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

14. Transportation Find help with answering transportation questions

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

g. Proposed measures to reduce or control transportation impacts, if any.

15. Public Services Find help answering public service questions

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities Find help answering utilities questions

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

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C. Signature [Find help about who should sign]

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

X _____

Type name of signee: Click or tap here to enter text.

Position and agency/organization: Click or tap here to enter text.

Date submitted: Click or tap to enter a date.

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D. Supplemental sheet for nonproject actions [Find help for the nonproject actions worksheet]

IT IS NOT REQUIRED to use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

Introduction:
This proposal is a draft policy between the between the Fish and Wildlife Commission (FWC) on behalf of the Washington Department of Fish and Wildlife (WDFW), and Tribal Co-Managers on the management of anadromous salmon and steelhead hatcheries in Washington State. This policy establishes the Co-Managers' expectations for collaborative management of Tribal and WDFW salmon and steelhead hatchery programs. The policy also includes a series of principles that outline the Co-Managers' values with respect to the operations of anadromous salmon and steelhead hatcheries in Washington State. *This policy does not establish specific hatchery goals, and makes no statement as to whether current hatchery production levels are to remain the same, or be increased or decreased.*

This current SEPA review is the first part of a phased review process that moves from this nonspecific nonproject policy to documents of narrow scope (see #11 above). The documents of narrower scope are the specific hatchery program plans. Many of the hatchery program plans are, or will be, in the form of Hatchery Genetic Management Plans (HGMPs) that are submitted to NOAA Fisheries and sometimes USFWS for their NEPA evaluations of the potential environmental effects (see #8 and #9 above). All hatchery program plans associated with this proposal will undergo an environmental assessment, either NEPA and/or SEPA. *This current SEPA Checklist and the associated environmental review is limited to the policy itself and not the hatchery program plans*.

1. **How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**
   This proposal will not result in any change to discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise, which may be associated with current practices at WDFW anadromous salmon and steelhead hatcheries. Water discharge from WDFW hatchery facilities that are required to operate under NPDES permits are regulated by the Washington Department of Ecology.

   - **Proposed measures to avoid or reduce such increases are:** NA

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2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Hatchery production can be a hazard (something that can causes harm) to natural-origin ("wild") populations of salmonids. The hazard can negatively affect natural-origin salmonid populations through ecological or genetic interactions. These effects may be mitigated through specific hatchery management practices such as sizing hatchery programs and timing hatchery releases appropriately, considering the ecosystem into which hatchery fish will be released. Actual hatchery production and specific hatchery management practices are subjects of hatchery program plans and are therefore *not the subject of this SEPA review* (see Introduction above). *This SEPA review concerns a set of Co-Manager values* (e.g., policy principles), which will be used, in part to establish or update the goals that are imbedded into the hatchery program plans. Values themselves cannot directly affect salmonids or other biota. Therefore, this proposal will not *directly* "affect plants, animals, fish, or marine life." Nevetheless, since these values are intended to guide specific hatchery program goals, they can indirectly affect plants, animals, fish, or marine life, particularly, natural-origin salmonid populations.

The primary values expressed in this proposal are:

- WDFW and Tribal Co-Managers will work collaboratively to manage anadromous salmon and steelhead hatcheries,
- Hatcheries are primarily operated to preserve, reintroduce, or supplement natural production,
- Hatchery programs help support Tribal Treaty Rights, especially when natural-origin populations are insufficient to sustain tribal harvest,
- State-regulated recreational and commercial fishing opportunities are important culturally and economically to Washington State,
- Hatcheries are best managed locally at the regional or watershed level,
- Hatcheries should be managed in ways that would reduce or mitigate their risks to natural-origin populations (e.g., size appropriately, local adaptation, diverse genetically),
- Hatchery benefits and risks must be considered when establishing hatchery program goals, and
- Hatcheries are operated in a scientifically-sound and defensible manner using adaptive management to achieve hatchery program goals.

These values can indirectly and negatively affect plants, animals, fish, or marine life, particularly salmonids, if they are construed to mean that hatchery production is a priority and protection of the natural-origin populations is of secondary concern. However, these values prioritize neither hatchery– nor natural–production, and allow local knowledge of ecosystems to determine how best to operate hatcheries. For systems that include ESA-listed biota hatchery operations are constrained by the requirements established by NOAA Fisheries or USFWS as part of their ESA consultation, which includes a NEPA review process.

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- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:** Protection for biota, particularly ESA-listed salmonids, can be achieved and risks mitigated by certain hatchery practices. These hatchery practices are part of individual hatchery program plans and are therefore not the subject of this SEPA review.

3. **How would the proposal be likely to deplete energy or natural resources?**
   This proposal will not result in any change to WDFW hatchery facility usage of energy or natural resources.

   - **Proposed measures to protect or conserve energy and natural resources are:** NA

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**
   This proposal will not result in any change to or use of environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, which may be associated with current practices at WDFW anadromous salmon and steelhead hatcheries.

   - **Proposed measures to protect such resources or to avoid or reduce impacts are:** NA

5. **How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**
   This proposal will not result in any change to land and shoreline use, which may be associated with current practices at WDFW anadromous salmon and steelhead hatcheries.

   - **Proposed measures to avoid or reduce shoreline and land use impacts are:** NA

6. **How would the proposal be likely to increase demands on transportation or public services and utilities?**
   This proposal will not result in any change to the demands on transportation or public services and utilities, which may be associated with current practices at WDFW anadromous salmon and steelhead hatcheries.

   - **Proposed measures to reduce or respond to such demand(s) are:** NA

7. **Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**
   As discussed above, this proposal concerns a policy that outlines a set of values to be used in adopting or updating individual hatchery management plans that govern the operation of anadromous salmon and steelhead hatcheries. These values do not directly conflict with local, state, or federal laws or requirements for the protection of the environment. This current SEPA

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review is the first step in a phased review. The next step in the phase review will be the development of new, or review of existing individual hatchery program plans. The relationship between these more narrow individual hatchery program plans and laws or requirements associated with protection of the environment will be the subject of subsequent SEPA or NEPA review processes.

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APPENDIX

Joint Policy Agreement
for the
Management of Anadromous Salmon and Steelhead Hatcheries
between the
[spell out each of the Tribes]
and the
Washington Department of Fish and Wildlife

Purpose

This Joint Policy Agreement (Co-Manager Hatchery Policy) is entered into between [spell out the Tribes] (the "Tribes") and the Fish and Wildlife Commission ("FWC"), on behalf of the Washington Department of Fish and Wildlife ("WDFW"). The Tribes and WDFW are hereinafter collectively referred to as Co-Managers or Parties and may be referred to individually as Co-Manager or Party.[1] This policy establishes the Co-Managers' expectations for collaborative management of tribal and WDFW salmon and steelhead hatchery programs in Washington State.

Co-Managers recognize that legacy habitat[2] degradation requires ongoing mitigation[3]. Co-managers further recognize that ongoing habitat loss and changing environmental conditions and ecosystem functions[4] preclude for the foreseeable future aggregate natural- and hatchery-fish sufficient to meet the recovery[5] needs and legal requirements of the Co-Managers. Hatcheries are primarily operated to preserve, reintroduce or supplement, natural production that contributes to both the spawning production of those populations and augments harvest. Hatcheries will contribute to meeting these needs while mitigation, habitat restoration and stock recovery efforts are ongoing.

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[1] The term Co-Manager refers to the Tribes' and WDFW's joint management efforts pursuant to their concurrent jurisdiction to regulate the fishery resource, as recognized in various court decisions. *United States v. State of Wash*., 384 F. Supp. 312 (W.D. Wash. 1974), *aff'd and remanded*, 520 F.2d 676 (9th Cir. 1975); *United States v. State of Or*., 699 F. Supp. 1456, 1458 (D. Or. 1988), *aff'd*, 913 F.2d 576 (9th Cir. 1990)*; Hoh Indian Tribe v. Baldrige,* 522 F. Supp. 683 (W.D. Wash. 1981); and subsequent court orders and sub-proceedings that established equal harvest sharing and resource management responsibilities.

[2] Habitat includes freshwater, estuary, nearshore marine, and offshore marine ecosystems and the environmental conditions anadromous salmonids experience that influence survival and reproduction.

[3] "[Hatchery programs] are designed essentially to replace natural fish lost to non-Indian degradation of the habitat and commercialization of the fishing industry." *United States v. State of Wash.*, 759 F.2d 1353, 1360 (9th Cir. 1985). This is particularly true for hatcheries that have formal mitigation requirements (e.g., Mitchell Act, FERC agreements, and Flood Control Act). Appropriate uses of hatchery mitigation will change over time depending on the health of individual watersheds and the worsening effects of climate change on freshwater, estuarine, and marine ecosystems.

[4] Ecosystem function is the physical, chemical, and biological processes that transform and translocate energy or materials in an ecosystem.

[5] Recovery, as used in this Policy, refers to the rebuilding of populations to levels that support healthy ecosystem functions and services, including robust harvest, where applicable. Due to the legacy loss of freshwater, estuarine and marine habitats and exacerbating effects of climate change, hatchery production is increasingly relied upon to meet harvest needs that cannot be provided by natural-origin salmon populations, while mitigation and restoration efforts are ongoing.

Scope of Policy

The policy becomes effective once the FWC approves the policy and at least one Tribal Co-Manager signs the policy. This policy applies to those anadromous salmon and steelhead hatchery programs operated by WDFW and Tribal Co-Managers in the geographic areas associated with the specific Tribal Co-Managers that are signatories to this policy. Following acceptance of this policy, it is the intent of Co-Manager signatories to subsequently provide additional specification of responsibilities, agreements, and operational requirements at the regional or watershed level through comprehensive planning. Hatchery program release goals, genetic management protocols, and other plans agreed to by Co-Managers as of MONTH DAY, 2023, will remain in place until agreed to otherwise in accordance with this Co-Manager Hatchery Policy.

For those hatchery programs that fall under this Co-Manager Hatchery Policy, this policy will supersede all elements of the FWC's Anadromous Salmon and Steelhead Hatchery Policy (Policy C-3624). All other hatchery programs will be operated based on existing regional- or watershed-specific Co-Manager hatchery program agreements, legal requirements, and C-3624 and other applicable policies.

Guiding Principles and Policy Positions

In conducting evaluations needed toward achieving an optimal balance of the various benefits and risks of hatcheries, attention shall be given to the explicit purpose and principles of this Policy and any stated objectives in the individual agreed-to hatchery program plans.

Principle 1: Tribal Treaty Rights are supreme law of the land[6]. It is acknowledged that hatchery programs are essential components of regional salmonid management plans that support natural resource management responsibilities in sustaining Treaty Rights (*e.g.*, *United States v. State of Wash.*, *United States v. State of Or.*, *Hoh Indian Tribe v. Baldrige* and sub-proceedings).

- Co-Managers acknowledge and re-commit to follow all court orders and management agreements arising under *U.S. v. Wash., Hoh Indian Tribe v. Baldrige, and U.S. v. Or.* pertaining to salmonid hatchery operations and management.

Principle 2: Hatchery fish support Treaty Right fishing obligations that cannot be provided by natural-origin salmonid populations alone. Harvest of hatchery fish is managed within Co-Manager harvest management processes.

- Hatcheries are recognized as supporting the four basic values recognized by the federal courts associated with tribal treaty-reserved fishing: (1) conservation of the resource to ensure a future supply, (2) ceremonial, religious, and spiritual values, (3) subsistence values, and (4) commercial values.

[6] The United States Constitution, Article VI states in part, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Principle 3: Hatcheries produce fish for state-regulated recreational and commercial fishing opportunities beyond that provided by natural-origin salmonid populations. Such fisheries, and the infrastructure support they entail, provide important cultural socio-economic benefits to key fishery-dependent communities.

Principle 4: The Co-Managers will develop and/or operate in accordance with hatchery program plans that include clearly-defined hatchery goals and describe hatchery operations at the regional and/or watershed level. The hatchery plans should indicate how the hatchery production is integrated with habitat, hydropower, and harvest, also known as the All-H[7] approach.

- Hatchery program plans should support ecosystem function, such as providing prey for Southern Resident Killer Whales, buffering pinniped and avian predation, and providing nutrients that cycle between freshwater and marine environments.
- Hatchery program plans should consider how natural-origin salmonids support ecosystem function and should size the hatchery program and time of hatchery releases in a manner that considers ecosystem constraints, with recognition of changing environmental and climate conditions.
- Hatchery program plans should consider how hatchery production can contribute to productive natural-spawning populations that are locally adaptive, and diverse genetically to maintain adaptability in the face of changing environmental and climate conditions.
- Hatchery plans should consider how hatchery operations can maintain or enhance the genetic diversity and adaptability of hatchery broodstock.
- Hatchery program goals should strive to balance harvest opportunities, cultural, economic, conservation, and ecological benefits with potential genetic and ecological risks to natural-origin salmonid populations, and environmental conditions such as habitat degradation. Risks and benefits reflect perspectives, values, and biological factors that should be considered in both social and ecological contexts.
- It is recognized that there are hatchery program plans in varying stages of consultation, in specific geographic areas, which are agreed-to by Co-Managers. These hatchery program plans will not be modified without Co-Manager agreement.

Principle 5: Hatcheries are to be designed and operated in a scientifically-sound and defensible manner, including adaptive management processes for informing decisions that include monitoring, evaluation, and research programs.

- Co-managers will monitor and evaluate hatchery- and natural-origin fish populations and their habitats to track progress for reaching goals established in the hatchery plans. Adaptive management of hatchery programs is to be informed by well-funded, coordinated, and objective monitoring and evaluation programs. Where Co-Managers deem accompanying procedure manuals or evaluation tools are desirable, these must be jointly developed or third-party tools

[7] All-H refers to managing harvest, hatcheries, hydropower, and habitat (i.e., the 4 Hs) in a comprehensive, integrated manner taking into account the impacts and conditions of each in a holistic management structure.

adapted for use under close coordination, reviewed, evaluated and agreed-to by the Co-Managers prior to implementation.

Principle 6: Co-Managers shall work to secure adequate financial resources to meet current and future challenges to the successful use of salmonid hatcheries in accomplishing the purpose of this Policy. This includes planning for the negative effects of climate change on salmonid survival and the resources needed to support them. These efforts shall include:

- ensuring that adequate funding is acquired to successfully implement plans that use both state and federal appropriation processes as appropriate, as well as private funding associated with mitigation hatcheries.
- initiating and maintaining coordinated efforts among the Tribes and WDFW to acquire the necessary funds to establish, maintain, and monitor the desired hatchery programs and infrastructure that is built to meet future demands. Efforts will include a timeline for implementation (including evaluation and monitoring), strategies for state, tribal, and federal funding and estimated implementation costs, including updates to cost figures each biennium or fiscal year.
- ensuring that once Co-Managers agree to watershed or regional hatchery program plans that are consistent with the requirements under *United States v. State of Wash.* (*e.g.*, the Puget Sound Salmon Management Plan), *United States v. State of Or.*, *Hoh Indian Tribe v. Baldrige*, and other legally-binding Co-Manager agreements, the Co-Managers will prioritize and pursue financial support from the legislature and any available federal funding sources.
- working with the Governor's Office to inform the Legislature on the legal requirements for hatchery production levels and agreements where hatchery funding will be prioritized.
- developing contingency agreements consistent with requirements under *United States v. State of Wash.*, *United States v. State of Or.*, *Hoh Indian Tribe v. Baldrige* or other applicable agreements for facility operations in the event of reduced funding or other operational impediments, as appropriate.
- securing sufficient dedicated funding for watershed monitoring requirements and other compliance mandates.
- securing adequate funding to assess, plan, and implement needed changes to hatchery infrastructure and operations to mitigate for changing environmental conditions.
- securing adequate funding for fish culture practices to ensure a high level of standard.

Dispute Resolution

The Parties commit to working in good faith to seek consensus agreements. In the event that bona fide disputes arise from this Policy, the disputing Parties will first strive to resolve matters informally through government-to-government discourse at the appropriate level. Any disputant may raise any matter not resolved to a higher official. In the event that the matter is not resolved, the Parties may agree to utilize

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neutral third-party mediation. Where other dispute resolution mechanisms are already established, these will be followed.

Disclaimers

Nothing in this Policy is intended to conflict with any applicable federal, state, or tribal law or regulation.

Nothing in this Policy will be construed to grant, expand, create, or diminish any legally enforceable rights, benefits, or responsibilities, substantive or procedural, not otherwise granted or created by existing law. Nothing in this Policy will be construed to alter, amend, repeal, interpret or modify tribal sovereignty, any Treaty Right, or other Rights of any Indian tribe or preempt, modify, or limit the exercise of any such Right.

Nothing in this Policy is intended to waive or diminish the Right of any Party to challenge or appeal another Party's decision or action in accordance with applicable law.

Each Party reserves all Rights, powers, and remedies now or hereafter existing in law, equity, statute, Treaty, or otherwise. A Party's signature to this Policy shall not constitute a waiver of sovereign immunity. This Policy is intended solely to facilitate coordination among the Parties, and nothing herein creates any rights in third parties or gives rise to any right of judicial review.

This Policy commits the Parties to work cooperatively and respectfully toward resolution of issues of mutual interest and concern.

Agreement of Co-Managers

(Insert Signatory Section?)

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