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NOAA Fisheries West Coast Region

Questions & Answers – Withdrawal of the Draft Environmental Impact Statement for Puget Sound Salmon & Steelhead Hatchery Programs

What is NOAA Fisheries withdrawing?

In July 2014, NOAA Fisheries released a draft environmental impact statement (EIS) under the National Environmental Policy Act (NEPA). The draft EIS addressed two joint resource management plans (RMPs) for Puget Sound hatchery programs that were submitted to NOAA Fisheries by the Washington Department of Fish and Wildlife and the Puget Sound treaty tribes (referred to as co-managers). NOAA Fisheries is withdrawing the draft EIS, which effectively terminates the approach of bundling more than one hundred hatchery programs across Puget Sound into a single analysis. The agency is moving forward with a preferred approach that includes, generally, multiple watershed-scale analyses. Details of the preferred approach are provided below.

Why is NOAA Fisheries withdrawing the Puget Sound Draft Environmental Impact Statement?

The Puget Sound draft environmental impact statement (EIS) is being withdrawn because NOAA Fisheries determined a preferred approach for disclosing the effects of hatchery programs in Puget Sound on the human environment, based on public comments on the draft EIS and the co-managers use of a new approach for submission of revised hatchery plans, as described below.

Public comments on the draft EIS were received through January 23, 2015, and NOAA Fisheries' review of those comments revealed a widespread opinion that the resource management plans (RMPs) do not reflect the current state of hatchery programs, and that some of the information is outdated. In addition, the listing of Puget Sound steelhead in 2007 as a threatened species was not addressed in the RMPs. The co-managers advised NOAA Fisheries of substantial changes in hatchery management and have requested that NOAA Fisheries undertake its review of hatchery programs not based on the RMPs, but on re-submitted hatchery and genetic management plans (HGMPs). The re-submitted HGMPs replace the RMPs and incorporate new scientific information and corresponding management practices to address the characteristics and circumstances that are unique to each watershed in Puget Sound.

How will NOAA Fisheries analyze the environmental effects of hatchery programs in Puget Sound since it is withdrawing the Draft Environmental Impact Statement?

Rather than reviewing more than one hundred different hatchery programs in a single document, as it did in the Puget Sound draft environmental impact statement (EIS), NOAA Fisheries will review groups of hatchery plans as they are re-submitted by the co-managers. NOAA Fisheries will then prepare an Environmental Assessment (EA) or EIS for each set of plans received.

Some hatchery and genetic management plans have been re-submitted to NOAA Fisheries, and others are being revised. In most cases, the plans are submitted at the watershed scale. Under this approach, NOAA Fisheries can analyze and disclose the effects of hatchery programs that are

unique to each watershed and still disclose the cumulative effects of hatchery programs to the human environment.

NOAA Fisheries has already begun to conduct watershed-specific environmental reviews for hatchery plans that replace the resource management plans. For example, on December 10, 2012, NOAA Fisheries completed a final EA and finding of no significant impact (FONSI) for five Elwha salmon and steelhead hatchery programs. Subsequently, on December 15, 2014, a final supplemental EA and FONSI for Elwha hatchery programs was published. In addition, on February 20, 2015, NOAA Fisheries published a notice of availability for a draft EA for three salmon hatchery programs in the Dungeness River watershed. Similar efforts are underway for hatchery programs in other locations in Puget Sound.

Information and analysis found in the withdrawn Puget Sound draft EIS, along with public comments received on it, will be considered by NOAA Fisheries in future environmental reviews of watershed-specific hatchery plans submitted to NOAA Fisheries by the co-managers.

How will the withdrawal of the Puget Sound Draft Environmental Impact Statement affect NOAA Fisheries environmental review of steelhead hatchery programs?

The co-managers jointly submitted steelhead hatchery and genetic management plans to NOAA Fisheries, and environmental reviews of steelhead hatchery programs in Puget Sound are ongoing. Steelhead-oriented information and public comments we received on the withdrawn Puget Sound draft environmental impact statement will be considered in ongoing environmental reviews for steelhead.

I submitted comments on the Puget Sound Draft Environmental Impact Statement. Will NOAA Fisheries still use my comments?

Yes. We appreciate the time and effort it takes to review documents and submit comments. Comments that NOAA Fisheries received on the withdrawn Puget Sound draft environmental impact statement will be considered in subsequent watershed-specific environmental reviews.

What should parties interested in the hatchery programs in Puget Sound expect next?

As our work on watershed-specific environmental reviews of Puget Sound hatchery programs progresses, NOAA Fisheries will notify the public about opportunities for review and comment in *Federal Register* notices, on NOAA Fisheries' West Coast Region website, and by other means, as appropriate. The link to hatcheries information on the NOAA Fisheries West Coast Region website is:
http://www.westcoast.fisheries.noaa.gov/hatcheries/salmon_and_steelhead_hatcheries.html

How do you define a hatchery facility, hatchery program, and hatchery and genetic management plan?

Hatchery facilities are defined by the physical structures required for the artificial production of fish. *Hatchery programs* are defined by how artificial production operates for a specific group of fish. A hatchery facility may support one or more hatchery programs. *Hatchery and genetic*

management plans, or *HGMPs*, are the plans that describe each individual hatchery program, supporting hatchery facility, and the effects, positive and negative, of the program and facility on species listed under the Endangered Species Act.

What is NOAA Fisheries' role in the joint state and tribal hatchery plans?

NOAA Fisheries' role is to review the joint plans and appended hatchery and genetic management plans (HGMPs) for compliance with the Endangered Species Act (ESA) and, in so doing, comply with the National Environmental Policy Act, or NEPA. NOAA Fisheries will be evaluating the HGMPs under Limit 6 of the ESA 4(d) rules, which was created for just this situation.

What are 4(d) rules?

Under section 4(d) of the Endangered Species Act (ESA), NOAA Fisheries can specify how an activity can be exempt from additional ESA regulations. For salmon and steelhead listed as "threatened," NOAA Fisheries has identified 13 such categories of activities, or "limits," and has described how an interested party or parties can qualify for an exemption. Limit 5 of the 4(d) rule describes how a hatchery program may qualify for an exemption and Limit 6 describes how a joint tribal and state hatchery program may qualify. Section 4(d) was not designed for and does not apply to species that are at greater risk and listed under the ESA as "endangered." A separate, but closely related, tribal 4(d) rule creates an additional limit for tribal resource management plans.

NOAA Fisheries released *A Citizens Guide to the 4(d) Rule for Threatened Salmon and Steelhead on the West Coast*. The Citizens Guide outlines the 13 "limits" under Section 4(d) in a more user-friendly description of why the rule is needed, how to qualify, what it contains, how it will affect citizens, and how to get more information. The Citizens Guide is available at: http://www.westcoast.fisheries.noaa.gov/publications/reference_documents/esa_refs/section4d/4d-citizens-guide.pdf

What is the relationship between the National Environmental Policy Act and Endangered Species Act and how do they relate to this action?

Both the federal Endangered Species Act (ESA) and National Environmental Policy Act (NEPA) address environmental values related to the impacts of a given action being proposed for implementation. However, each law has a distinct purpose, and the scope of review and standards of review under each statute differ.

Under NEPA, the purpose of an environmental impact statement is to promote disclosure, analysis, and consideration of the broad range of environmental issues surrounding a proposed major federal action by considering a full range of reasonable alternatives, including a "no-action" alternative. Under the ESA, NOAA Fisheries' role is to make a regulatory finding and determine whether a proposal complies with specific standards in the ESA. To this end, the ESA has its own substantive requirements, and the documents that reflect the analysis and decisions are different from those related to a NEPA analysis.

How does NOAA Fisheries accomplish stewardship of treaty Indian fishing rights and conservation of protected salmon and steelhead species?

Through its authorities, NOAA Fisheries must accomplish two objectives: protect and recover species listed under the Endangered Species Act *and* honor its federal trust responsibility to treaty Indian tribes. In recognition of its treaty rights stewardship obligation, and consistent with *Secretarial Order: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act*, NOAA Fisheries, as a matter of policy, will accept increased risk to listed species in order to provide tribal fishing opportunities. This approach recognizes that the treaty tribes have a right to conduct their fisheries within the limits of conservation constraints.