

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.

A. Background [Find help answering background questions](#)

1. Name of proposed project, if applicable:

Fish Passage and Screening Rule Making

2. Name of applicant:

Gabrielle Stilwater

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

Address: P.O. Box 43200 Olympia, WA 98504-3200

Phone: 360-902-2571

Web site: <http://WDFW.wa.gov>

Project website: <https://wdfw.wa.gov/species-habitats/habitat-recovery/fish-passage/rule-making>

4. Date checklist prepared:

6/30/2023

5. Agency requesting checklist:

WDFW

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

CR-101 Preproposal Notice of Inquiry was filed on June 17, 2020; CR-102 proposed rules were filed July 5, 2023, with an August 2, 2023 publication date. Washington Fish and Wildlife Commission will hold a public hearing September 28, 2023. Planned adoption is October 26, 2023.

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

There are no plans for changes to these sections after the current rule making activity. We would respond to future direction from executive staff or the Fish and Wildlife Commission to conduct rule making on topics affecting these sections when/if such direction is forthcoming.

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

This proposal establishes a new rules section for WDFW. It establishes general passability and protection standards for fishways and water diversion, as well as compliance

actions to achieve protections for all fish species at all life stages. Part of the proposal includes an application for Hydraulic Project Approval (HPA) permitting. Permit applicants are already required to complete SEPA for their project before an HPA permit application will be processed by WDFW.

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.

There is no property involved with this proposal, and, to the extent that the proposal constitutes an action defined in SEPA, this proposal is a nonproject action.

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

None.

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

This proposal is for rule making involving the creation of a new WAC chapter for WDFW. The new WAC chapter is WAC 220-670. These rules were developed to incorporate the statutory requirements enacted in 2019 under Engrossed Substitute House Bill 1109. These statutory requirements became effective May 21, 2019. In addition to creating a new WAC chapter for RCW 77.57, the department committed to incorporating climate change science into policy through a co-management agreement with the Washington State Treaty Tribes.

The proposed rules will allow WDFW to bring noncompliant water diversions and fishways into compliance for passability and fish life safety. Currently, only new projects under a Hydraulic Project Approval (HPA) permit are subject to WAC 220-660 standards. However, the proposed rules will give WDFW a path forward to correct fish passage and water diversion barriers regardless if it is a long-standing barrier or a new project. Barriers that are initially considered fish passable can change over time as stream conditions change. A culvert is typically designed to last between 50-100 years. Incorporating the consideration climate change in water crossing design will ensure that structures will be able to accommodate changing bankfull widths and future peak flows, preventing the failure of a structure or need for total replacement prematurely. The proposed rules will help maintain parity with the Hydraulic Code and further define best management practices used by the agency for fish passage and protection, even in the face of climate change impacts.

As humans have developed the landscape in Washington, there are have been growing networks of infrastructure for transportation and economic needs that extends over and around lakes, streams, and rivers. Current estimates of fish passage barriers is between 18,000 to 20,000 in Washington. These barriers include road culverts, dams, dikes, and other obstructions. Understanding how infrastructure impacts fish life has been developed and continually changed over the past 100 years. There is an estimated 40,000 surface water diversions throughout the state. There's clear evidence that inadequately screened water diversions and insufficient fishways can strand or even kill fish. The proposed rules will maintain consistence expectations about a structure's passability and safety requirements for fish life.

The new WAC chapter will be structured as follows;

- WAC 220-670-010: Purpose
 - This establishes the department's authority for fish passage and screening under chapter 77.57 RCW.
- WAC 220-670-020: Instructions for using chapter 220-670 WAC
 - The proposed rules are intended to be used in tandem with WAC 220-660 and will reflect best science, technology, and construction practices.

- WDFW will provide guidance to help people understand and comply with the proposed rules.
- WAC 220-670-030: Definitions
 - Many of the definitions used within the new WAC chapter maintain parity with WDFW's Hydraulic Code, WAC 220-660.
 - There are three new definitions added: climate adapted water crossings, impingement, and fishways
- WAC 220-670-040: Applicability of fish passage and screening authority
 - Performance Standards: fishways and water diversions will protect or pass all fish species at all life stages.
 - Projects: new and existing fishways and water diversions on lakes, stream, or rivers.
 - Exemptions: Man-made agricultural drainage facilities installed before May 20, 2003, repair/replacement is also exempt. Diversions installed before June 11, 1947 in system with only game fish.
- WAC 220-670-050: Standards for fishways and water diversions
 - Water crossing structures: general passability standards, inclusion of climate considerations for new projects. Existing projects will not need to consider climate change projections if they are passable and legally installed.
 - Fish passage improvement structures: general passability standards, limited use of structures due to design limitations to pass all fish species at all life stages.
 - Water Diversions: parity with WAC 220-660-250 to ensure consistent design standards are met, even when an HPA will not apply.
- WAC 220-670-060: Compliance with chapter 220-670 standards
 - Compliance may be achieved through voluntary measure and technical assistance. In situations of noncompliance, the department may progressively elevate enforcement actions to achieve compliance. The department will issue a notice to comply before exploring civil or criminal remedies.
- WAC 220-670-070: Informal appeal of notice to comply
 - Encourages a person to try to resolve the notice to comply with WDFW staff.
 - Details the process to informally appeal a notice that was issued in response to violations of the chapter.
- WAC 220-670-080: Formal appeal of notice to comply
 - Encourages a person to try to resolve the notice to comply with WDFW staff.
 - Details the formal appeals process for a notice that was issued in response to violations of the chapter.

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.

This is a statewide rule that will impact all rivers, streams, and lakes that have fishways or water diversions present, now, and in the future.

B. Environmental Elements

1. Earth [Find help answering earth questions](#)

a. General description of the site:

The proposed rules will apply to lake, streams, and rivers in Washington. This is a nonproject proposal that might be exempt from the requirement for threshold determination. The proposed rules do not affect the quality of the environment.

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

[Depends on location and project.](#)

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

[Depends on location and project.](#)

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.

[Depends on location and project.](#)

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

[Depends on location and project.](#)

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.

[Depends on location and project size. Standard procedures will be followed specific to the site.](#)

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

[Depends on location and project size, but standard procedures specific to the site will be followed.](#)

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

[Depends on location and project.](#)

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

[Normal procedures for constructions and maintenance will be followed that are specific to the site.](#)

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.

N/A

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

N/A

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

N/A

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.

The proposed rules apply to rivers, streams, and lakes in Washington state.

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.

Yes, because the proposed rules impact all fishways and water diversions, all projects will fall within the described waters. Plans developed are dependent on location as projects are implemented.

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.

Materials or fill would be specific to the project plans needs and site.

4. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.

No, the proposed rules require only properly screened existing water diversions or future water diversions.

5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Yes, because the proposed rules impact all fishways and water diversions, all projects will lie within a 100-year floodplain. The location is dependent on the project.

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.

No.

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.

N/A

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.

N/A

c. Water Runoff (including stormwater):

a) 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.

N/A

b) Could waste materials enter ground or surface waters? If so, generally describe.

N/A

c) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

N/A

d) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any.

[The proposed rules may help to manage greater future runoffs as a result of climate change.](#)

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?

[Depends on project and location.](#)

c. List threatened and endangered species known to be on or near the site.

[Depends on project and location.](#)

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

[Depends on project and location.](#)

e. List all noxious weeds and invasive species known to be on or near the site.

[Depends on project and location.](#)

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.

[Depends on project and location.](#)

c. Is the site part of a migration route? If so, explain.

[Depends on project and location.](#)

d. Proposed measures to preserve or enhance wildlife, if any.

[The proposed rules are designed to increase fish passage and screening protections for all species of fish, at all life stages, in Washington.](#)

e. List any invasive animal species known to be on or near the site.

[Depends on project and location.](#)

6. Energy and Natural Resources [Find help answering energy and natural resource questions](#)

1. **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.**

Depends on location and project size. Standard procedures will be followed specific to the site. In limited circumstances, there may be a need for electricity on some water diversions. However, there are only 7 water diversions in Washington that require the use of electricity.

2. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

Depends on location and project.

3. **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.**

Depends on location and project.

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.**

Depends on location and project.

2. **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.**

Depends on location and project.

3. **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.**

None.

4. **Describe special emergency services that might be required.**

None.

5. **Proposed measures to reduce or control environmental health hazards, if any.**

The proposed rules include the following measures to protect against hazards:

- The consideration of climate change on the physical landscape to reduce the number of premature replacements and structure failures.
- Require an HPA or an agreement for all project work that may include the SEPA process.

- For projects that do not include SEPA, such as emergency or expedited HPAs, Fish Habitat Enhancement Process (FHEP) projects, or Habitat Recovery Pilot Program (HRPP) projects, there are methods of environmental review in place.
 - Emergency or expedited HPAs occur when the danger to property and/or life is greater than the time allotted to respond to traditional permits. Those emergency or expedited projects can be later reviewed for outstanding environmental impacts.
 - For FHEP and HRPP projects, WDFW must consider size, scope, and scale of the project, which takes the place of SEPA, as directed by the Washington State Legislature.

b. Noise

- 1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

Depends on location and project.

- 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)?**

Depends on location and project. Temporary noise from construction equipment is probable.

- 3. Proposed measures to reduce or control noise impacts, if any.**

Depends on location and project size. Standard procedures will be followed specific to the site.

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.**

Depends on location and project size. Standard procedures will be followed specific to the site.

- 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?**

None.

- 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?**

Depends on project location.

- c. Describe any structures on the site.**

Depends on project location.

- d. Will any structures be demolished? If so, what?**

Depends on location and project; generally, a fishway or water diversion would be repaired or replaced. Rarely, there may be small dam removal.

- e. What is the current zoning classification of the site?**

Depends on location and project.

f. What is the current comprehensive plan designation of the site?

Depends on location and project.

g. If applicable, what is the current shoreline master program designation of the site?

Depends on location and project.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Depends on location and project.

i. Approximately how many people would reside or work in the completed project?

Depends on location and project.

j. Approximately how many people would the completed project displace?

WDFW anticipates that no one would be displaced by a project.

k. Proposed measures to avoid or reduce displacement impacts, if any.

N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.

The proposed rules codify the current standards and practices already used by WDFW. The draft rule references the agency's Water Crossing Design Guidelines for construction, which have been used for many years by the department and affected parties. Additionally, there is reference to The Fish Passage Inventory, Assessment, and Prioritization Manual which provides standardized guidance for initially assessing structures that potentially block fish passage, and identifying surface water diversion deficiencies. The proposed rules model technical assistance support and compliance actions after the department's HPA program, which has been long-standing.

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

Depends on location and project.

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.

N/A

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

N/A

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

N/A

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?

Depends on location and project, but most projects are road level, no higher.

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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

N/A

12. Recreation [Find help answering recreation questions](#)

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

There may be fishing, boating, or swimming opportunities created, but this depends on project and location.

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

No.

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

Depends on location and project.

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.

Depends on project and location.

- 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.

Depends on project and location. An inadvertent discovery plan will be in place for all project locations.

- 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.

Depends on project and location.

- 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.

Depends on project and location. An inadvertent discovery plan will be in place for all project locations.

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.

Any highways or streets that cross a lake, stream, or river throughout Washington state will be affected.

- 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?

This is site and project specific.

- 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).

This is site and project specific.

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

No.

- 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?

This is site and project specific.

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.

This is site and project specific.

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

This is site and project specific.

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.

No.

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

N/A

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:

Depends on the location and project.

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.

Depends on the location and project.

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 

Gabrielle Stilwater
Fish Passage Rules Coordinator

Type name of signee: Gabrielle Stilwater

Position and agency/organization: Fish Passage Rule Coordinator, WDFW

Date submitted: 6/30/2023

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.

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?

No changes to discharge to water, emissions to air, release of toxic or hazardous substances, or noise are associated with the proposal. Individual project type is guided by statute, which requires the “least impacting technically feasible alternative”.

As climate change projections indicate, there will be more dramatic weather throughout Washington, ultimately affecting the hydrology of the state. Modeling shows that wetter basins will see more intense rain events and less snowpack in some areas and drier basins see a decrease in snowpack, resulting in lower precipitation and water levels. WDFW climate modeling indicates much of Washington will see positive changes in bankfull width. With current design standards, there is no inclusion of future projected bankfull widths, which may lead to an increase in fish passage barriers and early replacement.

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

Measures to reduce increase discharge to water can be found within the proposed rules section, WAC 220-670-050. In the water crossing structures section, the incorporation of climate change consideration is detailed. Structures in existence before the rule adopt do not need to include climate change as long as they are passable and working as originally intended. New structures must use WDFW’s Culverts and Climate Change web application, or another department approved method, to determine the future bankfull width and future 110-year peak flow. If there is a predicted change greater than 5%, those projected changes must be considered in the design of the structure.

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

The proposed rule will positively affect plants, animals, fish, and marine life. By ensuring projects look at the current and future needs, their ability to pass through a fishway or be protected from a water diversion could lead to increased access to spawning grounds, helping the recovery of fish, and providing additional food for their predators.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

WAC 220-660-040 details the application of the proposed rule, which includes the protection of all fish species at all life stages.

Proposed WAC 220-670-050 details the passability and protection standards a fishway or water diversion must meet to ensure that fish species are protected. It outlines basic standards, as well as references appropriate design guidance and passability assessment from WDFW manuals. Creating clear standards for fish passage and water diversions helps structure owners, contractors, or designated persons better understand what is necessary for protection and passability of all fish species at all life stages, particularly for endangered fish species. The intent is to allow fish to move freely upstream and downstream of lakes, streams, and rivers. Most projects will require an HPA permit, which considers the protection of plants, animals, fish, and/or marine life. For projects that do not require HPA permits, this proposed rule requires an agreement that will include protections for plants, animals, fish, and/or marine life.

WAC 220-670-070 details the ways WDFW may achieve compliance with the regulated community, voluntarily or with progressive enforcement responses.

3. How would the proposal be likely to deplete energy or natural resources?

No changes to energy or natural resources are associated with the proposal; the focus is on conservation.

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

N/A

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?

No changes in effects to these resources are associated with the proposal.

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

N/A

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?

The proposed rules will not have an impact on land use or shoreline use.

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

The proposed rule is specific to lakes, streams, and rivers throughout Washington, therefore it would not impact shoreline use.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

N/A

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

N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

WDFW is the sole authority regulating fishways and water diversions under Chapter 77.57 RCW, and the only state agency that regulates hydraulic projects solely for the protection of all fish life.

Federal Energy Regulatory Commission's (FERC) main responsibility is to federally owned dams generating electricity in Washington, superseding Chapter 77.57 RCW. The U.S. Army Corps of Engineers, Washington Department of Ecology, Washington Department of Natural Resources, Washington State Parks, local governments, and tribes also regulate certain aspects of fishways and water diversions under their own authorities. National Marine Fisheries Service and U.S. Fish and Wildlife Service regulate the "take" of threatened or endangered species listed under the federal Endangered Species Act. Federal land managers, including U.S. Forest Service, National Parks Service, and Bureau of Land Management, regulate activities occurring on federal lands and have an interest in state fish passage and screening activity regulations. Tribes regulate fisheries and certain aspects of fishway and water diversions on tribal lands. Each of these entities has been invited to comment on draft rules during the rulemaking process. Their comments and concerns will be carefully considered in rule decisions.