

**WSR 24-04-094
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 2023-08—Filed February 7, 2024, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-20-084 on October 1, 2018.

Title of Rule and Other Identifying Information: WAC 220-610-010 Wildlife classified as endangered species and 220-200-100 Wildlife classified as protected shall not be hunted or fished; potential change in classification of the gray wolf in conjunction with periodic status review.

Hearing Location(s): On March 15-16, 2024, at 8:00 a.m., at Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98501. Information on how to register to testify at the public hearing is available at <https://wdfw.wa.gov/about/commission/meetings#public-testimony>, or contact the commission office at 360-902-2267.

Date of Intended Adoption: On or after June 21, 2024.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email graywolf2024@publicinput.com, fax 360-902-2162, <https://publicinput.com/graywolf2024>, phone 855-925-2801 project code 6505; to comment on the SEPA determination https://publicinput.com/sepa_graywolf, SEPA email sepa_graywolf@publicinput.com, by May 6, 2024.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, <http://wdfw.wa.gov/accessibility/requests-accommodation>, by May 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington department of fish and wildlife (WDFW) is proposing to reclassify the gray wolf in the state of Washington. This proposed change, if adopted, would change the gray wolf from endangered status under WAC 220-610-010 to sensitive status under WAC 220-200-100.

The anticipated effects of the proposed rule amendments would be minimal. Protective measures will remain in effect for wolves in Washington if the proposed rule amendments are approved. Changing the classification of wolves to state sensitive status would continue to protect them from unlawful take under chapter 77.15 RCW. The species would continue to be protected from malicious and intentional harassment. RCW 77.15.130 outlines that sensitive wildlife shall not be hunted, taken, or harassed. In addition, the proposed sensitive status is a subcategory of protected wildlife, which "shall not be hunted or fished." RCW 77.08.010(52), 77.12.020(5). Wolves would also remain on the list of priority habitats and species (PHS).

Reasons Supporting Proposal: WDFW bases its proposal to reclassify the gray wolf as sensitive on scientific information contained in the Periodic Status Review for the gray wolf (available at <https://wdfw.wa.gov/publications/02427>). This report summarizes evidence that the wolf population no longer meets the definition of endangered in the state and should be reclassified as a sensitive species.

Based on 14 consecutive years of population growth, population modeling predictions that indicate Washington's wolf population is robust and will continue to grow and expand its range (including in the

Southern Cascades and Northwest Coast recovery region), and ongoing state and federal protections, WDFW proposes to reclassify the wolf to indicate that the wolf does not meet the definition of state endangered, which requires that the species is "seriously threatened with extinction" (WAC 220-610-110).

WDFW proposes to reclassify the wolf to state sensitive, "vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats" (WAC 220-610-110). This proposed reclassification reflects the significant progress toward recovery that Washington's wolf population has made since the original state listing in 1980 but recognizes that wolves remain vulnerable in western Washington and should continue to be managed for recovery within the state as a protected species.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.08.010 (17) and (52), 77.12.020, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.08.010 (17) and (52), 77.12.020, and 77.12.047.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not require a cost-benefit analysis under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Scott Bird
Rules Coordinator

OTS-5150.1

AMENDATORY SECTION (Amending WSR 23-24-005, filed 11/27/23, effective 12/28/23)

WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished. Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>
Mazama pocket gopher	<i>Thomomys mazama</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
American white pelican	<i>Pelecanus erythrorhynchos</i>
Gray whale	<i>Eschrichtius robustus</i>
<u>Gray Wolf</u>	<u><i>Canis lupus</i></u>
Common Loon	<i>Gavia immer</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
Olympic mudminnow	<i>Novumbra hubbsi</i>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Callospermophilus saturatus</i>
golden-mantled ground squirrel	<i>Callospermophilus lateralis</i>
Washington ground squirrel	<i>Urocitellus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
Humboldt's flying squirrel	<i>Glaucomys oregonensis</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>
California mountain kingsnake	<i>Lampropeltis zonata</i>

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, in-

cluding whales, porpoises, and mammals of the order *Pinnipedia* not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

OTS-5151.1

AMENDATORY SECTION (Amending WSR 23-24-005, filed 11/27/23, effective 12/28/23)

WAC 220-610-010 Wildlife classified as endangered species. Endangered species include:

Common Name	Scientific Name
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Pekania pennanti</i>
((gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
killer whale	<i>Orcinus orca</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
North Pacific right whale	<i>Eubalaena japonica</i>
sperm whale	<i>Physeter macrocephalus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
Columbian sharp-tailed grouse	<i>Tympanuchus phasianellus columbianus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>Charadrius nivosus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
mardon skipper	<i>Polites mardon</i>
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
northern leopard frog	<i>Rana pipiens</i>
Taylor's checkerspot	<i>Euphydryas editha taylori</i>
Streaked horned lark	<i>Eremophila alpestris strigata</i>
Tufted puffin	<i>Fratercula cirrhata</i>
North American lynx	<i>Lynx canadensis</i>

Common Name	Scientific Name
marbled murrelet	<i>Brachyramphus marmoratus</i>
Loggerhead sea turtle	<i>Caretta caretta</i>
Yellow-billed cuckoo	<i>Coccyzus americanus</i>
Pinto abalone	<i>Haliotis kamtschatkana</i>
Greater sage grouse	<i>Centrocercus urophasianus</i>
Ferruginous hawk	<i>Buteo regalis</i>
Cascade red fox	<i>Vulpes vulpes cascadenis</i>
western gray squirrel	<i>Sciurus griseus</i>