

**Chapter 220-610 WAC  
STATE AND PROTECTED SPECIES**

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**WAC**

ENDANGERED SPECIES ACT

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STATE PROTECTED SPECIES

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**ENDANGERED SPECIES ACT**

**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>

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 23-24-005 (Order 23-09), § 220-610-010, filed 11/27/23, effective 12/28/23. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030. WSR 23-06-035 (Order 22-13), § 220-610-010, filed 2/23/23, effective 3/26/23. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-20-010 (Order 21-196), § 220-610-010, filed 9/23/21, effective 10/24/21. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 21-13-032 (Order 21-60), § 220-610-010, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-07-019 (Order 21-15), § 220-610-010, filed 3/5/21, effective 4/5/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 19-13-013 (Order 18-120), § 220-610-010, filed 6/7/19, effective 7/8/19; WSR 18-17-153 (Order 18-207), § 220-610-010, filed 8/21/18, effective 9/21/18. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-20-030 (Order 17-254), § 220-610-010, filed 9/27/17, effective 10/28/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-014, filed 1/4/17, effective 2/4/17; WSR 16-11-023 (Order 16-84), § 232-12-014, filed 5/6/16, effective 6/6/16; WSR 15-10-022 (Order 14-95), § 232-12-014, filed 4/27/15, effective 5/28/15. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 06-04-066 (Order 06-09), § 232-12-014, filed 1/30/06, effective 3/2/06; WSR 04-11-036 (Order 04-98), § 232-12-014, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-014, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. WSR 00-04-017 (Order 00-05), § 232-12-014, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-014, filed 11/6/98, effective 12/7/98; WSR 97-18-019 (Order 97-167), § 232-12-014, filed 8/25/97, effective 9/25/97; WSR 93-21-026 (Order 616), § 232-12-014, filed 10/14/93, effective 11/14/93. Statutory Authority: RCW 77.12.020(6). WSR 88-05-032 (Order 305), § 232-12-014, filed 2/12/88. Statutory Authority: RCW 77.12.040. WSR 82-19-026 (Order 192), § 232-12-014, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-014, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-014, filed 6/1/81.]

**WAC 220-610-020 Closed season—Endangered Species Act fish classified as threatened.** (1) It is unlawful to fish for or possess any fish listed as threatened in 50 C.F.R. §17.11, pursuant to the federal Endangered Species Act, unless fishing for or possession of such fish is specifically allowed under federal or state law.

(2) Each fish possessed in violation of this section shall be treated as a separate offense.

(3) Violation of this section is punishable under RCW 77.15.380, unlawful recreational fishing in the second degree, unless such fish are taken in the amounts, place, or manner to constitute unlawful recreational fishing in the first degree, or unless such fish are designated as protected or endangered under state law.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-13-026 (Order 02-125), § 220-56-193, filed 6/12/02, effective 7/13/02.]

**WAC 220-610-030 Closed season—Endangered Species Act fish classified as endangered.** (1) It is unlawful to fish for or possess any fish listed as endangered in 50 C.F.R. §17.11, pursuant to the federal Endangered Species Act, unless fishing for or possession of such fish is specifically allowed under federal or state law.

(2) Each fish possessed in violation of this section shall be treated as a separate offense.

(3) Violation of this section is punishable under RCW 77.15.380, unlawful recreational fishing in the second degree, unless such fish are taken in the amounts, place, or manner to constitute unlawful recreational fishing in the first degree, or unless such fish are designated as protected or endangered under state law.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-13-026 (Order 02-125), § 220-56-194, filed 6/12/02, effective 7/13/02.]

## **STATE PROTECTED SPECIES**

### **WAC 220-610-100 Bald eagle protection rules.**

#### **Rule applicability**

1.1 The following rules are only applicable and enforceable when the bald eagle is listed under state law as threatened or endangered.

#### **Purpose**

- 2.1 The purpose of these rules is to protect the habitat and thereby maintain the population of the bald eagle so that the species is not classified as threatened, endangered or sensitive in Washington state. This can best be accomplished by promoting cooperative efforts to manage for eagle habitat needs through a process which is sensitive to the landowner goals as well. The following rules are designed to promote such cooperative management.

### **Authority**

- 3.1 These rules are promulgated pursuant to RCW 77.12.655.

### **Definitions**

- 4.1 "Communal roost site" means all of the physical features surrounding trees used for night roosting that are important to the suitability of the roost for eagle use. These features include flight corridors, sources of disturbance, trees in which eagles spend the night, trees used for perching during arrival or departure and other trees or physical features, such as hills, ridges, or cliffs that provide wind protection.
- 4.2 "Cultural activities" means activities conducted to foster the growth of agricultural plants and animals.
- 4.3 "Department" means department of fish and wildlife.
- 4.4 "Endangered" means a species which is seriously threatened with extirpation throughout all or a significant portion of its range within Washington.
- 4.5 "Government entities" means all agencies of federal, state and local governments.
- 4.6 "Landowner" means any individual, private, partnership, nonprofit, municipal, corporate, city, county, or state agency or entity which exercises control over a bald eagle habitat whether such control is based on legal or equitable title, or which manages or holds in trust land in Washington state.
- 4.7 "Nest tree" means any tree that contains a bald eagle nest or has contained a nest.
- 4.8 "Nest site" means all of the physical features surrounding bald eagle nests that are important to normal breeding behavior. These features include alternate and potential nest trees, perch trees, vegetative screening, foraging area, frequently used flight paths, and sources of disturbance. This site is also referred to as the territory defended by a breeding pair of eagles.
- 4.9 "Perch tree" means a tree that is consistently used by eagles. It is often close to a nest or feeding site and is used for resting, hunting, consumption of prey, mating display and as a sentry post to defend the nest.
- 4.10 "Predicides" means chemicals used to kill or control problem wildlife.
- 4.11 "Region" means an ecological/geographic area that forms a unit with respect to eagles, e.g., Hood Canal, lower Columbia River, outer coast and south Puget Sound.

- 4.12 "Sensitive" means any wildlife species native to the state of Washington that is 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.
- 4.13 "Site management plan" means a legal agreement between the department and the landowner for management of a bald eagle nest or roost site. This plan may be a list of conditions on a permit or a more detailed, site-specific plan.
- 4.14 "Threatened" means a species that could become endangered within Washington without active management or removal of threats.

### **Applicability and operation**

- 5.1 The department shall make available to other governmental entities, interest groups, landowners and individuals information regarding the location and use pattern of eagle nests and communal roosts.
- 5.2 The department shall itself and through cooperative efforts (such as memoranda of understandings pursuant to chapter 39.34 RCW) work with other government agencies and organizations to improve the database for nest and communal roost site activity and productivity and to protect eagle habitats through site management plans.
- 5.3 The department's goal shall be to identify, catalog and prioritize eagle nest or communal roost sites. The department shall notify permitting agencies of nesting or roost site locations.
- 5.4 When a landowner applies for a permit for a land-use activity that involves land containing or adjacent to an eagle nest or communal roost site, the permitting agency shall notify the department.  
If the department determines that the proposed activity would adversely impact eagle habitat, a site management plan shall be required. The department, a permitting agency, or wildlife biologist may work with the landowner to develop a plan. The department has final approval authority on all plans.
- 5.5 It is recognized that normal on-going agricultural activities of land preparation, cultivating, planting, harvesting, other cultural activities, grazing and animal-rearing activities in existing facilities do not have significant adverse consequences for eagles and therefore do not require a site management plan. New building construction, conversion of lands from agriculture to other uses, application of preacides and aerial pesticide spraying, may, following a conference with the department, be subject to the site management planning process described in these rules.
- 5.6 Emergency situations, such as insect infestation of crops, requires immediate action on the site management plan or special permission to address the impending crisis by the department.

## **Site management plan for bald eagle habitat protection**

- 6.1 The purpose of the site management plan is to provide for the protection of specific bald eagle habitat in such a way as to recognize the special characteristics of the site and the landowner's property rights, goals and pertinent options. To this end, every land owner shall have fair access to the process including available incentives and benefits. Any relevant factor may be considered, including, but not limited to, the following:
- 6.1.1 The status of the eagle population in the region.
  - 6.1.2 The useful life of the nest or communal roost trees and condition of the surrounding forest; the topography; accessibility and visibility; and existing and alternative flight paths, perch trees, snags and potential alternative nest and communal roost trees.
  - 6.1.3 Eagle behavior and historical use patterns, available food sources, and vulnerability to disturbance.
  - 6.1.4 The surrounding land-use conditions, including degree of development and human use.
  - 6.1.5 Land ownership, landowner ability to manage, and flexibility of available landowner options.
  - 6.1.6 Appropriate and acceptable incentive mechanisms such as conservation easements, transfer or purchase of development rights, leases, mutual covenants, or land trade or purchase.
  - 6.1.7 Published recommendations for eagle habitat protection of other government entities such as the U.S. Fish and Wildlife Service.
- 6.2 The site management plan may provide for
- 6.2.1 Tailoring the timing, duration or physical extent of activities to minimize disturbance to the existing eagle habitat and, where appropriate, identifying and taking steps to encourage and create alternative eagle habitat; and
  - 6.2.2 Establishing a periodic review of the plan to monitor whether:
    - a) The plan requires amendment in response to changing eagle and landowner circumstances
    - b) The terms of the plan comply with applicable laws and regulations,
    - c) The parties to the plan are complying with its terms.
- 6.3 The site management plan may also provide for implementing landowner incentive and compensation mechanisms through which the existing eagle habitat can be maintained or enhanced.

## **Guidelines for acquisition of bald eagle habitat**

- 7.1 Real property interests may be acquired and agreements entered into which could enhance protection of bald eagle habitat. These include fee simple acquisition, land trades, conservation easements, transfer or purchase of development rights, leases, and mutual covenants. Acquisition shall be dependent upon having a willing seller and a willing buyer. Whatever interest or method of protection is preferable will depend on the particular use and ownership characteristics of a site. In discussing conservation objectives with private or public landowners, the department shall explore with the landowner the variety of protection methods which may be appropriate and available.
- 7.2 The following criteria and priorities shall be considered by the department when it is contemplating acquiring an interest in a bald eagle habitat.
- 7.2.1 Site considerations:
- a) Relative ecological quality, as compared to similar habitats
  - b) Ecological viability - The ability of the habitat and eagle use to persist over time
  - c) Defensibility - The existence of site conditions adequate to protect the eagle habitat from unnatural encroachments
  - d) Manageability - The ability to manage the site to maintain suitable eagle habitat
  - e) Proximity to food source
  - f) Proximity to other protected eagle habitat
  - g) Proximity to department land or other public land
  - h) Eagle population density and history of eagle use in the area
  - i) The natural diversity of native species, plant communities, aquatic types, and geologic features on the site.
- 7.2.2 Other considerations
- a) Ownership
  - b) Degree of threat
  - c) Availability of funding
  - d) Existence of willing donor or seller and prior agency interest
  - e) Cost

In general, priority shall be given to the most threatened high quality eagle habitats with associated natural values which require the least management.

### **Resolution of site management plan disputes**

- 8.1 The department and the landowner shall attempt to develop a mutually agreeable site management plan within 30 days of the original notice to the department.
- 8.2 Should agreement not be reached, the landowner may request an informal settlement conference with the department.
- 8.3 If the landowner chooses not to use the informal settlement conference process or if resolution is not reached, the department shall within 15 days provide a site management plan to the landowner.

8.4 Upon issuance of a final site management plan, the landowner may initiate a formal appeal of the department's decision. The appeal shall be conducted according to the Administrative Procedure Act, chapter 34.05 RCW and the model rules of procedure, chapter 10-08 WAC.

A request for an appeal shall be in writing and shall be received by the department during office hours within thirty days of the issuance of the final site management plan. Requests for appeal shall be mailed to Department of Fish and Wildlife, 600 Capitol Way N., Olympia, Washington 98501-1091, or hand delivered to 1111 Washington Street S.E., Wildlife Program, Fifth floor. If there is no timely request for an appeal, the site management plan shall be unappealable.

The written request for an appeal shall be plainly labeled as "request for formal appeal" and shall contain the following:

- (a) The name, address, and phone number of the person requesting the appeal;
- (b) The specific site management plan that the person contests;
- (c) The date of the issuance of the site management plan;
- (d) Specific relief requested; and
- (e) The attorney's name, address, and phone number, if the person is represented by legal counsel.

The appeal may be conducted by the director, the director's designee, or by an administrative law judge (ALJ) appointed by the office of administrative hearings. If conducted by an ALJ, the ALJ shall issue an initial order pursuant to RCW 34.05.461. The director or the director's designee shall review the initial order and enter a final order as provided by RCW 34.05.464.

## **Penalties**

9.1 Failure of a landowner to comply with the processes set forth in these rules or with the provisions of a site management plan approved by the department constitutes a misdemeanor as set forth in RCW 77.15.130.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 11-10-049 (Order 11-78), § 232-12-292, filed 4/28/11, effective 5/29/11. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-02-062 (Order 01-283), § 232-12-292, filed 12/28/01, effective 1/28/02. Statutory Authority: RCW 77.12.655. WSR 86-21-010 (Order 283), § 232-12-292, filed 10/3/86.]

**WAC 220-610-110 Endangered, threatened, and sensitive wildlife species classification.**

### **Purpose**



- 1.1 The purpose of this rule is to identify and classify native wildlife species that have need of protection and/or management to ensure their survival as free-ranging populations in Washington and to define the process by which listing, management, recovery, and delisting of a species can be achieved. These rules are established to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, or the protected wildlife subcategories threatened or sensitive.

## **Definitions**

For purposes of this rule, the following definitions apply:

- 2.1 "Classify" and all derivatives means to list or delist wildlife species to or from endangered, or to or from the protected wildlife subcategories threatened or sensitive.
- 2.2 "List" and all derivatives means to change the classification status of a wildlife species to endangered, threatened, or sensitive.
- 2.3 "Delist" and its derivatives means to change the classification of endangered, threatened, or sensitive species to a classification other than endangered, threatened, or sensitive.
- 2.4 "Endangered" means any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.
- 2.5 "Threatened" means any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.
- 2.6 "Sensitive" means any wildlife species native to the state of Washington that is 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.
- 2.7 "Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.
- 2.8 "Native" means any wildlife species naturally occurring in Washington for purposes of breeding, resting, or foraging, excluding introduced species not found historically in this state.
- 2.9 "Significant portion of its range" means that portion of a species' range likely to be essential to the long term survival of the population in Washington.

## **Listing criteria**

- 3.1 The commission shall list a wildlife species as endangered, threatened, or sensitive solely on the basis of the biological status of the species being considered, based on the preponderance of scientific data available, except as noted in section 3.4.
- 3.2 If a species is listed as endangered or threatened under the federal Endangered Species Act, the agency will recommend to the commission that it be listed as endangered or threatened as specified in section 9.1. If listed, the agency will proceed with development of a recovery plan pursuant to section 11.1.
- 3.3 Species may be listed as endangered, threatened, or sensitive only when populations are in danger of failing, declining, or are vulnerable, due to factors including but not restricted to limited numbers, disease, predation, exploitation, or habitat loss or change, pursuant to section 7.1.
- 3.4 Where a species of the class Insecta, based on substantial evidence, is determined to present an unreasonable risk to public health, the commission may make the determination that the species need not be listed as endangered, threatened, or sensitive.

#### **Delisting criteria**

- 4.1 The commission shall delist a wildlife species from endangered, threatened, or sensitive solely on the basis of the biological status of the species being considered, based on the preponderance of scientific data available.
- 4.2 A species may be delisted from endangered, threatened, or sensitive only when populations are no longer in danger of failing, declining, are no longer vulnerable, pursuant to section 3.3, or meet recovery plan goals, and when it no longer meets the definitions in sections 2.4, 2.5, or 2.6.

#### **Initiation of listing process**

- 5.1 Any one of the following events may initiate the listing process.
  - 5.1.1 The agency determines that a species population may be in danger of failing, declining, or vulnerable, pursuant to section 3.3.
  - 5.1.2 A petition is received at the agency from an interested person. The petition should be addressed to the director. It should set forth specific evidence and scientific data which shows that the species may be failing, declining, or vulnerable, pursuant to section 3.3. Within 60 days, the agency shall either deny the petition, stating the reasons, or initiate the classification process.
  - 5.1.3 An emergency, as defined by the Administrative Procedure Act, chapter 34.05 RCW. The listing of any species previously classified under emergency rule shall be governed by the provisions of this section.

- 5.1.4 The commission requests the agency review a species of concern.
- 5.2 Upon initiation of the listing process the agency shall publish a public notice in the Washington Register, and notify those parties who have expressed their interest to the department, announcing the initiation of the classification process and calling for scientific information relevant to the species status report under consideration pursuant to section 7.1.

**Initiation of delisting process**

- 6.1 Any one of the following events may initiate the delisting process:
  - 6.1.1 The agency determines that a species population may no longer be in danger of failing, declining, or vulnerable, pursuant to section 3.3.
  - 6.1.2 The agency receives a petition from an interested person. The petition should be addressed to the director. It should set forth specific evidence and scientific data which shows that the species may no longer be failing, declining, or vulnerable, pursuant to section 3.3. Within 60 days, the agency shall either deny the petition, stating the reasons, or initiate the delisting process.
  - 6.1.3 The commission requests the agency review a species of concern.
- 6.2 Upon initiation of the delisting process the agency shall publish a public notice in the Washington Register, and notify those parties who have expressed their interest to the department, announcing the initiation of the delisting process and calling for scientific information relevant to the species status report under consideration pursuant to section 7.1.

**Species status review and agency recommendations**

- 7.1 Except in an emergency under 5.1.3 above, prior to making a classification recommendation to the commission, the agency shall prepare a preliminary species status report. The report will include a review of information relevant to the species' status in Washington and address factors affecting its status, including those given under section 3.3. The status report shall be reviewed by the public and scientific community. The status report will include, but not be limited to an analysis of:
  - 7.1.1 Historic, current, and future species population trends
  - 7.1.2 Natural history, including ecological relationships (e.g. food habits, home range, habitat selection patterns).
  - 7.1.3 Historic and current habitat trends.
  - 7.1.4 Population demographics (e.g. survival and mortality rates, reproductive success) and their relationship to long term sustainability.
  - 7.1.5 Historic and current species management activities.

- 7.2 Except in an emergency under 5.1.3 above, the agency shall prepare recommendations for species classification, based upon scientific data contained in the status report. Documents shall be prepared to determine the environmental consequences of adopting the recommendations pursuant to requirements of the State Environmental Policy Act (SEPA).
- 7.3 For the purpose of delisting, the status report will include a review of recovery plan goals.

#### **Public review**

- 8.1 Except in an emergency under 5.1.3 above, prior to making a recommendation to the commission, the agency shall provide an opportunity for interested parties to submit new scientific data relevant to the status report, classification recommendation, and any SEPA findings.
- 8.1.1 The agency shall allow at least 90 days for public comment.

#### **Final recommendations and commission action**

- 9.1 After the close of the public comment period, the agency shall complete a final status report and classification recommendation. SEPA documents will be prepared, as necessary, for the final agency recommendation for classification. The classification recommendation will be presented to the commission for action. The final species status report, agency classification recommendation, and SEPA documents will be made available to the public at least 30 days prior to the commission meeting.
- 9.2 Notice of the proposed commission action will be published at least 30 days prior to the commission meeting.

#### **Periodic species status review**

- 10.1 The agency shall conduct a review of each endangered, threatened, or sensitive wildlife species at least every five years after the date of its listing. This review shall include an update of the species status report to determine whether the status of the species warrants its current listing status or deserves reclassification.
- 10.1.1 The agency shall notify any parties who have expressed their interest to the department of the periodic status review. This notice shall occur at least one year prior to end of the five year period required by section 10.1.
- 10.2 The status of all delisted species shall be reviewed at least once, five years following the date of delisting.
- 10.3 The department shall evaluate the necessity of changing the classification of the species being reviewed. The agency shall report its findings to the commission at a commission meeting. The agency shall notify the public of its findings at least 30 days prior to presenting the findings to the commission.

- 10.3.1 If the agency determines that new information suggests that classification of a species should be changed from its present state, the agency shall initiate classification procedures provided for in these rules starting with section 5.1.
- 10.3.2 If the agency determines that conditions have not changed significantly and that the classification of the species should remain unchanged, the agency shall recommend to the commission that the species being reviewed shall retain its present classification status.
- 10.4 Nothing in these rules shall be construed to automatically delist a species without formal commission action.

**Recovery and management of listed species**

- 11.1 The agency shall write a recovery plan for species listed as endangered or threatened. The agency will write a management plan for species listed as sensitive. Recovery and management plans shall address the listing criteria described in sections 3.1 and 3.3, and shall include, but are not limited to:
  - 11.1.1 Target population objectives
  - 11.1.2 Criteria for reclassification
  - 11.1.3 An implementation plan for reaching population objectives which will promote cooperative management and be sensitive to landowner needs and property rights. The plan will specify resources needed from and impacts to the department, other agencies (including federal, state, and local), tribes, landowners, and other interest groups. The plan shall consider various approaches to meeting recovery objectives including, but not limited to regulation, mitigation, acquisition, incentive, and compensation mechanisms.
  - 11.1.4 Public education needs
  - 11.1.5 A species monitoring plan, which requires periodic review to allow the incorporation of new information into the status report.
- 11.2 Preparation of recovery and management plans will be initiated by the agency within one year after the date of listing.
  - 11.2.1 Recovery and management plans for species listed prior to 1990 or during the five years following the adoption of these rules shall be completed within 5 years after the date of listing or adoption of these rules, whichever comes later. Development of recovery plans for endangered species will receive higher priority than threatened or sensitive species.
  - 11.2.2 Recovery and management plans for species listed after five years following the adoption of these rules shall be completed within three years after the date of listing.

- 11.2.3 The agency will publish a notice in the Washington Register and notify any parties who have expressed interest to the department interested parties of the initiation of recovery plan development.
- 11.2.4 If the deadlines defined in sections 11.2.1 and 11.2.2 are not met the department shall notify the public and report the reasons for missing the deadline and the strategy for completing the plan at a commission meeting. The intent of this section is to recognize current department personnel resources are limiting and that development of recovery plans for some of the species may require significant involvement by interests outside of the department, and therefore take longer to complete.
- 11.3 The agency shall provide an opportunity for interested public to comment on the recovery plan and any SEPA documents.

### **Classification procedures review**

- 12.1 The agency and an ad hoc public group with members representing a broad spectrum of interests, shall meet as needed to accomplish the following:
  - 12.1.1 Monitor the progress of the development of recovery and management plans and status reviews, highlight problems, and make recommendations to the department and other interested parties to improve the effectiveness of these processes.
  - 12.1.2 Review these classification procedures six years after the adoption of these rules and report its findings to the commission.

### **Authority**

- 13.1 The commission has the authority to classify wildlife as endangered under RCW 77.12.020. Species classified as endangered are listed under WAC 220-610-010, as amended.
- 13.2 Threatened and sensitive species shall be classified as subcategories of protected wildlife. The commission has the authority to classify wildlife as protected under RCW 77.12.020. Species classified as protected are listed under WAC 220-200-100, as amended.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-610-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-02-062 (Order 01-283), § 232-12-297, filed 12/28/01, effective 1/28/02. Statutory Authority: RCW 77.12.040. WSR 98-05-041 (Order 98-17), § 232-12-297, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 77.12.020. WSR 90-11-066 (Order 442), § 232-12-297, filed 5/15/90, effective 6/15/90.]