

WSR 21-01-187  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 20-265—Filed December 21, 2020, 4:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-058 on October 14, 2020.

Title of Rule and Other Identifying Information: WAC 220-610-010 Wildlife classified as endangered species.

Hearing Location(s): On January 28-30, 2021, at 8 a.m., webinar. This meeting will take place by webinar. The public may participate in the meeting. Visit our website at <http://wdfw.wa.gov/about/commission/meetings> [<https://wdfw.wa.gov/about/commission/meetings>] or contact the commission office at 360-902-2267 or [commission@dfw.wa.gov](mailto:commission@dfw.wa.gov) for instructions on how to join the meeting.

Date of Intended Adoption: February 12, 2021.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email [rules.coordinator@dfw.wa.gov](mailto:rules.coordinator@dfw.wa.gov), fax 360-902-2162, rule comments <https://www.surveymonkey.com/r/VesperSparrow>, State Environmental Policy Act comments email [SEPADesk2@dfw.wa.gov](mailto:SEPADesk2@dfw.wa.gov), by January 19, 2021.

Assistance for Persons with Disabilities: Contact Dolores Noyes, phone 360-902-2346, TTY 360-902-2207, email [dolores.noyes@dfw.wa.gov](mailto:dolores.noyes@dfw.wa.gov), by January 21, 2020 [2021].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We are proposing to classify the Oregon vesper sparrow as endangered in the state of Washington under WAC 220-610-010. Anticipated effects include the additional regulation and enforcement of wildlife classified as endangered identified in RCW 77.15.120. The Washington department of fish and wildlife (WDFW) will initiate work on a recovery plan for the species according to WAC 220-610-110.

Reasons Supporting Proposal: The estimated population of Oregon vesper sparrows in Washington is approximately three hundred birds, with most (~75%) of them on a single site, Joint Base Lewis-McChord's 91st Division Prairie. There have been several recent local extirpations at sites that supported a few pairs, the remaining sites with a few pairs are at great risk, and there has been no recent establishment of populations at sites with remnant prairie or savannah or with ongoing restoration.

The factors of habitat loss and degradation that historically precipitated population declines continue, but populations are now likely affected by demographic and genetic factors related to their small numbers (e.g., isolation of subpopulations, reduced genetic variability, and greater susceptibility to stochastic events). Nest predation has a greater impact in fragmented habitat, and seeds coated with neonicotinoid pesticides may be affecting Washington birds during migration and at wintering sites. Land use and disturbance activities are variable and sometimes intense during the breeding season depending on the site; thus, potentially negatively affecting reproductive success and putting small populations at extreme risk of extirpation.

Research recently initiated on limiting factors will provide essential direction for appropriate conservation actions. However, given the extremely small population size in Washington, the majority of that population at one location, the many recent local extirpations or

near-extirpations, and a variety of habitat, disturbance, and potentially demographic factors that continue to negatively affect them, it is recommended that Oregon vesper sparrow be classified as an endangered species in Washington.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.020.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.020.

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; and 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 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(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

December 21, 2020  
Ben Power  
Rules Coordinator

**OTS-2792.1**

AMENDATORY SECTION (Amending WSR 19-13-013, filed 6/7/19, effective 7/8/19)

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

Common Name	Scientific Name
<u>Oregon vesper sparrow</u>	<u><i>Pooecetes gramineus affinis</i></u>
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>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>

Common Name	Scientific Name
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>
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>

[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.]