

WSR 22-17-035
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 10, 2022, 8:52 a.m.]

Continuance of WSR 22-11-092 filed on March 18, 2022.

Preproposal statement of inquiry was filed as WSR 20-21-058 on October 14, 2020; and WSR 20-21-057 on October 14, 2020.

Title of Rule and Other Identifying Information: WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished. This rule's original hearing date was June 24-25, 2022. Due to June's agenda and time constraints, Chair Baker announced that this agenda item would be moved to a future meeting and is part of the official record.

Hearing Location(s): On September 23-24, 2022, at 8:00 a.m., at Ocean Shores Convention Center, 120 West Chance A La Mer N.W., Ocean Shores, WA. In-person and hybrid. Information on how to register to testify at the public hearing is available at <http://wdfw.wa.gov/about/commission/meetings> or contact the commission office at 360-902-2267.

Date of Intended Adoption: Not before October 7, 2022.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email RedFox102@PublicInput.com, WhitePelican102@PublicInput.com, fax 360-902-2162, phone 855-925-2801, red fox project code 4936, white pelican project code 7748, website <https://publicinput.com/RedFox102>, <https://publicinput.com/whitepelican102>, by September 24, 2022.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email Title6@dfw.wa.gov, <https://wdfw.wa.gov/accessibility/requests-accommodation>, by September 24, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendments to WAC 220-200-100, if adopted, would classify the Cascade red fox as "threatened" in the state of Washington and reclassify the white pelican from "threatened" to "sensitive."

If the proposed amendments are adopted by the commission, the Cascade red fox would be classified as "threatened" and the American white pelican would be downlisted to "sensitive." The proposed amendments, if approved, would include the additional regulation and enforcement of wildlife classified as threatened identified in RCW 77.15.120. Washington department of fish and wildlife (WDFW) would also initiate work on a recovery plan for the species according to WAC 220-610-110.

Reasons Supporting Proposal: The Cascade red fox (*Vulpes vulpes cascadiensis*) is a subspecies of red fox that historically occurred in subalpine meadow, parkland, upper montane forest, and alpine habitats of the Cascade Range of Washington and southern British Columbia. Lack of detections of Cascade red foxes in British Columbia in recent decades indicate that this species is now restricted to Washington. A southward range contraction appears to have occurred within Washington within recent decades, as the only known population now occurs in the South Cascades (south of the I-90 corridor). It now occurs within ≤ 50 percent of its historical range in the state.

The western population of white pelicans has recovered substantially and given the size of the Badger Island colony and number of nonbreeding white pelicans in Washington during the past several

years, a change in listing could be considered. The species remains somewhat vulnerable; however, as only the single colony regularly forms in Washington, and white pelican colonies are highly sensitive to disturbances, adults will desert and/or leave eggs and young exposed to predation following disturbances. We recommend the species be downlisted to sensitive. A sensitive species 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" (WAC 220-610-110).

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, and 77.12.240.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, and 77.12.240.

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. The proposed periodic status review for the Cascade red fox and white pelican does not require a cost-benefit analysis per 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).

Explanation of exemptions: The addition and downlisting of a periodic status review does not affect small businesses.

August 10, 2022
Annie Szvetecz
Rules Coordinator