

Stellar Sea Lion and Tufted Puffin Status Review

232-12-011 and 232-12-014

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Summary

Meeting dates: April 9-10, 2015

Agenda item: Steller Sea Lion and Tufted Puffin Status Review – Decision

Presenter: Penny Becker, Ph.D., Acting Diversity Division Manager and Gary Wiles, Biologist, Wildlife Program

Background summary:

The department will brief the commission on status evaluations for Steller sea lions and Tufted puffins.

Steller sea lion: The department has reviewed all relevant data pertaining to the population status of Steller sea lions in Washington. These data show that the Washington population has strongly increased since the 1980s. Breeding activity has also increased, although pup numbers remain small. This information indicates that the species is no longer in decline or at risk of becoming endangered in Washington. Thus, Steller sea lions should be removed from the state's threatened species list. The National Marine Fisheries Service federally delisted the eastern Distinct Population Segment (DPS) of Steller sea lions, which includes the Washington population, in 2013. The Washington Department of Fish and Wildlife has conducted its own review of the status of Steller sea lions in Washington and finds that the species should be delisted at the state level as well.

Tufted puffin: The department has reviewed all relevant data pertaining to the population status of tufted puffins in Washington. These data show that the population has strongly declined in recent decades, both in numbers of birds present and in numbers of active breeding sites. This information indicates that if the current rate of decline continues, the species is at serious risk of extirpation in Washington over the next few decades. Thus, tufted puffins should be added to the state's endangered species list.

Policy issue(s) you are bringing to the Commission for consideration:

Listing/delisting criteria as described in WAC 232-12-297.

Public involvement process used and what you learned:

The status documents for Steller sea lions and tufted puffins each underwent two simultaneous periods of public review: a 90-day comment period on the draft reports from September 12-December 11, 2014, as required by WAC 232-12-297, and a 14-day comment period on the final reports from January 9-23, 2015, under the State Environmental Policy Act (SEPA). The initial comment period was advertised to the public through a department press release to media statewide. For SEPA review, a request for comment was sent to over 9,000 individuals and organizations through the rulemaking process. Additionally, these individuals and organizations were informed of the opportunity to provide verbal testimony at the February 6-7, 2015 Commission meeting in Olympia.

For Steller sea lions, the department received 18 comments and one petition signed by 74 people during the initial public review period and 33 comments during the SEPA review. With the exception of the petition, the majority of respondents supported the recommendation to delist the species under state law based on a number of reasons, including that the species is too numerous in the Columbia River now and that it is harming fish populations and causing

conflicts with people. Most opponents of delisting feared that it will lead to future lethal control of the species.

For tufted puffins, the department received 18 comments during the initial public review period and 10 comments during the SEPA review. All but one respondent supported listing as endangered based on the species' declining abundance.

Action requested:

Adopt amendments to WACs 232-12-014 and WAC 232-12-011, as proposed.

Draft motion language:

Two separate motions:

- Tufted puffin: I move to amend WAC 232-12-014, as proposed.
- Steller sea lion: I move to amend WAC 232-12-011, as proposed.

Justification for Commission action:

- Recovery actions associated with listing the Tufted puffin are needed to avoid extirpation in the state of Washington.
- Populations for Steller sea lions have seen a strong increase and no longer require the species to be listed as threatened.

Communications Plan:

WDFW Website
News Releases

Form revised 12/5/12

WAC 232-12-011 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
western gray squirrel	<i>Sciurus griseus</i>
Steller (northern) sea lion	<i>Eumetopias jubatus</i>
North American lynx	<i>Lynx canadensis</i>
ferruginous hawk	<i>Buteo regalis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
green sea turtle	<i>Chelonia mydas</i>
loggerhead sea turtle	<i>Caretta caretta</i>
sage grouse	<i>Centrocercus urophasianus</i>
sharp-tailed grouse	<i>Phasianus columbianus</i>
Mazama pocket gopher	<i>Thomomys mazama</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
Gray whale	<i>Eschrichtius gibbosus</i>
Common Loon	<i>Gavia immer</i>
bald eagle	<i>Haliaeetus leucocephalus</i>

Common Name	Scientific Name
Peregrine Falcon	<i>Falco peregrinus</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>Spermophilus saturatus</i>
golden-mantled ground squirrel	<i>Spermophilus lateralis</i>
Washington ground squirrel	<i>Spermophilus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</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*, including 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 damag-

ing 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.

[Statutory Authority: RCW 77.12.047, 77.12.020. WSR 08-03-068 (Order 08-09), § 232-12-011, filed 1/14/08, effective 2/14/08; WSR 06-04-066 (Order 06-09), § 232-12-011, filed 1/30/06, effective 3/2/06. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-011, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW 77.12.047. WSR 02-08-048 (Order 02-53), § 232-12-011, filed 3/29/02, effective 5/1/02; WSR 00-17-106 (Order 00-149), § 232-12-011, filed 8/16/00, effective 9/16/00. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770. WSR 00-10-001 (Order 00-47), § 232-12-011, filed 4/19/00, effective 5/20/00. 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), § 232-12-011, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-011, filed 11/6/98, effective 12/7/98. Statutory Authority: RCW 77.12.040. WSR 98-10-021 (Order 98-71), § 232-12-011, filed 4/22/98, effective 5/23/98. Statutory Authority: RCW 77.12.040 and 75.08.080. WSR 98-06-031, § 232-12-011, filed 2/26/98, effective 5/1/98. Statutory Authority: RCW 77.12.020. WSR 97-18-019 (Order 97-

167), § 232-12-011, filed 8/25/97, effective 9/25/97. Statutory Authority: RCW 77.12.040, 77.12.020, 77.12.030 and 77.32.220. WSR 97-12-048, § 232-12-011, filed 6/2/97, effective 7/3/97. Statutory Authority: RCW 77.12.020. WSR 93-21-027 (Order 615), § 232-12-011, filed 10/14/93, effective 11/14/93; WSR 90-11-065 (Order 441), § 232-12-011, filed 5/15/90, effective 6/15/90. Statutory Authority: RCW 77.12.040. WSR 89-11-061 (Order 392), § 232-12-011, filed 5/18/89; WSR 82-19-026 (Order 192), § 232-12-011, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-011, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-011, filed 6/1/81.]

AMENDATORY SECTION (Amending WSR 06-04-066, filed 1/30/06, effective 3/2/06)

WAC 232-12-014 Wildlife classified as endangered species. Endangered species include:

Common Name	Scientific Name
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Martes pennanti</i>
gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
sea otter	<i>Enhydra lutris</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>
black right whale	<i>Balaena glacialis</i>
sperm whale	<i>Physeter macrocephalus</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>
brown pelican	<i>Pelecanus occidentalis</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>charadrius alexandrinus</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>
<u>tufted puffin</u>	<u><i>Fratercula cirrhata</i></u>

[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.]



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 14-22-087 filed 11/3/14; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: The department is considering the removal of Steller sea lions from the state's threatened species list (WAC 232-12-011). Delisting criteria are described in WAC 232-12-297(4.1) and (4.2). The agency is initiating the delisting process in accordance with WAC 232-12-297(6.1.1).

Hearing location(s):
Natural Resource Building, Room 172
1111 Washington Street Southeast
Olympia, Washington 98501

Date: February 6-7, 2015 Time: 8:30 a.m.

Date of intended adoption: On or after March 20, 2015
(Note: This is NOT the effective date)

Submit written comments to:
Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North
Olympia, WA 98501
e-mail Wildthing@dfw.wa.gov
fax (360) 902-2162 by (date) January 14, 2015

Assistance for persons with disabilities: Contact
Tami Lininger by January 21, 2015
TTY (800) 833-6388 or (360) 902-2267

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposal will remove sea lion from WAC 232-12-011, Wildlife classified as protected shall not be hunted or fished, effectively removing Steller sea lions from the threatened species list in Washington.

Reasons supporting proposal: The department has reviewed all relevant data pertaining to the population status of Steller sea lions in Washington. These data show that the Washington population has strongly increased since the 1980s and is breeding in increasing numbers. This information indicates that the species is no longer in decline or at risk of becoming endangered. Thus, Steller sea lions should be removed from the state's threatened species list. The National Marine Fisheries Service federally delisted the eastern Distinct Population Segment (DPS) of Steller sea lions, which includes the Washington population, in 2013. The Washington Department of Fish and Wildlife has conducted its own review of the status of Steller sea lions in Washington and finds that the species should be delisted at the state level as well.

Statutory authority for adoption: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047.

Statute being implemented: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047.

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE
December 19, 2014

NAME (type or print)
Joanna Eide

SIGNATURE

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 19, 2014
TIME: 4:38 PM

WSR 15-01-139

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Nate Pamplin	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2515
Implementation....	Nate Pamplin	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2515
Enforcement.....	Steven Crown	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

This rule change does not impact small business.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 14-22-088 filed 11/3/14; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) The department is considering adding the Tufted Puffin to the state endangered species list in WAC 232-12-014. Listing criteria are described in WAC 232-12-297(3.1) through (3.4). The agency is initiating the listing process in accordance with WAC 232-12-297(5.1.1).

Hearing location(s):
Natural Resource Building, Room 172
1111 Washington Street Southeast
Olympia, Washington 98501

Date: February 6-7, 2015 Time: 8:00 AM

Date of intended adoption: On or after March 20, 2015
(Note: This is NOT the effective date)

Submit written comments to:
Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North
Olympia, WA 98501
e-mail Wildthing@dfw.wa.gov
fax (360) 902-2162 by (date) January 14, 2015

Assistance for persons with disabilities: Contact
Tami Lininger by January 21, 2015
TTY (800) 833-6388 or (360) 902-2267

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposal will add tufted puffin to WAC 232-12-014, Wildlife classified as endangered species. Listing the tufted puffin as endangered in Washington will promote a healthy population in the future.

Reasons supporting proposal: The department has reviewed all relevant data pertaining to the population status of tufted puffins in Washington. These data show that the population has strongly declined in recent decades, both in numbers of birds present and in numbers of active breeding sites. This information indicates that if the current rate of decline continues, the species is at serious risk of extirpation in Washington over the next few decades. Thus, tufted puffins should be added to the state's endangered species list.

Statutory authority for adoption: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047.

Statute being implemented: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047.

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 19, 2014

TIME: 4:40 PM

WSR 15-01-140

DATE
December 19, 2014

NAME (type or print)
Joanna Eide

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Nate Pamplin	1111 Washington Street SE, Olympia, WA 98501	(360) 902-2515
Implementation....	Nate Pamplin	1111 Washington Street SE, Olympia, WA 98501	(360) 902-2515
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Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

This proposal does not impact small business.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.