

SEPA Nonproject Review Form

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. The Nonproject Review Form (NPRF) is an optional tool to help the lead agency evaluate the environmental consequences of a nonproject proposal and to provide information to decision-makers and the public.

The NPRF cannot be used as a substitute for the environmental checklist, but may be attached as supplemental analysis. Applicable information in the NPRF can be referenced in the environmental checklist without having to repeat the information.

The NPRF is intended to be used concurrently with the development of a nonproject proposal. To achieve maximum effectiveness and efficiency the initial use of the form should begin at the time a nonproject proposal is being contemplated, i.e. upon identification that a plan, policy or rule is likely to be needed or is mandated.

The information and analysis in the NPRF should be updated as the proposal is developed. The number of revisions will depend on the complexity of the proposal. If the proposal is minor, one iteration of the NPRF may be sufficient. For more complex proposals, the NPRF should be revised as analysis is completed or key issues resolved.

If you are unfamiliar with the form, you should review all of the questions before providing any answers. This will help familiarize you with the questions and should avoid duplication of information. Please note that when a nonproject proposal is first contemplated, it is often premature to respond to some questions in the NPRF. Answers may also change as the proposal is developed and analysis is completed.

NONPROJECT REVIEW FORM

DATE: _____

COMPLETED BY: _____

PART I - FRAMEWORK

1) Background

- a) Name of proposal, if any, and brief description.

Bald eagle protection rule relaxation, unless listed as threatened or endangered. Amendment to WAC 232 -12-292. The proposed action would revise existing WAC language such that WDFW would be obligated to negotiate Bald Eagle management plans only when the species is listed as threatened or endangered in Washington.

- b) Agency and contact name, address, telephone, fax, email

Washington Department of Fish and Wildlife, Nathan Pamplin, Assistant Director (Wildlife Program), 600 Capitol Way North, Olympia, Washington 98501; phone: 360-902-2693, fax: 360-902-2162, Nathan.Pamplin@dfw.wa.gov.

- c) Designated responsible official

Nathan Pamplin

- d) Describe the planning process schedule/timeline

- e) Location - Describe the jurisdiction or area where the proposal is applicable.

(Attach map(s) if appropriate)

The proposal is applicable statewide.

- f) What is the legal authority for the proposal?

RCW77.12.047, 77.12.650,77.12.655

- g) Identify any other future nonproject actions believed necessary to achieve the objectives of this action.

There are no other actions necessary to achieve the objectives of the proposed action.

2) Need and Objectives

- a) Describe the need for the action. (Whenever possible this should identify the broad or fundamental problem or opportunity that is to be addressed, rather than a legislative or other directive.)

The Bald Eagle was down-listed to sensitive status by the Washington Fish and Wildlife Commission in 2007. Its population in Washington has continued to increase throughout the last three decades, and its abundance now exceeds projections identified in 2001. The need for continued intensive management of the species has passed. The U.S. Fish and Wildlife Service will retain its obligation and authority to manage Bald Eagles under the Bald and Golden Eagle Protection Act. WDFW considers the recovery of Bald Eagles a clear sign that management efforts over the last several decades have been successful and that the time has come to reduce its involvement in Bald Eagle management. Changing the WAC language will allow WDFW to reduce its eagle responsibilities while retaining the RCW; if the Bald Eagle were to be listed in the future the provisions in the current WAC would automatically be activated. An additional consideration is the workload associated with Bald Eagle management. WDFW has negotiated nearly 4,000 Bald Eagle management plans since 1986. Over 150 plans have been negotiated annually since 1998, including over 335 in 2006. The workload associated with all aspects of the development or approval of these plans, which is mandated under the current WAC language, would be eliminated with the proposed WAC language changes.

- b) Describe the objective(s) of the proposal, including any secondary objectives which may be used to shape or choose among alternatives.

The objective of the proposal is to change WAC language such that WDFW is not mandated to negotiate Bald Eagle site management plans unless the Bald Eagle is listed as threatened or endangered in Washington. Without this change, WDFW would be obligated to continue to negotiate site management plans, which is a substantial workload that is directed to a species that has undergone population recovery and no longer requires such intensive attention.

- c) Identify any assumptions or constraints, including legal mandates, which limit the approach or strategy to be taken in pursuing the objective(s).

None were identified.

- d) If there is no legislative or other mandate that requires a particular approach, describe what approaches could reasonably achieve the objective(s).

The proposed action reflects the changing status of the Bald Eagle as a recovered species. WDFW will substantially reduce its involvement in Bald Eagle management. In recent years WDFW developed means to streamline its involvement in Bald Eagle management, but these efficiencies still involve substantial work and we believe are no longer essential due to the positive changes in the Bald Eagle population in Washington.

The RCW and associated WAC that enable WDFW to negotiate Bald Eagle management plans were clearly effective in contributing to the healthy status of Bald Eagle populations in Washington. Rather than vacate the RCW and WAC, it seemed prudent to retain them and modify the language such that their provisions were deactivated until or unless the Bald Eagle is once again listed as threatened or endangered in Washington. The value in this approach is that the RCW and WAC language enabled effective management, and we see no value or government efficiency in re-inventing such language if required following a future listing of the Bald Eagle.

3) **Environmental Overview**

Describe in broad terms how achieving the objective(s) would direct or encourage physical changes to the environment. Include the type and degree of likely changes such as the likely changes in development and/or infrastructure, or changes to how an area will be managed.

The guidelines that WDFW used emphasized the importance of protecting large trees and visual buffers within 800 feet of nests, and for providing additional protection of habitat features up to 0.5-mile from nest trees.

4) **Regulatory Framework**

a) Describe the existing regulatory/planning framework as it may influence or direct the proposal.

The bald eagle protection rule was established by the Fish and Wildlife Commission in 1986 to ensure habitat protection for bald eagles. Currently this rule requires agencies (e.g. DNR, local governments) that issue permits for timber harvest, building or land development to review a database of bald eagle nest and communal roost locations before issuing a permit. If a nest or communal roost is determined to be on the property proposed for development, then a Bald Eagle Management Plan between WDFW and the landowner is developed to help ensure minimal impact on bald eagles.

In 2007, the bald eagle was removed from the federal endangered species list. Following the federal delisting, the state status for bald eagle was down-listed from endangered to sensitive in Washington.

The proposed action would shift bald eagle management to the USFWS, which has continuing authority and obligation to manage this species under the Bald and Golden Eagle Protection Act. Landowners who currently have a Bald Eagle Management Plan would need to review their activities with USFWS to determine if a federal permit would be required; any landowners who need a new or revised permit would be referred directly to the USFWS.

b) **Statutory authority for adoption:** 77.12.047 77.12.650,77.12.655 **Statute**

c) Identify any potential impacts from the proposal that have been previously designated as acceptable under the Growth Management Act (GMA), chapter 36.70A RCW.

n/a

5) Related Documentation

- a) Briefly describe any existing regulation, policy or plan that is expected to be replaced or amended as a result of the proposal. (Adequate descriptions in section 4.a may be referenced here, rather than repeated.)

Individual plans negotiated with landowners will no longer be valid.

- b) List any environmental documents (SEPA or NEPA) that have been prepared for items listed in 4.a. or that provide analysis relevant to this proposal. **Note:** Impacts with previous adequate analysis need not be re-analyzed, but should be adopted or incorporated by reference into the NPRF. Identify the:
 - i) Type of document
 - ii) Lead agency and issue date
 - iii) Where copies can be viewed or obtained
 - iv) The portions of the document applicable to the current proposal and briefly explain relevancy. Summarize the relevant impact assessment or, provide reference to discussion(s) in Part II that includes this information.
- c) List other relevant environmental documents/studies/models which have been identified as necessary to support decision making for this proposal.

6) Public Involvement (Optional)

- a) Identify agencies with jurisdiction or expertise, affected tribes, and other known stakeholder groups whose input is likely to be specifically solicited in the development of this proposal.

Counties, local governments (e.g. cities), Native American tribes, environmental groups, the wood products industry (including Washington Forest Protection Association).

- b) Briefly describe the processes used or expected to be used for soliciting input from those listed. [Examples: ad hoc committees, tribal consultations, interagency meetings, public workshops or hearings, newsletters, etc.]

A CR 102 notice went out soliciting comments for a thirty day period. On March 4-5 a public hearing and testimony will be taken at the Spokane Convention Center as part of the posted Fish and Wildlife Commission meeting.

PART II – IMPACT ANALYSIS AND ALTERNATIVES

7) Affected Environment

Generally describe the existing environmental landscapes or elements (e.g., character and quality of ecosystem, existing trends, infrastructure, service levels, etc.) likely to be affected if the proposal is implemented. Include a description of the existing built and natural environment where future “on the ground” activities would occur that would be influenced by the nonproject proposal.

Note: When complete, this section needs to provide information on existing conditions for the elements of the environment discussed in sections 8 and 9. A list of both the built and the natural elements of the environment is found in WAC 197-11-444, and included at the end of this form.

8) Key Issue Assessment

List the identified key issues or areas of controversy or concern and include a brief statement of why each is a key issue. For each item listed:

- a) Identify alternative options or solutions for the objective or concern.
none
- b) Describe the environmental considerations/impacts relevant to each of the alternatives identified in 8.a.
- c) Describe reasonable mitigation of adverse impacts identified.
- d) Identify those alternatives to be carried forward for further analysis.
- e) Briefly describe why those alternatives rejected from further consideration were not carried forward.

9) Proposed Nonproject Action or Alternative Actions

Describe a range of reasonable alternatives or the preferred alternative that will meet the objective(s). For each alternative, answer the following questions referring again to the list of the elements of the environment in WAC 197-11-444:

- a) If this alternative were fully implemented (including full build-out development, redevelopment, changes in land use, density of uses, management practices, etc.), describe where and how it would direct or encourage demand on or changes within elements of the human or built environment, as well as the likely affects on the natural environment. Identify where the change or affect or increased demand constitutes a likely adverse impact, and

describe any further or additional adverse impacts that are likely to occur as a result of those changes and affects.

n/a

- b) Identify potential mitigation measures for the adverse impacts identified in 9.a and describe how effective the mitigation is assumed to be, any adverse impacts that could result from the use of the mitigation, and any conflict or concern related to the proposal objectives and/or key issues identified.

n/a

- c) Identify unavoidable impacts and those that will be left to be addressed at the project level.

n/a

- d) Describe how the proposal objectives will or will not be met if the impacts described in 9.c were to occur.

n/a

Note: Alternatives may be rejected at any point in the process if: they have no environmental benefit, are not within existing authority, are determined unfeasible, or do not meet the core objectives.

PART III – IMPLEMENTATION CONSIDERATIONS

10) Consistency of the proposal with other plans, policies and laws.

- a) Internal consistency - If there are internal inconsistencies between this proposal and your agency's previously adopted or ongoing plans and regulations, identify any strategies or ideas for resolving these inconsistencies.

no

- b) External consistency - If there are external inconsistencies between this proposal and adopted or ongoing plans and regulations of adjacent jurisdictions and/or other agencies, identify any strategies or ideas for resolving these inconsistencies.

no

11) Monitoring and Follow-up

- a) Describe any monitoring that will occur to ensure the impacts were as predicted and that mitigation is effective, including responsible party, timing, and method(s) to be used.

Bald eagle populations are monitored by stratified sampling design every five years as part of the bald eagle delisting as a threatened species. Bald eagle nest locations are kept in a WDFW database.

- b) Identify any plans or strategies for updating this proposed action based on deviation from impact projections or other criteria.

The management plans will be reinstated if eagles are listed as threatened.

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WAC 197-11-444, Elements of the Environment

Natural Environment

a. Earth

Geology, Soils, Topography, Unique physical features, Erosion/enlargement of land area

b. Air

Air quality, Odor, Climate

c. Water

Surface water movement/quantity/quality, Runoff/absorption, Floods

d. Plants and animals

Habitat for and numbers or diversity of species of plants, fish, or other wildlife, Unique species, Fish or wildlife migration routes

e. Energy and natural resources

Amount required/rate of use/efficiency, Source/availability, Nonrenewable resources, Conservation and renewable resources, Scenic resources

Built Environment

a. Environmental health

Noise, Risk of explosion, Releases or potential releases to the environment affecting public health

b. Land and shoreline use

Relationship to existing land use plans and to estimated population, Housing, Light and glare, Aesthetics, Agricultural crops

c. Transportation

Transportation systems, Vehicular traffic, Waterborne, rail, and air traffic, Parking, Movement/circulation of people and goods, Traffic hazards

d. Public services and utilities

Fire, Police, Schools, Parks and other recreational facilities, Maintenance, Communications, Water/storm water, Sewer/solid waste, Other governmental services or utilities