Wolf-livestock Conflict Deterrence Commission Rule Making

Washington Department of Fish and Wildlife
WDFW has initiated rule making to amend WAC Chapter 220-440 to address wolf-livestock conflict deterrence
Major process components

1. State Environmental Policy Act (SEPA) – Supplemental Environmental Impact Statement (SEIS)
2. Regulatory Fairness Act – Small Business Economic Impact Statement (SBEIS) (if applicable)
SEPA and SEIS process

The proposed SEPA review process for this rule making includes:

- Adoption of the 2011 Final EIS for the Wolf Plan,
- Preparation of a SEIS to specifically address the impacts related to the rule making alternatives,
- The issuance of a draft SEIS followed by a public comment period, and,
- A final document that includes responses to public comments.
Considerations and limitations for alternatives

▪ WDFW recognizes that repeated livestock loss and wolf removals are likely to cause significant hardship for livestock producers and their animals, as well as their communities, wolf packs, the wolf advocate community, and WDFW staff

▪ Livestock depredation by wolves is not uniform across the landscape
  ▪ Multiple confounding factors make it difficult to predict where and when depredations by wolves will occur
  ▪ Each calendar year from 2012 – 2020 (excluding 2013 and 2015 when no lethal removals of wolves occurred), wolf depredations on livestock have escalated to the point of lethal removal authorization by the WDFW Director in 14 pack territories, 13 of which were located in Ferry and Stevens counties

▪ Washington state has more than 9,000 beef cattle livestock operations alone (not to mention dairy cattle, sheep, and other livestock operations)
  ▪ It is neither feasible nor sustainable for WDFW to oversee and document the implementation of nonlethal conflict mitigation tools on an individual basis for each livestock operation in occupied wolf territory

▪ Although WDFW’s enabling statutes authorize broad discretion to manage wildlife, they do not authorize WDFW to mandate, regulate, or enforce the management of livestock operations or animal husbandry practices
Preliminary Draft SEIS Alternatives

Alternative 1: Develop a rule based on the Protocol to establish general criteria for the use of non-lethal and lethal measures to mitigate wolf-livestock conflict.

Alternative 2 (preliminarily assessed as agency preferred alternative): Develop a rule that uses area-specific conflict mitigation plans to establish criteria for the use of non-lethal and lethal measures to mitigate wolf-livestock conflict in areas of chronic conflict.

Alternative 3: Develop a rule similar to the “Petition to amend the Washington Administrative Code to require use of nonlethal techniques to reduce livestock-wolf conflict” sent to the Fish and Wildlife Commission on May 11, 2020 (Petition), which would establish criteria for the use of non-lethal and lethal measures to mitigate wolf-livestock conflict both generally and with specific criteria for areas with chronic conflict.

Alternative 4: No Action. WDFW would not develop rule changes related to wolf-livestock conflict deterrence.
## SEPA/SEIS timeline overview

<table>
<thead>
<tr>
<th>Activity</th>
<th>Period (tentative, dates subject to change)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prepare preliminary draft SEIS</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Issue draft SEIS/public comment period</td>
<td>September 2021 (30 days min.)</td>
</tr>
<tr>
<td>Review/respond to public comments on draft SEIS</td>
<td>September – December 2021</td>
</tr>
<tr>
<td>Issue final SEIS</td>
<td>TBD</td>
</tr>
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</table>
The Regulatory Fairness Act (RCW 19.85) requires agencies to prepare a SBEIS under certain circumstances.

If WDFW determines that a proposed rule would impose more than minor costs on small businesses, then WDFW would prepare a SBEIS.

Small business means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.

“Minor cost” means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll. (COST >$100)
SBEIS process (if applicable)

Department of Fish and Wildlife

Rulemaking and the Regulatory Fairness Act—REVIEW

- Talk to your business industries!

Determine Cost of Compliance

- Talk to your business industries!

SBEIS Decision Points

- Exemptions
- Large Business Only
- Minor Cost

Some agencies decide to complete an SBEIS even if the rule is exempt or less than minor-cost

?  

Complete an SBEIS

- Talk to your stakeholders
- Find and analyze relevant data
- Consider SBEIS best practices

Department of Fish and Wildlife
### SBEIS timeline overview

(If applicable)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Period (tentative, dates subject to change)</th>
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<tbody>
<tr>
<td>Notify livestock producers of preparation of SBEIS and hold engagement dates</td>
<td>August 2021</td>
</tr>
<tr>
<td>Prepare SBEIS</td>
<td>September – December 2021</td>
</tr>
<tr>
<td>SBEIS livestock producer engagement</td>
<td>October – November 2021</td>
</tr>
<tr>
<td>Issue SBEIS</td>
<td>TBD</td>
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</table>
Rule making process

CR-101 = Preproposal statement of inquiry
CR-102 = Proposed rulemaking notice
CR-103 = Rule making order to adopt the rule (permanent)
CES = Concise Explanatory Statement

1. Establish timeline
2. File CR-101
3. File CR-102
4. Public comment period, go to the BRIEFING
5. Make any changes, go to the DECISION
6. FILE CR-103P and CES

wdfw.wa.gov/about/regulations/glossary
PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife (Department)

Subject of possible rule making: The Department is considering rule changes related to wolf management in WAC Chapter 220-440.

Statutes authorizing the agency to adopt rules on this subject:
RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.36.030, 77.36.100, 77.36.110, and 77.36.130.

Reasons why rules on this subject may be needed and what they might accomplish: Pursuant to the authority in RCW 34.05.330(3)(b), on September 4, 2020 the Governor directed the Department’s Fish and Wildlife Commission to initiate rulemaking proceedings.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: U.S. Fish and Wildlife Service regulates wolves in the federally listed portion of the state and Washington Department of Agriculture regulates grants for deployment of non-lethal wolf deterrence. The Department will advise and seek input from these agencies.

Process for developing new rule (check all that apply):
☐ Negotiated rule making
# Rule making process steps (completed)

<table>
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<tr>
<td>File <strong>CR-101</strong></td>
<td>October 13, 2020</td>
</tr>
<tr>
<td>Conduct intake interviews</td>
<td>January – March 2021</td>
</tr>
<tr>
<td>Compile intake results and develop rule process/content recommendation – results online</td>
<td>March 2021</td>
</tr>
<tr>
<td>Share intake results and propose process/content recommendation to Wolf Committee – recording online</td>
<td>April 5, 2021</td>
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<td>TBD</td>
</tr>
<tr>
<td>File CR-102 (with SBEIS if applicable)</td>
<td>January 22, 2022</td>
</tr>
<tr>
<td><strong>Public comment on CR-102</strong></td>
<td>January – March 2022</td>
</tr>
<tr>
<td>Review/respond to public comments on CR-102</td>
<td>January – April 2022</td>
</tr>
<tr>
<td>Draft rule presentation to Commission and public hearing</td>
<td>March 2022</td>
</tr>
<tr>
<td>Prepare CES (Concise Explanatory Statement) and CR-103</td>
<td>March 2022</td>
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<tr>
<td>Commission decision on staff recommendation</td>
<td>April 2022</td>
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wdfw.wa.gov/about/regulations/development

For general information on wolves in Washington:
wdfw.wa.gov/wolves

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wdfw.wa.gov/about/lists