

Summary

Meeting dates:	August 1, 2014 Conference Call
Agenda item:	Petition for Rule Change to WAC 232-36 – Establishing Rules for Lethal Control Actions to address Wolf Depredation of Livestock
Presenter(s):	Dave Ware, Game Division Manager

Background summary:

The Commission will consider a petition for rulemaking, pursuant to RCW 34.05.330, received on June 6, 2014 from the Cascadia Wildlands, Center for Biological Diversity, Western Environmental Law Center, Gifford Pinchot Task Force, Kettle Range Conservation Group, The Lands Council, Wildlands Network, and the Sierra Club (hereafter, referred to as petitioners). The petition requests that the Commission create rules for how the Department will address lethal actions taken to stop repeated depredations of livestock by wolves. The petitioners cite the concern that the removal of the Wedge Pack in 2012 was controversial and that establishing rules will help avoid such controversy by providing certainty, transparency, and accountability to wolf management.

Washington's Gray Wolf Conservation and Management Plan (Plan) guides recovery of wolves as they re-establish a sustainable population across the state, and authorizes management tools to address conflicts with livestock. The Commission unanimously adopted the plan in December 2011.

The first wolf pack was documented in Washington in 2008 and last winter the count was thirteen documented packs, five breeding pairs, and 52 wolves sighted during winter surveys.

Because wolf-livestock conflicts are one of the major issues with recovery of wolves, this issue has received the most attention from the Department since implementation of the Plan began in January 2012. Major Department actions since Plan adoption include:

- Hired three biologists to capture and monitor wolf packs;
 - Three field seasons of trapping and monitoring wolf packs;
 - Developed a wildlife conflict section within the Wildlife Program to assist landowners;
 - Developed a sustained funding source for wolf management (\$800K/year; through modest increase to personalized license plates);
 - Developed rules and secured fund sources to compensate property owners for livestock killed by wolves;
 - Developed 33 agreements with livestock producers to fund and implement non-lethal techniques to help avoid conflicts with wolves;
 - Hired range riders to help haze wolves away from livestock and human developments;
 - Completing a demonstration facility for composting livestock carcasses ;
 - Developed a Wolf Advisory Group to help the Department address implementation of the Plan;
 - Developed a checklist of essential non-lethal items that must be addressed prior to consideration of compensation or lethal actions;
 - Drafted a protocol for when the Department would consider lethal actions to stop repeated depredations by wolves;
 - Developed a rule allowing citizens to kill a wolf caught in the act of attacking their
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- domestic animals (outside of the Federally listed area of Washington); and
- Took action and removed the Wedge Pack to address repeated attacks on livestock in 2012

The Department continues to focus on the development and implementation of its prevention program as the primary means to avoid and minimize wolf-livestock conflict.

The Commission's adoption of a "caught in the act" rule and the lethal removal of the Wedge Pack in 2012 caused considerable public attention to the Plan's strategies associated with lethal actions on wolves. Since these actions, the Department has been working with the WAG to clarify how the strategies identified in the Plan will be implemented to ensure a common understanding.

The Petitioners had filed a petition for rule-making in July 2013 to codify the Plan and then withdrew it after discussions with the Department. The withdrawal was predicated on the Department working with the Wolf Advisory Group (WAG) to develop rules to address key issues in the Plan. We did work on those issues for several months with the WAG and after the May 2014 meeting; we were in the process of filing the Department's proposal.

Prior to the filing, we received several communications from WAG members and a couple of the petitioners expressing concern about the process leading to the development and the draft proposal itself. They asked the Department to consider using a mediated process to develop a rule proposal for Commission consideration. We have also recently received a letter from several legislators requesting consideration of a mediated process.

During this same timeframe, we received the June 6th petition. With all of the concerns that have been expressed, we have postponed filing a rule proposal (CR102) until after the Commission considers this petition. In the meantime, the Department has written procedures in place to guide potential lethal removal actions to stop repeated depredations and the Department has shared those with the WAG and posted them on our website.

Based on the concerns expressed and the controversial nature of this subject, we recommend that the Commission deny the petition; instruct the Department to assess if a mediated process would be feasible with the WAG; and if so, to develop a mediated rule proposal from a 'clean slate.' Any mediated proposal would remain subject to the Administrative Procedures Act and the Commission rule-making and decision process.

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

A petition to begin development of rules to guide lethal removal actions to stop repeated depredations by wolves.

Public involvement process used and what you learned:

There has been no formal public involvement since a CR102 rule proposal was not filed.

A general public opinion survey was recently completed and the public continues to support lethal actions (63% support vs. 28% oppose) when necessary to address livestock losses. The survey results are available at: <http://wdfw.wa.gov/publications/01594/>.

The Wolf Advisory Group met several times in winter of 2014 to discuss a lethal removal protocol as well as a rule proposal and contributed good ideas and advice. However several

members expressed concern that their role is advisory and they are not a negotiation body. There was no consensus obtained with the draft rule proposal.

The announcement of receipt of this petition and the notice of the FWC conference call has prompted a number of individuals to comment, asking the Commission to 1) either consider the petition, or 2) deny the petition and retain management flexibility using the current Plan (December 2011), the Commission's position statement (April 2012), the preventative measures checklist (November 2013), and the wolf depredation management flowchart (March 2014).

Action requested:

The Department recommends that the petition be denied. The Department would like to work with the Wolf Advisory Group (WAG) to assess the role and structure of the WAG and to contract a facilitator. The CR102 regarding lethal rules would be tabled, pending further discussion with the WAG, via a facilitator, and the Department would re-visit the recommendation on whether to proceed with rule-making with the Fish and Wildlife Commission later this year.

Draft motion language:

I move to deny the June 6, 2014 petition to codify the lethal control provision of the Washington Wolf Conservation and Management Plan; and direct the Department to assess, with the Wolf Advisory Group, the role and structure of the WAG and assess whether a facilitator might assist the function of the WAG.

Justification for Commission action:

Determining the needs for lethal control of Washington's wolf population is a contentious issue and developing a rule proposal will be challenging. The Department has processes in place to handle conflict and it may not be necessary for a rule to be adopted to implement the Wolf Conservation and Management Plan. The Department also already has an advisory body composed of diverse groups to provide technical advice and policy counsel to implement the Wolf Conservation and Management Plan. Using a facilitator to re-visit the role/responsibilities of the Wolf Advisory Group, along with a facilitated discussion on the necessity of a rule are important first steps to secure buy-in on this contentious issue.

Communications Plan:

WDFW staff will contact the petitioners and we will respond formally in writing regarding the Commission's decision.