

Periodic Status Review: Loggerhead Sea Turtle and Status Report: Yellow-billed Cuckoo - Decision

220-200-100 and 220-610-010

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Summary

Meeting dates: September 8-9, 2017

Agenda item: Periodic Status Reviews: Yellow-billed Cuckoo and Loggerhead Sea Turtle – **Decision**

Presenter(s): Hannah Anderson, Listing and Recovery Section Manager, Diversity Division, Wildlife Program

Background summary:

Department staff members will brief the Commission on the Periodic Status Reviews compiled for the Yellow-billed Cuckoo and Loggerhead Sea Turtle in accordance with WAC 220-200-100. These Periodic Status Reviews outline the current status of the species and include information and comments provided by peer scientists and the public. Staff will provide their recommendations to the Commission to reclassify these species.

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

- Protect and conserve Washington's native wildlife.
 - Continue recovery actions for these state-listed species.
-

Public involvement process used and what you learned:

The agency sent out a press release and launched a website to solicit information from the public to be included in the Periodic Status Reviews. In accordance with WAC regulations, individuals and organizations had one year to contribute information for the reviews. Staff included this information, as applicable, in the status review documents. The documents were then reviewed by WDFW staff and external species experts before a 90-day public comment period and a concurrent SEPA 90-day comment period began on the document and our findings. The comments were collated, responded to, and included in the final Periodic Status Reviews.

Action requested:

Amend WAC 220-200-100 and 220-610-010 as presented by the Department.

Draft motion language:

I move to amend WAC 220-200-100 and 220-610-010 as presented by the Department.

Justification for Commission action:

Conserve and recover Washington's state-listed species.

Communications Plan:

WDFW Website
News Release

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-200-100 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> |
| ferruginous hawk | <i>Buteo regalis</i> |
| green sea turtle | <i>Chelonia mydas</i> |
| ((loggerhead sea turtle | <i>Caretta caretta</i>)) |
| <u>greater</u> sage grouse | <i>Centrocercus urophasianus</i> |
| sharp-tailed grouse | <i>Tympanuchus phasianellus</i> <i>Phasianus columbianus</i> |
| Mazama pocket gopher | <i>Thomomys mazama</i> |
| American white pelican | <i>Pelecanus erythrorhynchos</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 |
|-------------|-----------------|
|-------------|-----------------|

| Common Name | Scientific Name |
|---------------------------|--|
| Gray whale | <i>Eschrichtius robustus gibbosus</i> |
| Common Loon | <i>Gavia immer</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>TamiasTamias minimus</i> |
| yellow-pine chipmunk | <i>TamiasTamias amoenus</i> |
| Townsend's chipmunk | <i>TamiasTamias townsendii</i> |
| red-tailed chipmunk | <i>TamiasTamias ruficaudus</i> |
| hoary marmot | <i>Marmota caligata</i> |
| Olympic marmot | <i>Marmota olympus</i> |
| Cascade golden-mantled ground squirrel | <i>CallospermophilusSpermophilus saturatus</i> |
| golden-mantled ground squirrel | <i>CallospermophilusSpermophilus lateralis</i> |
| Washington ground squirrel | <i>UroditellusSpermophilus washingtoni</i> |
| red squirrel | <i>Tamiasciurus hudsonicus</i> |
| Douglas squirrel | <i>Tamiasciurus douglasii</i> |
| northern flying squirrel | <i>Glaucomys sabrinus</i> |
| <u>Humboldt's flying squirrel</u> | <i><u>Glaucomys oregonensis</u></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 damaging 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 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-200-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-011, filed 1/4/17, effective 2/4/17; WSR 15-10-021 (Order 14-95), § 232-12-011, filed 4/27/15, effective 5/28/15. 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.]

WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are shown in colored type within the WAC text contained in your notebook.

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The WAC section number is being proposed to change from 220-200-100 to 220-610-120. This proposed change or recodification would move this WAC section from the Definitions and General Rules Chapter 220-200 WAC to the State and Protected Species Chapter 220-610 WAC. This change is intended to provide the public and department staff with a more navigable administrative code.

Page 2-3

Proposed corrections to common and scientific names include the following:

| <u>Common Name</u> | <u>Scientific Name</u> |
|--|----------------------------------|
| sage grouse | <i>Centrocercus urophasianus</i> |
| sharp-tailed grouse | <i>Phasianus columbianus</i> |
| gray whale | <i>Eschrichtius gibbosus</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> |
| Cascade golden-mantled ground squirrel | <i>Spermophilus saturatus</i> |
| golden mantled ground squirrel | <i>Spermophilus lateralis</i> |
| Washington ground squirrel | <i>Spermophilus washingtoni</i> |

Change to the following respectively:

| <u>Common Name</u> | <u>Scientific Name</u> |
|--|------------------------------------|
| Greater sage grouse | <i>Centrocercus urophasianus</i> |
| sharp-tailed grouse | <i>Tympanuchus phasianellus</i> |
| gray whale | <i>Eschrichtius robustus</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> |
| cascade golden-mantled ground squirrel | <i>Callospermophilus saturatus</i> |
| golden-mantled ground squirrel | <i>Callospermophilus lateralis</i> |
| Washington ground squirrel | <i>Uroditellus washingtoni</i> |

After northern flying squirrel, *Glaucomys sabrinus*, add the following:

Common Name
Humboldt's flying squirrel

Scientific Name
Glaucomys oregonensis

Rationale: The changes in taxonomy to sage-grouse, gray whale, golden-mantled ground squirrel, and Washington ground squirrel, have been accepted by the scientific community. Additionally, these authorities have recently split the northern flying squirrel into the northern flying squirrel and the Humboldt's flying squirrel. The scientific names for sharptailed grouse and the chipmunks were incorrect.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-610-010 Wildlife classified as endangered species. Endangered species include:

| Common Name | Scientific Name |
|--|--|
| pygmy rabbit | <i>Brachylagus idahoensis</i> |
| fisher | <i>Pekania</i> <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-North Pacific right whale | <i>Eubalaena japonica</i> <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> |
| sandhill crane | <i>Grus canadensis</i> |
| snowy plover | <i>charadrius</i> <i>Charadrius nivosusalexandrinus</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> |
| Tufted puffin | <i>Fratercula cirrhata</i> |
| North American lynx | <i>Lynx canadensis</i> |
| marbled murrelet | <i>Brachyramphus marmoratus</i> |
| <u>Loggerhead sea turtle</u> | <u><i>Caretta caretta</i></u> |
| <u>Yellow-billed cuckoo</u> | <u><i>Coccyzus americanus</i></u> |

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-610-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-02-084 (Order 17-02), § 232-12-014, filed 1/4/17, effective 2/4/17; WSR 16-11-023 (Order 16-84), § 232-12-014, filed 5/6/16, effective 6/6/16; WSR 15-10-022 (Order 14-95), § 232-12-014, filed 4/27/15, effective 5/28/15. 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.]

WAC 220-610-010 Wildlife classified as endangered species.

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are shown in colored type within the WAC text contained in your notebook.

Page 8

Proposed corrections to common and scientific names include the following:

| <u>Common Name</u> | <u>Scientific Name</u> |
|--------------------|--------------------------------|
| Fisher | <i>Martes pennanti</i> |
| Black right whale | <i>Balaena glacialis</i> |
| Snowy plover | <i>charadrius alexandrinus</i> |

change to the following respectively:

| <u>Common Name</u> | <u>Scientific Name</u> |
|---------------------------|---------------------------|
| Fisher | <i>Pekania pennanti</i> |
| North Pacific right whale | <i>Eubalaena japonica</i> |
| Snowy plover | <i>Charadrius nivosus</i> |

Rationale: These are changes in taxonomy by recognized scientific organizations/authorities that have been accepted by the scientific community.



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

| | |
|--|--|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 16-13-044 on 6/8/16 | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject)

WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.
WAC 220-610-010 Wildlife classified as endangered species.

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

Submit written comments to:
Online: <https://www.surveymonkey.com/r/KQXJQTS>
Name: Wildlife Program
Attn: Commission Meeting Public Comments
Address: 600 Capitol Way North
Olympia, WA 98501-1091
Fax: (360) 902-2162 by July 12, 2017

Date: Friday, August 4-5, 2017 Time: 8:00 a.m.

Assistance for persons with disabilities: Contact

Tami Lininger by July 28, 2017

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: on or after September 8, 2017
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposal will reclassify loggerhead sea turtle from state's threatened subcategory (WAC 220-200-100) to state endangered (WAC 220-610-010).

In addition, the proposal will classify the yellow-billed cuckoo as state endangered (WAC 220-610-010).

Reasons supporting proposal:

The department has reviewed all relevant data pertaining to the population status of loggerhead sea turtle and yellow-billed cuckoo in Washington.

Loggerhead sea turtles in Washington are part of the North Pacific population, which migrate from nesting sites near Japan to waters off the west coast of North America. Loggerhead sea turtles are rarely seen in Washington. The North Pacific population of loggerhead sea turtles declined substantially in the last half of the 20th century. Threats to these turtles include harvest by humans, incidental capture in fisheries, and damage to nesting habitat.

Just 20 sightings of yellow-billed cuckoos have been documented in Washington since the 1950s and were likely non-breeding vagrants or migrants, indicating that cuckoos are now functionally extirpated in the state. Nevertheless, due to a lack of surveys and the presence potential habitat in Washington, the possibility exists that this species may occasionally breed in the state and that these rare breeders are yet to be discovered.

The greatest threats to western yellow-billed cuckoos is the loss or degradation of riparian habitats caused by dam construction, flood control practices, commercial and residential development, changes in farming and ranching practices, and nonnative plant invasions. Agricultural pesticide use, which may affect prey abundance as well as the birds' health, is a potential additional threat.

Statutory authority for adoption: RCW 77.04.012; 77.04.055; 77.12.020; 77.12.047

Statute being implemented: RCW 77.04.012; 77.04.055; 77.12.020; 77.12.047

Is rule necessary because of a:

| | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 21, 2017
TIME: 11:37 AM

WSR 17-13-131

DATE
June 21, 2017

NAME (type or print)
Scott Bird

SIGNATURE

TITLE
Rules Coordinator

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

None.

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..... | Eric Gardner | Natural Resources Building | (360) 902-2515 |
| Implementation.... | Eric Gardner | Natural Resources Building | (360) 902-2515 |
| Enforcement..... | Chris Anderson | Natural Resources Building | (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.

These rule changes does not impact small businesses.

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: These rule proposals do not affect hydraulics.