

**Concise Explanatory Statement
Periodic Status Review for the Columbia White-tailed Deer
and Cascade Red Fox**

Rules amended as part of this rulemaking:

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

1. Background/Summary of Project:

Columbian white-tailed deer were listed at the federal level in 1970 and 1973, and by the State of Washington in 1980. Since 1980, the size of the lower Columbia River Columbian white-tailed deer population has fluctuated. Surveys conducted by U.S. Fish and Wildlife Service estimated a low of only 545 deer in 2002. The population is now substantially higher, with an estimated population of 1,296 deer in 2022. In addition, the Department collaborated on a Population Viability Analysis (PVA) which described a low risk of extinction for the species in coming decades. Conservation concern still exists for this species but based on the population, management successes, and the PVA's low extinction risk staff recommended a downlisting from endangered to threatened.

On September 22, 2022, the department staff presented the Cascade red fox and the commission voted to classify the Cascade red fox as an endangered species following an initial staff recommendation as threatened. The rule making steps were not sufficiently taken to make the change to endangered following a threatened recommendation. In order to align the Endangered Wildlife Washington Administrative Code (WAC) with this decision, staff asked the commission to reaffirm Cascade red fox as an endangered species on January 26, 2023.

2. Reasons for adopting the rule:

In our last periodic status review for the Columbian white-tailed deer, we stated our concerns about the vulnerability of occupied habitat to threats such as climate change, emerging diseases, and a lack of secure and functionally connected habitat. At that time, we were also uncertain about the viability of a newly established subpopulation at Ridgefield National Wildlife Refuge. Although the threats have not abated since then, we are no longer uncertain about the viability of the Ridgefield subpopulation given the encouraging projections of the viability assessment for this subpopulation. We are now much more confident that the deer at Ridgefield have established into a viable subpopulation with significant growth potential. Combined with management and recovery actions elsewhere in the range, our understanding of the risk of extinction has

changed. This species no longer meets the definition of endangered according to Revised Code of Washington (RCW).

The Cascade red fox (*Vulpes vulpes cascadensis*) is a subspecies of red fox that historically occurred in subalpine meadow, parkland, upper montane forest, and alpine habitats of the Cascade Range of Washington and southern British Columbia. Lack of detections of Cascade red foxes in British Columbia in recent decades indicate that this species is now restricted to Washington. A southward range contraction appears to have occurred within Washington within recent decades, as the only known population now occurs in the South Cascades (south of the I-90 corridor). It now occurs within $\leq 50\%$ of its historical range in the state.

The Cascade Red Fox was already voted on by the commission to be classified as an endangered species. The vote in 2022 was legally ineffective. This vote was to align the rulemaking process with the commission's decision. The two decisions were included on the same

3. Differences between the text of the proposed rule and the rule as adopted:

No changes.

4. Public comments, response to comments, and consideration of comments

For the Columbian white-tailed deer, we received 19 comments on the rule making and the draft Periodic Status Review. Seven comments were in favor of the recommendation to downlist the species from endangered to threatened. Eight comments stated their preference that the species remain state endangered due to continued conservation concern and still relatively low numbers. One comment was neutral but supported protection for the species but was not clearly supporting one classification or another. One comment was irrelevant and discussed Northeast Washington white-tail deer. One comment was a positive anecdote for the species. One comment was feedback on specific table formatting in the draft Periodic Status Review.

In considering the responses not in support of the staff recommendation, we noticed there was no recognition of the PVA's description of the extinction risk. We responded directly to commenters elaborating on the PVA's roll and made amendments to the draft Periodic Status Review to further emphasize the PVA results and ensure that the importance of the PVA is reflected adequately in the document. We also had conversations with interested commenters on the rationale used to come to the recommendation we made. We continue to have shared concerns for the future conservation of the species, but still feel based on the biological information we have that Columbian white-tailed deer do not meet the definition of an endangered species.

We received seven comments on the Cascade red fox rule making. Four comments were supportive of the endangered classification. Two comments were unsupportive of the endangered classification and one was neutral but asking the Department to align trapping and hunting regulations for Cascade red fox.

One unsupportive comment had no context and the other felt stated that we should not place further protections on a species not reflected by the federal government. The WAC guides staff to recommend a listing on all species federally protected under the Endangered Species Act, it also allows the department to list species at the state level that are not on the Endangered Species Act. Based on the biological information we have for Cascade red fox we still feel a listing is appropriate regardless of any federal standing.

In addition, staff from the Diversity and Game Division will be working together to align the WACs around take for Cascade red fox ensuring trapping and hunting regulations will be consistent for an endangered Cascade red fox.