



# 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

- Preproposal Statement of Inquiry was filed as WSR 16-01-193 filed 12/23/15 ; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) The department is considering the removal of the Brown Pelican from the state's endangered species list (WAC 232-12-014). Delisting criteria are described in WAC 232-12-297(4.1) and (4.2). The agency is initiating the delisting process in accordance with WAC 232-12-297(6.1.1).

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

Date: April 8-9, 2016 Time: 8:00am

**Date of intended adoption:** on or after April 8, 2016  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**  
Online: <http://wdfw.wa.gov/about/regulations/development.html>  
Name: Wildlife Program Commission Meeting Public Comments  
Address: 600 Capitol Way North  
Olympia, WA 98501  
e-mail [Wildthing@dfw.wa.gov](mailto:Wildthing@dfw.wa.gov)  
fax (360) 902-2162 by (date) March 23, 2016

**Assistance for persons with disabilities:** Contact  
Tami Lininger by March 25, 2016  
TTY (800) 833-6388 or (360) 902-2267

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposal will remove the Brown Pelican from the list of wildlife species classified as endangered in Washington (WAC 232-12-014). However, as a non-game bird, the brown pelican shall remain a protected species under WAC 232-12-011. This species will also continue to be protected under the federal Migratory Bird Treaty Act.

**Reasons supporting proposal:** The department has reviewed all relevant data pertaining to the population status of Brown Pelicans in Washington. This data shows that the number of Brown Pelicans occurring in Washington has increased markedly since the 1980s, likely as a result of increasing abundances of forage fish due to changes in ocean conditions, and perhaps the recovery of the Southern California Bight population. Natural fluctuations in ocean conditions and forage fish abundance have caused changes in pelican numbers in Washington in the past, and will again in the future. While threats such as forage fish declines, ocean warming, toxic algae blooms, and climate change present some uncertainty about the future trend in California Brown Pelican populations, at this time robust numbers (>10,000) still occur seasonally in our state and they are not immediately threatened.

**Statutory authority for adoption:** RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047

**Statute being implemented:** RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**  
March 2, 2016

**NAME** (type or print)  
Jacalyn Hursey

**SIGNATURE** *Jacalyn m. Hursey*

**TITLE**  
Acting Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** March 02, 2016  
**TIME:** 10:31 AM

**WSR 16-06-127**

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

The public may also submit comments on the proposed rule changes online at <http://wdfw.wa.gov/about/regulations/development.html>

Dates related to these proposed rules:

March 23, 2016: Deadline for the public to submit written comments on the rules.

April 8-9, 2016: The department will ask the Fish and Wildlife Commission to adopt the rule changes at the April Commission meeting.

**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..... Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2515
Implementation....Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2515
Enforcement..... Steven Crown	Natural Resources Building, Olympia	(360) 902-2936

**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.

This rule change 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: This proposal does not involve hydraulics.

**WAC 232-12-014 Wildlife classified as endangered species.** Endangered species include:

Common Name	Scientific Name
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<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 right whale	<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>
American white pelican ( <del>brown pelican</del> )	<i>Pelecanus erythrorhynchos</i> <i>Pelecanus occidentalis</i> )
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>charadrius alexandrinus</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>