Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

10/7/2022

Agenda item:

White Pelican Periodic Status Review - Decision

Presenter(s):

Taylor Cotten

Background summary:

Periodic Status Review and status recommendation on the American White Pelican. The American White Pelican was "downlisted" and from Endangered to Threatened in 2017. This Periodic Status summarizes the current status of the species as well as conservation and recovery actions. The western population of white pelicans has recovered substantially and given the size of the Badger Island colony and number of non-breeding white pelicans in Washington during the past several years, a change in listing could be considered. The species remains somewhat vulnerable, however, as only the single colony regularly forms in Washington, and white pelican colonies are highly sensitive to disturbances; adults will desert and/or leave eggs and young exposed to predation following disturbances.

Staff recommendation:

Recommended adoption of the rules as presented by Department staff.

Policy issue(s) and expected outcome:

Sensitive species fall under the same WAC and penalties as Threatened species. However, we are communicating a lower level of conservation concern with the adoption of a sensitive status. There is also increasing spotlight on White Pelicans and their impacts on anadromous fish runs particularly at pinch points near hatcheries and dams.

Fiscal impacts of agency implementation:

None

Public involvement process used and what you learned:

The agency sent out a press release and posted a request on our website to solicit information from the public to be included in the coming Periodic Status Reviews and Status Reports. In accordance with WAC regulations, individuals and organizations had one year to contribute information for the reviews. Department staff included

this information as applicable in the status review documents. The documents were then reviewed by Department staff and external species experts before 90-day public comment periods on the document and our findings. There were fourteen responses to the 90-day public comment period on the Periodic Status Review: one letter from the Wildlife Diversity Advisory Council recommended retaining Threatened status primarily over concern around the single colony in WA. Eight clearly support our recommendation to reclassify American White Pelican as a Sensitive species including a letter from the Columbia River Intertribal Fish Commission. Three expressed fisheries concerns. One letter disapproved of the hazing of pelicans.

Action requested and/or proposed next steps:

Recommended adoption of the rule as presented by Department staff.

Draft motion language: Motion: I move to adopt the recommended rule changes as presented by Department staff.

Is there a "second"?

If so, the motion maker discuss basis for the motion; other Commissions discuss views on motion, amendments,

if any, proposed and addresses.

Post decision communications plan:
Washington Department of Fish and Wildlife Website
News Release

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

White Pelican

Written Supporting Comments:
Washington Department of Fish and Wildlife (WDFW) received zero comments through our online survey.

We received eight emails during the 90-day public comment period for the Periodic Status Review supporting the decision to downlist to Sensitive including from the Columbia River Inter-tribal Fish Commission

We received a letter prior to the commission briefing from the Yakima Nation biologist supporting the downlisting to Sensitive.

Written Opposing, Neutral, and Other Comments:
Washington Department of Fish and Wildlife (WDFW) received zero comments through our online survey.

Three email responses to the Periodic Status Review expressed fisheries concerns
One email response to the Periodic Status Review disapproved of hazing/dissuasion of pelicans at dams.

Fish and Wildlife Commission Hearing, Public Comments:
A representative of Black Hills Audubon and the Wildlife Diversity Advisory Council provided comments and the two groups recommend maintaining the species as a Threatened species and not downlisting.

One individual was concerned with a downlisting and what that could mean for the management of pelicans in the future.

Rationale-Agency Action Regarding Comments:
There were nine comments supporting the recommendation to downlist to sensitive. an endangered status instead of threatened.

Then other comments received pertained to fishery concerns and hazing/dissuasion of pelicans were out of the scope of this rulemaking.

Comment: Three comments expressed concern over downlisting and recommend a maintain as threatened

Rational: The number of White Pelicans has increased dramatically in Washington in the last 30 years. The number of breeding individuals at Washington's only nesting colony on Badger Island went from a few individuals in 1998 to between 2,400 and

3,300 since the last Periodic Status review and then downlisting to threatened. This colony may be at carrying capacity as numbers level off. While there remains concern around the vulnerability of this single reliable breeding colony in Washington, the number of birds remains high including non-breeders and birds using Washington's waters that are breeding in Oregon. We do not feel White Pelican continues to meet the definition of threatened as described in WAC which is "likely to become endangered within the foreseeable future without management or removal of threats." Given the number of individual pelicans in Washington but continued concern around the lone breeding colony, we feel the White Pelican is more in line with the definition of a sensitive species "vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats."

For the reasons stated above, Department staff will recommend moving forward with this rule change.

AMENDATORY SECTION (Amending WSR 21-20-010, filed 9/23/21, effective 10/24/21)

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	*Sciurus griseus*
sea otter	*Enhydra lutris*
green sea turtle	*Chelonia mydas*
Cascade red fox	*Vulpes vulpes cascadensis*
Mazama pocket gopher	*Thomomys mazama*
((~~American white pelican~~	~~*Pelecanus erythrorhynchos*~~))

(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	*Eschrichtius robustus*
Common Loon	*Gavia immer*
Larch Mountain salamander	*Plethodon larselli*
Pygmy whitefish	*Prosopium coulteri*
Margined sculpin	*Cottus marginatus*
American white pelican	*Pelecanus erythrorhynchos*
Olympic mudminnow	*Novumbra hubbsi*

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	*Ochotona princeps*
least chipmunk	*Tamias minimus*
yellow-pine chipmunk	*Tamias amoenus*
Townsend's chipmunk	*Tamias townsendii*
red-tailed chipmunk	*Tamias ruficaudus*
hoary marmot	*Marmota caligata*
Olympic marmot	*Marmota olympus*
Cascade golden-mantled ground squirrel	*Callospermophilus saturatus*
golden-mantled ground squirrel	*Callospermophilus lateralis*
Washington ground squirrel	*Urocitellus washingtoni*
red squirrel	*Tamiasciurus hudsonicus*
Douglas squirrel	*Tamiasciurus douglasii*
northern flying squirrel	*Glaucomys sabrinus*
Humboldt's flying squirrel	*Glaucomys oregonensis*
wolverine	*Gulo gulo*
painted turtle	*Chrysemys picta*
California mountain kingsnake	*Lampropeltis zonata*

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 77.12.020. WSR 21-20-010 (Order 21-196), § 220-200-100, filed 9/23/21, effective 10/24/21. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240. WSR 21-13-032 (Order 21-60), § 220-200-100, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 18-17-153 (Order 18-207), § 220-200-100, filed 8/21/18, effective 9/21/18. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.020, and 77.12.047. WSR 17-20-030 (Order 17-254), § 220-200-100, filed 9/27/17, effective 10/28/17. 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.]

PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 18, 2022
TIME: 10:02 AM

WSR 22-11-092

Agency: Washington Department of Fish and Wildlife (WDFW)

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 20-21-058 on October 14, 2020 and 20-21-057 on October 14, 2020. **; 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); or**

☐ **Proposal is exempt under RCW** _____**.**

Title of rule and other identifying information: (describe subject)
WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.

Hearing location(s):

Date:	**Time:**	**Location:** (be specific)	**Comment:**
June 24-25, 2022	8:00 a.m.	Natural Resources Building (NRB) - Room 172 1111 Washington Street SE Olympia, WA 98501	Information on how to register to testify at the public hearing is available at http://wdfw.wa.gov/about/commission/meetings or contact the Commission office at (360) 902-2267

Date of intended adoption: August 5, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Wildlife Program
Address: PO Box 43200, Olympia, WA. 98504
Email: RedFoxCR102@PublicInput.com
WhitePelicanCR102@PublicInput.com
Fax: (360) 902-2162
Other: Voicemail Comments: 855-925-2801 Red Fox Project Code 4936
White Pelican Project Code 7748
SEPA Comments: https://publicinput.com/RedFoxWhitePelican or email to:
RedFoxWhitePelican@PublicInput.com
Comment Websites: https://publicinput.com/RedFox102
https://publicinput.com/whitepelican102

By (date) June 27, 2022

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator
Phone: (360) 902-2349, TTY (711)
Fax:
TTY: (
Email: Title6@dfw.wa.gov
For more information, see https://wdfw.wa.gov/accessibility/requests-accommodation
Other:

By (date) June 27, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed amendments to WAC 220-200-100 if adopted, would classify the Cascade red fox as "threatened" in the state of Washington and reclassify the white pelican from "threatened" to "sensitive".

If the proposed amendments are adopted by the Commission, the Cascade red fox would be classified as threatened and the American white pelican would be downlisted to "sensitive". The proposed amendments, if approved, would include the additional regulation and enforcement of wildlife classified as threatened identified in RCW 77.15.120. WDFW would also initiate work on a recovery plan for the species according to WAC 220-610-110.

Reasons supporting proposal: 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 ≤ 50% of its historical range in the state.

The western population of white pelicans has recovered substantially and given the size of the Badger Island colony and number of non-breeding white pelicans in Washington during the past several years, a change in listing could be considered. The species remains somewhat vulnerable, however, as only the single colony regularly forms in Washington, and white pelican colonies are highly sensitive to disturbances; adults will desert and/or leave eggs and young exposed to predation following disturbances. We recommend the species be down-listed to Sensitive. A Sensitive species is, "vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats" (WAC 220-610-110).

Statutory authority for adoption: RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020 77.12.047, and 77.12.240

Statute being implemented: RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020 77.12.047, and 77.12.240

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

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	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2515
Implementation:	Eric Gardner	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2515
Enforcement:	Steve Bear	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:

Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

☒ No: Please explain: The proposed PSR for the Cascade red fox and white pelican does not require a cost benefit analysis per RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- ☐ RCW 34.05.310 (4)(b) (Internal government operations)
- ☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☐ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4).

Explanation of exemptions, if necessary: The addition and downlisting of a periodic status review does not affect small businesses.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:

Fax:
TTY:
Email:
Other:

Date: May 18, 2022	**Signature:** 
Name: Annie Szvetecz	
Title: Agency Rules Coordinator	

PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 10, 2022
TIME: 8:52 AM

WSR 22-17-035

Agency: Washington Department of Fish and Wildlife (WDFW)

☐ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☒ **Continuance of WSR** 22-11-092 filed on 3/18/2022

☒ **Preproposal Statement of Inquiry was filed as WSR** 20-21-058 on October 14, 2020 and 20-21-057 October 14, 2020. **; 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); or**

☐ **Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject)
WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.
This rule's original hearing date was June 24-25, 2022. Due to June's agenda and time constraints, Chair Baker announced that this agenda item would be moved to a future meeting and is part of the official record.

Hearing location(s):

Date:	**Time:**	**Location:** (be specific)	**Comment:**
September 23-24, 2022	8:00 a.m.	Ocean Shores Convention Center 120 W Chance A La Mer NW Ocean Shores, WA	In person and hybrid: Information on how to register to testify at the public hearing is available at http://wdfw.wa.gov/about/commission/meetings or contact the Commission office at (360) 902-2267.

Date of intended adoption: Not before October 7, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Wildlife Program
Address: PO Box 43200, Olympia, WA. 98504
Email: RedFox102@PublicInput.com
WhitePelican102@PublicInput.com
Fax: (360) 902-2162
Other: Phone: 855-925-2801 Red Fox Project Code 4936
White Pelican Project Code 7748
Website: https://publicinput.com/RedFox102
https://publicinput.com/whitepelican102

By (date) September 24, 2022

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator
Phone: (360) 902-2349, TTY (711)
Fax:
TTY: (
Email: Title6@dfw.wa.gov
For more information, see https://wdfw.wa.gov/accessibility/requests-accommodation
Other:
By (date) September 24, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed amendments to WAC 220-200-100 if adopted, would classify the Cascade red fox as "threatened" in the state of Washington and reclassify the white pelican from "threatened" to "sensitive".

If the proposed amendments are adopted by the Commission, the Cascade red fox would be classified as threatened and the American white pelican would be downlisted to "sensitive". The proposed amendments, if approved, would include the additional regulation and enforcement of wildlife classified as threatened identified in RCW 77.15.120. WDFW would also initiate work on a recovery plan for the species according to WAC 220-610-110.

Reasons supporting proposal: 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 ≤ 50% of its historical range in the state.

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Statutory authority for adoption: RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020 77.12.047, and 77.12.240

Statute being implemented: RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020 77.12.047, and 77.12.240

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

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	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2515
Implementation:	Eric Gardner	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2515
Enforcement:	Steve Bear	1111 Washington St. SE Olympia, WA. 98501	(360) 902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:

Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

☒ No: Please explain: The proposed PSR for the Cascade red fox and white pelican does not require a cost benefit analysis per RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- ☐ RCW 34.05.310 (4)(b) (Internal government operations)
- ☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☐ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4).

Explanation of exemptions, if necessary: The addition and downlisting of a periodic status review does not affect small businesses.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:

TTY:
Email:
Other:

Date: August 10, 2022	**Signature:** 
Name: Annie Szvetecz	
Title: Agency Rules Coordinator	