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Comment from Washington Forest Protection Assoc.

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November 13, 2023

Public Comments Processing  
Attn: FWS–R1–ES–2023–0074  
U.S. Fish and Wildlife Service  
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5275 Leesburg Pike  
Falls Church, VA 22041–3803

Superintendent  
North Cascades National Park Service Complex  
810 State Route 20  
Sedro Wooley, WA 98284

**Re: Public Comment on 50 CFR Part 1, Docket No. FWS–R1–ES–2023–0074, Establishment of a Nonessential Experimental Population of Grizzly Bear in the North Cascades Ecosystem, Washington State, and Draft North Cascades Grizzly Bear Restoration Plan / Environmental Impact Statement**

Dear U.S. Fish and Wildlife Service/National Park Service:

Washington Forest Protection Association (WFPA) is a forestry trade association representing large and small forest landowners and managers of more than four million acres of productive working forests, including timberland located in the coastal and inland regions of the state. Our members support rural and urban communities through the sustainable growth and harvest of timber and other forest products for U. S. and international markets. For more information about WFPA, please visit our website at [www.wfpa.org](http://www.wfpa.org).

WFPA appreciates the opportunity to comment on the U.S. Fish and Wildlife Service (FWS) proposal to establish a nonessential experimental population (NEP) of the grizzly bear within the U.S. portion of the NCE in the State of Washington under section 10(j) of the Endangered Species Act (ESA). WFPA is also submitting these comments on the National Park Service (NPS) Draft North Cascades Grizzly Bear Restoration Plan/Environmental Impact Statement ("Draft Grizzly Restoration Plan").

WFPA has several members who manage working forests adjacent to Management Zone 1 in the North Cascades Ecosystem (NCE) as well as Management Zone 2 in NE Washington and the South Cascades. We previously submitted written comments to the NPS dated October 21, 2019, on the Draft Grizzly Restoration Plan and ask the NPS and FWS to consider that comment letter as well as this letter. Previously, WFPA requested the NPS and FWS ensure that non-federal landowners receive assurances to minimize their legal risk from voluntarily supporting grizzly recovery efforts, either through a 10(j) rule or programmatic safe harbor agreement. WFPA appreciates the FWS and the NPS proposing an alternative consistent with that request. Therefore, if the FWS and NPS opt to proceed with an action alternative under the Draft Grizzly Restoration Plan, we strongly recommend the preferred Alternative C, which designates a NEP of grizzly bear in the NCE under Section 10(j) of the ESA.

While we recommend Alternative C, we believe there is opportunity to further clarify assurances for WFPA members and other nonfederal landowners conducting otherwise lawful activities consistent with the Washington State Forest Practices Act<sup>1</sup> and Rules<sup>2</sup> or pursuant to an approved Habitat Conservation Plan, Enhancement of Survival Permit, or similar federal authorization.

Specific recommended clarifications include:

- Any nonfederal lands within the proposed boundary of Management Zone 1 and Management Zone 2 should be explicitly identified as Management Zone 3, relying on a definition rather than the Figure 1 map.
- Forest managers, loggers, and others conducting otherwise lawful forest management activities, including persons engaged in supplemental feeding or depredation control of nuisance black bears in accordance with applicable state laws and rules<sup>3</sup> should be included in the list of those authorized to conduct non-lethal deterrence activities.
- Permissible incidental take on nonfederal lands should include any habitat modification resulting from otherwise lawful forest management activities consistent with the Forest Practices Act and Rules and/or pursuant to an approved Habitat Conservation Plan, Enhancement of Survival Permit, or similar federal authorization.
- The nonlethal incidental take reporting requirements due to habitat modification resulting from otherwise lawful activities are impractical and should be exempted from reporting
- Finally, road use permits granted from U.S. Forest Service to nonfederal entities where the road in question is not located on National Forests should not need ESA Section 7(a)(2) consultation. At present the exemption appears to apply only to National Forest Lands.

Thank you for the opportunity to comment, should you have any questions I can be reached at [dcramer@wfpa.org](mailto:dcramer@wfpa.org) or (360) 280-5425.

Sincerely,

*Darin D. Cramer*

Sr. Director of Forest & Environmental Policy

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<sup>1</sup> [Chapter 76.09 RCW: Forest Practices Act](#)

<sup>2</sup> [Title 222 WAC: Forest Practices Board](#)

<sup>3</sup> [WAC 220-440-210: Black Bear Timber Damage Depredation Permits](#)