



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Washington Department of Fish and Wildlife

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing. 10-291

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:**

Amends WAC 232-36-051, which was filed on June 23, 2010, as part of WSR 10-13-182, and contains an erroneous subsection reference. Also repeals two rules, WAC 232-12-086 and 232-12-423, that were replaced by WACs filed on June 23, 2010, as part of WSR 10-13-182.

**Citation of existing rules affected by this order:**

Repealed: WAC 232-12-086 and 232-12-423

Amended: WAC 232-36-051

Suspended:

**Statutory authority for adoption:** RCW 77.04.012; 77.04.055; 77.12.047, and 77.36.030

**Other authority :** N/A

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 10-19-143 on September 22, 2010.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Phone:

Address:

Fax:

e-mail:

**Date adopted:** November 5, 2010

**NAME (TYPE OR PRINT)**

Miranda Wecker

**SIGNATURE**

*Miranda Wecker*, Chair

**TITLE**

Chair, Fish and Wildlife Commission

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 08, 2010**

**TIME: 8:53 AM**

**WSR 10-23-026**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	1	Repealed	2
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-086	Director or his designee is empowered to issue nuisance wildlife control operator certifications to control nuisance or problem wildlife.
WAC 232-12-423	Public hunting defined and access contracts.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

**WAC 232-36-051 Killing wildlife causing private property damage.** The fish and wildlife commission is authorized to classify wildlife as game, as endangered or protected species, or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing property damage.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) Killing wildlife causing damage to a commercial crop or commercial livestock.

(a) It is permissible to kill unclassified wildlife, predatory birds, and big game animals that are in the act of damaging commercial crops or livestock, under the following conditions:

(i) Predatory birds (defined in RCW 77.08.010(39)) and unclassified wildlife that are in the act of damaging commercial crops or livestock may be killed with the express permission of the owner at any time on private property, to protect commercial crops or livestock.

(ii) An owner with a valid, written damage prevention agreement with the department may kill an individual (one) big game animal while it is in the act of damaging commercial crops.

(iii) An individual (one) big game animal may be killed during the physical act of attacking livestock or pets.

(iv) Multiple big game animals may be killed while they are in the act of damaging commercial crops or livestock if the owner is issued a kill permit by the department.

(v) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.

(b) It is unlawful to kill protected species (as defined in WAC 232-12-011) or endangered species (as defined in WAC 232-12-

014) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(i) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(ii) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed with the express permission of the property owner at any time, to prevent private property damage on private real property.

(b) Subject to subsection (~~(7)~~) (6) of this section, the following list of wildlife species may be killed with the express permission of the owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

(c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may include special hunting season permits such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.

(d) Landowners are encouraged to allow general season hunters during established hunting seasons on their property to help minimize damage potential and concerns.

(3) Wildlife control operators may assist property owners under the conditions of their permit, as established in WAC 232-36-060 and 232-36-065.

(4) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements and harvest restrictions.

(5) Hunting licenses and tags are not required to kill wildlife under this section, unless the killing is pursuant to subsections (2)(c) and (d) of this section. Tribal members operating under subsection (4) of this section are required to meet tribal hunting license, tag, and permit requirements.

(6) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC.