

Agenda Item 18

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WAC 232-36 Wildlife interaction regulations.

SUPPLEMENTAL RECOMMENDED ADJUSTMENTS

The following adjustments were proposed since the Code Reviser (CR 102) filing and are NOT included in your notebook WAC language.

WAC 232-36-051

Pages 14-18: This rule was separated into two rules, one dealing with killing wildlife for personal safety and another for addressing killing wildlife to address property damage. This rule is specific to property damage.

WAC 232-36-110

Page 34: Under the damage claim assessment subsection, the language was modified to stipulate that crop damage assessments must be performed by state licensed crop insurance adjustors who are certified by the federal crop insurance corporation.

WAC 232-36-120

Page 36: Language was modified to stipulate that crop damage assessments must be performed by state licensed crop insurance adjustors who are certified by the federal crop insurance corporation.

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SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-36- Wildlife Interaction Rules

COMMENTS	AGENCY RESPONSE
<p>Why should we compensate landowners for crop damage? I am not in favor of providing any support to land owners who do not allow hunting. I respectfully submit my frustration about property owners who post their land and then allow fee hunting or special permission to a select few, then turn around and get a check from the other hunters out of our fund.</p>	<p>The Legislature has determined that commercial crop and livestock owners are eligible for payment of damages. The intent is to provide technical advice and assistance to property owners to prevent and mitigate damages caused by wildlife. However, compensation may be necessary in situations where preventative measures are not successful or when circumstances, outside the control of the private property owner, impede resolving negative wildlife interactions.</p> <p>The proposed rules require property owners to allow hunting that is sufficient to help alleviate the damage. Often times the damage occurs outside of the general hunting seasons and a select number of special permits may be all that is required to effectively deal with the damage.</p>
<p>Hunting is the best option for reducing overly abundant game. Spending hunter fees on building landowner fences is a slap in the face.</p>	<p>The current source of funding for “cost share” fencing comes out of the state’s general fund not the wildlife fund.</p>
<p>Having private land open to hunting should not be a requirement for compensating losses from predators.</p>	<p>The language in 232-36-200 (8) was developed such that the person’s property only needed to be open to hunting if that would help with the depredation issue. For example, there are some situations where if the land is open to hunting cougar, it might reduce the potential for a depredation.</p>
<p>Elk can cause a lot of crop damage on farms. The proposed regulations impose a number of unwarranted costs, administrative and paperwork obligations and time burdens on busy farmers. The rules are also difficult to understand and will result in frustrating and discouraging the filing of claims.</p>	<p>In the past, the details of what was needed to file a claim were not as clear as the current proposed rules. So landowners should have a better understanding in the future about what is required to file a claim. Some of your concern will be addressed once procedures are developed for WDFW staff in handling claims.</p>

<p>There is an unnecessarily complicated and burdensome claims process and it takes too long for payment of a claim.</p>	<p>The claims process should be shorter if licensed adjusters are used to process the assessments of damage.</p>
<p>What is a small business?</p>	<p>Any business that employs fewer than 50 employees.</p>
<p>Why does WDFW need the Schedule F of a farmer's tax return? Why is proof of ownership needed when the landowner already signs an affirmation that they meet the eligibility criteria?</p>	<p>The law requires that a farmer meet specific requirements in order to be eligible for compensation. One of those requirements is that farmers meet the threshold for what is defined as an eligible farmer. This is to ensure that the farming enterprise is a valid commercial venture. In addition, the state will only pay for crop damage to the valid owner of the crop. Therefore it is important that proof of eligibility and ownership be provided with the claim.</p>
<p>Why does a farmer have to hire and pay a claims adjuster? WDFW should pay for the adjuster.</p>	<p>The process of determining the value and cause of crop loss requires a significant level of expertise. Landowners and WDFW enforcement officers have a difficult time staying current with the appropriate techniques for assessing damage. Requiring the assessment to be conducted by a professional removes much of the guess work and time for review and evaluation of claims out of the process.</p>
<p>The fencing materials provided by WDFW are only a small portion of the cost of building the fence. Building a fence could cost several hundred thousand dollars and a damage claim is capped at \$10,000. Who is responsible for the fence once constructed?</p>	<p>Mitigating wildlife damage to crops is a joint responsibility between the property owner and the state. Fencing a crop field or farm from encroachment by deer or elk may be the best long term solution for chronic problem areas. This solution must be evaluated by both to determine if it is the best fit for the situation. Once constructed, the responsibility for maintenance, etc. belongs to the landowner.</p>
<p>The farmer only gets to claim the costs for the loss of the crop. What about all the costs associated with the filing of the claim, record keeping, and the appraiser?</p>	<p>The state does not often accept responsibility for problems caused by nature. Due to unique circumstances, crop damage from deer and elk is an exception. By the time a damage claim is filed, the state has incurred significant time and expense in attempting to mitigate the problems. As previously described, this issue is a joint responsibility and both the state and the landowner end up sharing the costs of addressing crops being eaten and otherwise damaged in areas managed for healthy deer and elk populations.</p>

<p>Where does the authority come from for WDFW to require the loss to exceed \$1000 or require that the landowner meet the definition of an “eligible farmer” in RCW 82.08.855?</p>	<p>Both of these stipulations come from the new statutes passed during the 2009 Legislative session.</p>
<p>WDFW should pay for herders to chase elk off farmer’s lands.</p>	<p>With the current budget issues the state is facing, paying for herding elk is no longer feasible. We have solicited the assistance of volunteers to help with hazing elk off of property with fairly good success in many cases.</p>
<p>WDFW proposes no compensation to a farmer unless all of his adjacent or contiguous lands are open to hunting. What is adjacent and contiguous? Why does a farmer need to open up all of the land if it is not where the damage is occurring?</p>	<p>The reason for this language in the rule to ensure that hunting can be used to effectively address the damage problem. If only the damaged portion of a farmer’s property is open for hunting, but adjacent areas are closed, the deer or elk could seek refuge in the closed areas and continue to damage crops. This situation often occurs when elk come into the crop fields in the evening from adjacent refugia.</p>
<p>The regulations do not provide any assurances that a farmer has a reasonable say and control over who hunts on their land. A landowner wants to meet and approve people who want to hunt on their land.</p>	<p>Most legitimate scenarios can be accommodated for providing hunting at a level that is sufficient to help mitigate damage problems. This would include allowing a landowner to know and approve who is on their property.</p>
<p>The proposed regulations indicate that a primary owner/operator is the one eligible for a claim. This disregards lease arrangements and can affect claims where family run operations have been divided up for purposes of efficiency and responsibility.</p>	<p>Actually, this would only require that an operation determine who would be the point person to deal with the department in resolution of a damage claim. The lease agreement or division of the farm remains under the purview of the partners or family members in the operation.</p>
<p>Hot spot hunts should be addressed in the regulations and the dates should include all of the times when elk are in the crops doing damage.</p>	<p>The timing of hot spot hunts are not limited by statute or rule. We tend to avoid the fawning or calving season, but the timing of a hunt is mainly addressed through department policy.</p>
<p>Why is there a \$500 dollar deductible and what is the authority?</p>	<p>The deductible is designed to focus department efforts on addressing significant damage claims.</p>
<p>I am informed that there are no licensed adjusters within 100 miles of my farm. With this travel requirement, my cost for assessing damage could be over \$1000. Why must a farmer pay for the assessment when their claim is capped at \$10,000?</p>	<p>The legislation specifies that assessment of claims is the responsibility of the landowner. The requirement that assessments be conducted professionally by licensed adjustors helps reduce uncertainty and guesswork. Claims are capped at \$10,000, but the new statutes allow appeals for damage claims in excess of the cap to be heard by hearings officers. This should significantly expedite payments of legitimate claims that exceed the \$10,000 cap.</p>

<p>Can cougar and bear caught in the act of attacking livestock or pets be killed?</p>	<p>Yes, that is the intent; however, after reviewing the language in the proposed rule, this needs to be clarified. We will modify the rule to make this more apparent.</p>
<p>Everyone should pay the \$50 fee for the training and certification process for a Wildlife Control Operator.</p>	<p>This may not be a significant impediment, but the thought was to allow cooperators such as local animal control officers to assist landowners with nuisance and property damage through certification as Wildlife Control Operators.</p>
<p>A WCO should not have to get written permission to dispose of carcasses.</p>	<p>The department feels that as certified WCOs, we want to ensure that there are no issues between sanctioned operators and landowners with regard to disposal of animal carcasses.</p>
<p>The \$1000 minimum for claims should not apply for livestock depredations. It doesn't cover incidents involving one cow or multiple sheep. There are already limits on compensation for each animal.</p>	<p>This minimum was carried over from the crop limitation section. The concept is the same, which is that we want to be able to focus on significant losses and problems.</p>
<p>One claim per landowner per year may be problematic for livestock depredations. These are usually isolated incidents, but may occur more than once in a year.</p>	<p>The intent is to minimize paperwork with multiple claims and associated documentation requirements. We could establish a process that allows for amendment of an original claim.</p>
<p>Filing a claim or notification of a depredation might be difficult within the 12 hour timeframe in the proposed rule. It takes a rancher more time than that to get their livestock off the range. I would suggest 24 hours as long as the rancher addresses the predation site so that the evidence is protected.</p>	<p>The key issue is the ability for the department to respond quickly to determine the cause of the livestock mortality. If the predation site is secured, the 12 hour timeframe for notification may not be as important.</p>