



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: August 05, 2019

TIME: 8:39 AM

WSR 19-16-112

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 19-12-041 on May 29, 2019 ; 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).

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

WAC 220-417-040 - Use of body-gripping traps – Special trapping permit required.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 27, 2019	8:30 a.m.	Conference Call	This meeting will take place by telephone conference call. The public may listen to the discussion. Please contact Commission staff at (360) 902-2267 or commission@dfw.wa.gov to obtain call in information no later than 3 p.m. on September 26, 2019.

Date of intended adoption: September 27, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Wildlife Program

Address: PO Box 43141, Olympia, WA 98504

Email: wildthing@dfw.wa.gov

Fax: (360) 902-2162

Other: <https://www.surveymonkey.com/r/TDM2928>

By (date) August 8 –29, 2019

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2346

Fax:

TTY: (360) 902-2207

Email: dolores.noyes@dfw.wa.gov

Other:

By (date) September 20, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: House Bill 1917, as passed by the 2019 legislative session, amended RCW 77.15.194 to provide that an airport operator may obtain a special trapping permit once every three years, and must annually report the previous year's trapping activity to the department. This proposed rule change amends WAC 220-417-040 to reflect the same.

Reasons supporting proposal: Dictated by statute.

Statutory authority for adoption: RCWs 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Statute being implemented: RCWs 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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.

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> 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 rule proposal does not require a cost-benefit analysis.

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 ____.

Explanation of exemptions, if necessary:

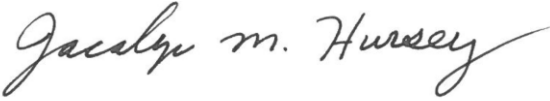
COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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 5, 2019	Signature: 
Name: Jacalyn M. Hursey	
Title: Rules Coordinator	

WAC 220-417-040 Use of body-gripping traps—Special trapping permit required. (1) As used in this section, unless the context clearly requires otherwise, the following definitions apply:

(a) "Airport operator" means any municipality as defined in RCW 14.08.010(2) or state agency which owns and/or operates an airport.

(b) "Body-gripping trap" as defined by RCW 77.15.192 means a trap that grips an animal's body or body part. Body-gripping trap includes, but is not limited to, steel-jawed leghold traps, padded-jaw leghold or padded foot-hold traps, Conibear traps, neck snares, and nonstrangling foot snares. Cage and box traps, suitcase-type live beaver traps, and common rat and mouse traps are not considered body-gripping traps.

~~((b))~~ (c) "Conibear or Conibear-type trap" means any trap of various manufacturers having design and operational characteristics essentially the same as or like that developed by Frank Conibear and designed and set to grip and hold an animal's body across its main axis.

~~((e))~~ (d) "Padded-jaw leghold" or "padded foot-hold trap" means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.

~~((d))~~ (e) "Nonstrangling-type foot snare" means a cable or wire designed and set to encircle and hold an animal's foot or limb. Noose traps used in falconry are not considered nonstrangling-type foot snare traps because they are not designed to ultimately kill the bird but rather to ensure the bird's health and safety and cause no harm by using slip nooses which are constructed of monofilament nylon.

~~((e))~~ (f) "Special trapping permit" means a permit issued to a person under the authority of RCW 77.15.194 and the provisions of this section to use certain body-gripping traps to abate an animal problem ~~((for thirty days))~~.

~~((f))~~ (g) "Permittee" means the person to whom a special trapping permit is granted.

(2) It is unlawful to trap wildlife using body-gripping traps without a special trapping permit issued by the department.

(3) It is unlawful to fail to comply with any conditions of a special trapping permit to trap.

(4) Persons issued a special trapping permit must submit a report of wildlife taken to the department within ten days after the permit expiration date or as defined on the permit.

(5) An airport operator that uses a padded foot, leghold, or any other body gripping trap for the protection of human and aviation security to secure an animal must obtain a special trapping permit from the director once every three years, and once each year, as conditioned on the permit, submit a report of wildlife taken to the department from the previous year's activities.

(6) It is unlawful to knowingly offer to sell, barter, or otherwise exchange the raw fur or carcass of a mammal that has been trapped pursuant to a special trapping permit.

~~((6))~~ (7) A person seeking a special trapping permit shall complete and submit a department-provided application.

~~((7))~~ (8) To conduct wildlife research, the applicant shall submit a scientific collection permit application as provided by the department.

~~((8))~~ (9) One permit renewal may be requested by completing the justification and applicant certification on the report of animals taken.

~~((9))~~ (10) The conditions of a special trapping permit shall be determined by the department and be annotated on the permit.

~~((10))~~ (11) All parts of animals taken under a special trapping permit must be properly disposed of in a lawful manner. Raw fur may only be retained for personal use or education purposes which do not result in retail sale or commerce.

~~((11))~~ (12) Any retention of raw fur obtained through the use of a special trapping permit requires a valid Washington state trapper's license unless the carcass is accompanied by a transfer authorization, as described in WAC 220-200-120, from a licensed trapper.

~~((12))~~ (13) A copy of the permit shall be in the immediate possession of the person authorized to trap pursuant to a permit.

~~((13))~~ (14) A special trapping permit may be denied when, in the judgment of the department:

(a) Other appropriate nonlethal methods to abate damage have not been utilized;

(b) The alleged animal problem either does not exist or the extent is insufficient to justify lethal removal;

(c) The use of the requested body-gripping trap(s) would result in direct or indirect harm to people or domestic animals;

(d) The use of the requested body-gripping trap(s) would conflict with federal or state law, local ordinance or department rule.

(e) The application is incomplete.

~~((14))~~ (15) A special trapping permit may be revoked if the department determines:

(a) Information contained in the application was inaccurate or false;

(b) The permittee or person trapping under the permit fails to comply with any of the permit conditions; or

(c) The permittee or person trapping under the permit exceeds the number of animals authorized.

(d) Information becomes available that otherwise would have led to the denial of the original application or the inclusion of additional conditions in the permit.

~~((15))~~ (16) If the department denies or revokes a special trapping permit the department will provide the applicant a written notice including a statement of the specific reason(s) for the denial or revocation.

(a) The applicant may request an appeal to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request in writing within twenty days from the mailing date of the notice of denial or revocation. Address appeals to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.

(b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.

(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.