

Target Shooting – Briefing and Public Hearing

220-500-140

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Summary Sheet

Meeting dates: July 31-August 1, 2020

Agenda item: Target Shooting – Briefing and Public Hearing

Presenter(s): Joel Sisolak, Lands Planning, Recreation, and Outreach Section
Manager - Wildlife Program

Background summary:
Department staff will brief the Commission on the proposed amendments of WAC 220-500-140: Firearms and target practicing.

Staff recommendation:
Staff is recommending revision of WAC 220-500-140.

Policy issue(s) and expected outcome: Washington Department of Fish and Wildlife (WDFW) wishes to continue welcoming recreational target shooters to WDFW-managed lands while also protecting public safety and private property and minimizing damage to habitat. The proposed update to WAC 220-500-140 clarifies the WDFW definition of recreational target shooting; distinguishes between department designated target shooting areas and dispersed target shooting; distinguishes between shooting single projectiles (i.e. rifle bullets and shotgun slugs) and shooting shot (i.e. bird shot); describes when a backstop is required when discharging specific types of firearms/implements; lists specific locations where recreational target shooting would be prohibited (e.g. from or across roads, designated trails, waterbody, etc. or within 500' of buildings, campgrounds, etc.); restrict allowable targets to those commercially or privately manufactured specifically for target shooting; restricts recreational target shooting to 30 minutes before sunrise until 30 minutes after sunset; and requires recreational target shooters to remove shell casings, shotgun hulls, ammunition packaging, targets, & target debris.

Fiscal impacts of agency implementation:
None.

Public involvement process used and what you learned:
In 2017, WDFW formed a citizen advisory committee to address issues with recreational target shooting on the Wenas Wildlife Area. The [Wenas Wildlife Area Target Shooting Advisory Committee](#) (WTSAC) was comprised of state and national interests (The Hunter's Heritage Council, National Rifle Association), as well as neighbors and affected landowners, local law enforcement (Kittitas County Sheriff), and a broad array of recreational interests (hunters, target shooters, horseback riders, mountain bike riders, hikers, wildlife watchers, bird dog trainers, motorized users). Some local elected officials also served as ex officio members. The advisory committee produced a [December 2017 report](#) with recommendations for addressing recreational target shooting on the Wenas Wildlife Area, which included These include a strong recommendation to align WDFW target shooting rules with DNR rules and to develop a rule for uniform application on all WDFW-managed lands in the state.

WDFW personnel expanded upon the Wenas effort to address target shooting on WDFW-managed lands statewide by drafting a proposed update to WAC 220-500-140. The draft update has been reviewed by the State Attorney General's office, the WTSAC, the Game Management Advisory Committee, and Wildlife Area Advisory Committees across the State.

Public comment was solicited electronically via the agency website between 5/6/20 and 6/10/20. More than 1300 comments were submitted electronically. Online surveys, direct interviews, emails, and a public hearing have determined a mix of support and opposition to the rule update.

Action requested and/or proposed next steps:

The department received public input on the proposed target shooting rule via a survey on the department website for a 35-day period, which included the formal comment period associated with the SEPA process followed on this rule update. Additionally, individuals and organizations were informed of the opportunity to provide verbal testimony at the June 12, 2020 Commission meeting. Adoption is planned for the August 2020 Commission meeting and enactment in January 2021.

Form revised 2-15-18

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-500-140 Firearms and target practicing. ~~((1)(a) It is unlawful to discharge tracer or incendiary ammunition on department lands.~~

~~(b) It is unlawful to discharge firearms in those portions of department lands where or when such discharge is prohibited by department posted notice or from or within five hundred feet of a department designated campground. Violating this subsection is a gross misdemeanor if the violation creates a substantial risk of death or serious physical injury to another person, pursuant to RCW 9A.36.050.~~

~~(c) It is unlawful to fail to remove expended shell casings, ammunition packaging, or other related target debris, excluding clay pigeons, when target practicing on department lands at the conclusion of the target practice session and prior to departure from the area. Failure to remove debris constitutes littering.~~

~~(d) The use of glass, signs, appliances, mattresses, TVs, furniture, and exploding items as targets in target practicing is prohibited.~~

~~(2) The department may designate locations and times for target practicing consistent with resource management or public safety concerns.~~) (1) The department may designate or restrict locations, times, and manner for recreational target shooting upon department land, consistent with resource management concerns, management agreements or requirements, recreational use compatibility, or public safety concerns.

(2) Persons must not recreationally target shoot on department land except as provided by this section.

(3) Department land is open to recreational target shooting under the conditions set forth in this section, unless closed or otherwise restricted by this section or by any department-posted signage or notice.

(a) Notwithstanding the allowances by this section, recreational target shooting is only permitted where a reasonable person, in consideration of all attendant circumstances, would believe the area between the person and the target, and the area beyond the target, is free of risk to person, animals, or property.

(b) Unless otherwise posted, recreational target shooting is only allowed one-half hour before sunrise to one-half hour after sunset.

(c) Recreational target shooting using:

• Firearms firing single projectile ammunition of .17 caliber or greater or shot equal to or greater than BB; or

• Compressed gas or air guns capable of shooting any projectile at over eight hundred feet per second, is permitted only:

(i) On department-designated recreational target shooting areas and in compliance with posted regulations; or

(ii) In other areas containing an earthen backstop, as defined (reference to definitions), which must be utilized while target shooting. A backstop is not required while using shotguns discharging shot smaller than size BB. Targets must be placed in front of and within eight feet of the backstop, and the person must be shooting at the lower half of the backstop.

(d) Recreational target shooting using:

• Archery equipment, crossbows, air bows; or

• Shotguns discharging shot smaller than size BB, is permitted:

(i) On department-designated recreational target shooting areas and in compliance with posted regulations; or

(ii) In other areas consistent with (a) of this subsection.

(e) Recreational target shooting is specifically prohibited:

(i) On, from, at, along, across, or down:

(A) Any department-designated or department-developed water access site or boat launch, and associated parking area;

(B) Any road [as defined in WAC 220.500.020](#);

(C) Any utility line, utility poles, or light posts;

(D) Any department-designated trail;

(E) Any water body or stream.

(ii) Within five hundred feet of the following (when not utilizing a department-designated recreational target shooting area):

(A) Residences, businesses, and/or other buildings or structures, including port-a-potties, etc.;

(B) Power stations, cell phone towers, utility poles, light posts, wind turbines, or other public utility structures;

(C) Campgrounds;

(D) Viewing platforms or structures;

(iii) In other areas posted by the department as restricted from shooting.

(4) Authorized targets for use on department lands are restricted to items, other than exploding targets, that are commercially manufactured for the specific purpose of target shooting, or similar targets privately manufactured that are consistent with this section, and as further restricted below.

(a) Steel targets that are manufactured for the specific purpose of target shooting are allowed subject to the following restrictions:

(i) When used on a department-designated recreational target shooting area, steel targets that are manufactured for the specific purpose of target shooting are allowed year round.

(ii) When used outside a department-designated recreational target shooting area, steel targets that are manufactured for the specific purpose of target shooting are allowed from October 1 to May 31, unless otherwise posted.

(b) Clay targets, when used, must be biodegradable clay targets.

(c) Items prohibited to be used as targets or to hold or post targets include, but are not limited to:

(i) Buildings;

(ii) Power stations, cell phone towers, utility poles, light posts, wind turbines, or other public utility structures;

(iii) Gates, fence posts or rails;

(iv) Vehicles, or parts thereof;

(v) Machinery, or parts thereof;

(vi) Signs, kiosks, or informational panels of any kind;

(vii) Appliances or electronics;

(viii) Furniture;

(ix) Pallets;

(x) Glass;

(xi) Explosive and incendiary items, including binary exploding targets (i.e., Tannerite);

(xii) Containers of liquids, chemicals, paints, or compressed gas;

(xiii) Standing or moving water;

(xiv) Live or dead trees or other vegetation;

(xv) Animals or animal carcasses.

(5) The discharge of tracer bullets or shells, incendiary ammunition, ~~or steel core bullets,~~ is specifically prohibited on all department lands.

(6) At all times, it is unlawful for a person to discharge a firearm, crossbow, bow, or any other projectile shooting implement on department lands in a reckless or negligent manner. A violation of this subsection may be punishable under RCW 77.15.230, 77.15.460, 9A.36.050, 9A.36.031, 9A.36.021, 9A.32.070, 9A.32.060, or other relevant statute depending on the circumstances of the violation.

(7) It is unlawful for persons recreationally target shooting to fail to remove and transport from department lands for proper disposal all shell casings, shotgun hulls, ammunition packaging, and targets or

target debris. Failure to remove any such item is prohibited and constitutes littering.

Persons who recreationally target shoot are responsible for knowing other state, local, or federal laws that may govern their shooting activity, and compliance with this rule does not guarantee compliance with other applicable laws.

[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 § 220-500-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.210, 77.12.880. WSR 08-01-078 (Order 07-293), § 232-13-130, filed 12/17/07, effective 1/17/08.]

WAC 220-500-140 Firearms and target practicing.

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

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Section 3 (e) (i)(B)

- Change: ADD “as defined in WAC 220-500-020.”

"(e) Recreational target shooting is specifically prohibited:(i) On, from, at, along, across, or down: (B) Any road **as defined in WAC 220.500.020.**"

- Rationale: Ambiguity about the definition of “road” in the section.

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Section 5

- Change: DELETE “, or steel core bullets,”

(5) The discharge of tracer bullets or shells, incendiary ammunition,~~or steel core bullets,~~ is specifically prohibited on all department lands.

- Rationale: Banning steel core ammunition may encourage higher lead ammunition usage. Wildfire danger is mitigated by emergency fire restrictions. Should allow steel core bullets outside of emergency fire restrictions unless otherwise restricted.

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

WAC 220-500-1400 Firearms and target practicing.

Survey Response:

WDFW received 1243 responses to a public survey during the official comment period.

<i>Survey Question</i>	<i>Yes</i>	<i>No</i>	<i>Unsure</i>
Have you ever participated in target shooting on WDFW-managed lands?	66%	19%	15%
Does the proposed rule update meet the goal of continuing to provide shooting opportunities on WDFW-managed lands?	38%	36%	26%
Does the proposed rule update meet the goal of protecting public safety?	48%	30%	22%
Does the proposed rule update meet the goal of reducing risk of wildfire?	40%	35%	25%
Does the proposed rule update meet the goal of reducing litter and damage to habitat?	45%	34%	21%
Is the language of the proposed rule update clear and easy to understand?	50%	33%	17%
Do you support adoption of the proposed rule update?	31%	51%	17%

Written Supporting Comments:

Supporting comments expressed appreciation for increased restrictions on recreational target shooting. Proponents of the rule's adoption expressed concerns about safety, conflicts between target shooting and other recreation uses wildfire risk, littering, and other habitat impacts associated with target shooting. Supporting comments also offered recommendations, including additional restrictions, such as confining target shooting to designated ranges, shortening seasons when shooting is allowed, and imposing stricter penalties. Other recommendations included clarifying language regarding elements of the proposed rule (e.g. backstops), creating more designated places to shoot, increasing enforcement, and making the rule LESS restrictive, particularly in the types of targets and ammunition allowed under the proposed update.

Written Opposing, Neutral, and Other Comments:

Some opponents of the rule expressed that target shooting should be banned entirely from WDFW-managed lands and the rule is not restrictive enough. The majority of opposing comments called the proposed rule too restrictive and/or said that the existing rule is adequate and/or that target shooting should not be regulated on state lands. Many opponents questioned the enforceability of the proposed rule, suggested that the rule contains mostly common sense, and is therefore unneeded, and WDFW should focus on enforcing existing rules, especially related to littering. Opponents said that the bad behavior of "a few bad apples" does not justify a rule that will impact all target shooters and limit access to shooting opportunities. As mitigation for the loss of opportunities, some recommended creating more opportunities by designating sites and

better communicating their location and availability. Others protested the proposed rule's treatment of specific types of ammunition, targets, and shooting sites.

Some commenters responded "unsure" when asked if they support or do not support the proposed rule update. Some of their comments requested clarification on specific elements of the proposed rule update or clearer language overall. Many said the proposed rule is too restrictive in specific parts, including allowable targets and when shooting is allowed.

Nearly all comments – supporting, opposing, and unsure – expressed a desire for more designated shooting areas and better communication from WDFW on when and where it is okay to practice target shooting. There was also strong agreement that littering is a problem associated with recreational target shooting on WDFW-managed lands.

See attachment.



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 06, 2020

TIME: 11:06 AM

WSR 20-10-116

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 20-07-046 ; 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) Target Practice on WDFW-Managed Lands – The department is proposing amendments to WAC 220-500-140 Firearms and target practice.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 12-13, 2020	8:00 a.m.	Webinar and/or conference call.	This meeting will take place by webinar and/or conference call. The public may participate in the meeting. Visit our website at: https://wdfw.wa.gov/about/commission/meetings or contact the Commission office at (360) 902-2267 or commission@dfw.wa.gov for instructions on how to join the meeting.

Date of intended adoption: July 31-August 1, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Wildlife Program

Address: PO Box 43200, Olympia, WA 98504-3200

Email: Rules.Coordinator@dfw.wa.gov

Fax:

Other: <https://wdfw.wa.gov/about/wdfw-lands/public-conduct#firearms>

By (date) June 10, 2020

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2349

Fax:

TTY: (360) 902-2207

Email: dolores.noyes@dfw.wa.gov

Other:

By (date) June 10, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposed rule is to clarify how individual persons may engage in target practice activities on lands owned or managed by the Washington Department of Fish and Wildlife (WDFW) and to promote consistency among state agencies relative to use of state-owned lands.

Specifically, the proposed rule: clarifies the definition of recreational target shooting; distinguishes between department designated target shooting areas and dispersed target shooting; distinguishes between shooting single projectiles (i.e., rifle

bullets and shotgun slugs) and shooting shot (i.e., bird shot); describes when a backstop is required when discharging specific types of firearms/implements; lists specific locations where recreational target shooting would be prohibited (e.g., from or across roads, designated trails, water body or within 500 feet of buildings, campgrounds, etc.); restricts allowable targets to those commercially or privately manufactured specifically for target shooting; restricts recreational target shooting to 30 minutes before sunrise until 30 minutes after sunset; and requires recreational target shooters to remove shell casings, shotgun hulls, ammunition packaging, targets, and target debris.

Reasons supporting proposal: WDFW owns or manages about one million acres statewide, with 33 wildlife areas and nearly 500 water access areas around the state. These public lands help sustain wildlife habitat and public recreation opportunities for current and future generations.

The primary purpose for WDFW owning and managing lands is the preservation, protection, perpetuation, and management of fish and wildlife and their habitats. Public use may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities, such as target practice, when compatible with healthy and diverse fish and wildlife populations and in a manner that addresses public safety concerns.

An increase in target shooting on WDFW-managed lands in recent years as well as an increase in visitors generally has created several challenges, including wildfires, concerns over public safety and user conflicts, and impacts to private property, littering, and damage to wildlife habitat. In addition, discrepancies with rules on adjacent state-managed lands (e.g. Washington Department of Natural Resources lands) has led to confusion among target shooters about the rules applicable to specific sites. These proposed rule amendments attempt to address these challenges.

WDFW wishes to continue welcoming recreational target shooters to WDFW-managed lands while also protecting public safety and private property and minimizing damage to habitat.

Statutory authority for adoption: RCWs 77.04.012, 77.04.055, 77.12.047, 77.12.210, and 77.12.240

Statute being implemented: RCWs 77.04.012, 77.04.055, 77.12.047, 77.12.210, 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: A cost-benefit analysis is not required for this rulemaking under 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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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) – This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses

Explanation of exemptions, if necessary: The department is exempt from the requirements of RCW Chapter 19.85 because the proposed target practice rules do not regulate small businesses; rather, the proposed rules regulate individual persons who undertake recreational use of department-managed lands. The proposed statewide target practice rules simply govern the time, place and manner for individual persons engaging in target practice activities on WDFW-managed lands.

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 6, 2020

Name: Michele K Culver

Title: Agency Rules Coordinator

Signature:

