

Importation of Dead Non-Resident Wildlife and Special Closures - Decision

220-413-030 and 220-413-180

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Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

October 22, 2021

Agenda item:

Importation of dead non-resident wildlife and special closures - Decision

Presenter(s):

Brock Hoenes

Background summary:

Department staff are seeking a decision from the Commission on proposed amendments to WACs 220-413-030 Importation and retention of dead nonresident wildlife and 220-413-180 Special closures and firearm restriction areas. Specific amendments include:

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

- Adding Ohio to the list of states where hunters are prohibited from importing certain parts of deer, elk, or moose that were harvested in those states. The Department is also proposing to alphabetize that list.

WAC 220-413-180 Special closures and firearm restriction areas.

- Add newly created Game Management Units (GMUs) 423 (Henry) and 424 (Stuart) to the list of GMUs identified as firearm restriction areas.

Staff recommendation:

Recommended adoption of the rules as presented.

Policy issue(s) and expected outcome:

- Minimizing the potential of Chronic Wasting Disease (CWD) becoming established in Washington State.
- Establishing boundary descriptions that are easily identified by hunters.
- Limiting the use of hunting equipment in areas where public safety concerns exist.

Fiscal impacts of agency implementation:

None.

Public involvement process used and what you learned:

In preparation for this meeting, notification was made to individuals and organizations informing them of the opportunity to provide comments on the proposed regulation amendments. Additionally, these individuals and organizations were informed of the opportunity to provide verbal testimony at the upcoming September 17, 2021 Commission meeting online.

The Department received no written comments for these proposed amendments. One person testified during the briefing to the Fish and Wildlife Commission on September 17, 2021 and expressed support of the Department's efforts to prevent CWD from becoming established in Washington.

Action requested and/or proposed next steps:

Adopt WACs 220-413-030 and 220-413-180 as recommended by staff.

Draft motion language:

Motion: I move to adopt the recommended rule changes as presented by staff.

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed.

Post decision communications plan:

Washington Department of Fish and Wildlife Website

News Release

Hunting Regulations Pamphlet

Form revised 1-20-21

WAC 220-413-030 Importation and retention of dead nonresident wildlife. (1) It is unlawful:

(a) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(b) For a person who imports a dead bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.

(c) To import or possess deer, elk, or moose, or parts thereof, harvested in ((Pennsylvania, Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, Montana, Mississippi, Iowa, Arkansas, Michigan, Saskatchewan, and Tennessee)) Alberta, Arkansas, Colorado, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Saskatchewan, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming with the following exceptions:

(i) Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

(2) Violation of subsection (1) of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.

(3) It is unlawful for an importer or receiver of deer or elk to fail to notify the department within twenty-four hours if a state or province alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160 Infractions.

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

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

Written Supporting Comments:

None

Written Opposing, Neutral, and Other Comments:

None

Fish and Wildlife Commission Hearing, Public Comments:

One person testified during the briefing to the Fish and Wildlife Commission in support.

Rationale-Agency Action Regarding Comments:

One person testified during the briefing to the Fish and Wildlife Commission on September 17, 2021 and expressed support of the Department's efforts to prevent CWD from becoming established in Washington.

WAC 220-413-180 Special closures and firearm restriction areas.

(1) RESTRICTED HUNTING AREAS.

It is unlawful to hunt in the following restricted hunting areas unless otherwise provided:

(a) Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389), and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to hunting wild animals and wild birds year-round except for special hunts adopted by the fish and wildlife commission. The Parker Lake closure provides a protected area for the U.S. Air Force Military Survival Training Program.

(b) Columbia River: The Columbia River, all islands except privately owned, in the river, the Benton County shoreline below the high water mark, Central Hanford Department of Energy property, and any peninsula originating on the Benton County shoreline, between Vernita Bridge on Highway 24 downstream to the Richland city limits are designated as a "CLOSED AREA" to hunting wild animals and wild birds except waterfowl hunting is open below the high water mark between the old Hanford townsite power line crossing in Section 24, T 13 N, R 27 E, and the Richland city limits.

(c) Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to hunting big game year-round. During the general westside elk season and general and late deer seasons, all lands within GMU 485 year-round are also designated as a "CLOSED AREA" to hunting all wild animals, including wild birds, year-round. The city of Tacoma enforces trespass within GMU 485 year-round on lands owned or controlled by the city.

(d) McNeil Island (part of GMU 652): Closed to hunting all wild animals, including wild birds, year-round.

(e) Loo-wit (GMU 522): Closed to hunting and trapping, except for elk and mountain goat hunting by special permit holders during established seasons and in designated areas.

(2) A violation of subsection (1) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

(3) CLOSED BIG GAME HUNTING AREAS.

It is unlawful to hunt big game in the following closed areas, unless otherwise specified:

(a) Clark, Cowlitz, Pacific, and Wahkiakum counties: Closed to hunting for Columbian whitetail deer.

(b) Cathlamet: Except for special permits issued by the department for nonendangered deer and elk, this area is closed to all deer and elk hunting to protect the Columbian whitetail deer. This area's boundaries are described as:

Beginning in the town of Skamokawa; then east along SR 4 to Risk Road; then south and east along Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape

Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning.

(c) Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to hunting all wild animals, including wild birds. The only exception is for deer or elk hunting by holders of GMU-157 special deer or elk permits during the established open season. These permit holders must have a U.S. Forest Service permit to enter the hunt area, and the area is closed to motorized vehicles. No entry into the Mill Creek Watershed is allowed at other times.

(d) Westport: Closed to hunting all big game animals on the part of Westport Peninsula lying north of State Highway 105 from the Elk River Bridge west end and the Schafer Island Road to the ocean beach.

(e) Cottonwood and Howard islands (GMU 564): Closed to all deer hunting.

(4) A violation of subsection (3) of this section is a gross misdemeanor or a class C felony punishable under RCW 77.15.410, depending on the circumstances of the violation.

(5) **FIREARM RESTRICTION AREAS .**

(a) It is unlawful to hunt wildlife in the following firearm restriction areas with centerfire or rimfire rifles, or to fail to comply with additional firearm restrictions, except as established below:

| COUNTY | AREA |
|--------------|--|
| Chelan | That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning. |
| Clallam | That portion of GMU 624 (Coyle) located within Clallam County. |
| Clark | GMU 564 (Battle Ground). That portion of GMU 554 (Yale) in Clark County. |
| Cowlitz | GMU 554 (Yale). GMU 504 (Stella). That portion of GMU 564 (Battle Ground) in Cowlitz County. |
| Grays Harbor | The following restriction applies only during modern firearm general elk seasons: |

| COUNTY | AREA |
|--------------|---|
| | That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Cranberry Road; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning. |
| Grays Harbor | The following restriction applies only during modern firearm general elk seasons: That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to State Street in Oakville; south on State Street to its merge with Oakville Road; west on Oakville Road to its merge with South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning. |
| Island | GMUs 421 (Camano) and 420 (Whidbey). |
| Jefferson | Indian and Marrowstone islands. |
| King | The area west of Highway 203 (Monroe-Fall City, then Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; and GMU 422 (Vashon-Maury). |
| King | This area is restricted to archery only during general season hunts (agency directed damage permit hunts exempt): The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. |
| Kitsap | East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newberry Hill Road, north of Newberry Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation. |

| COUNTY | AREA |
|-----------|--|
| Klickitat | Elk Area 5062 (Trout Lake) closed to centerfire rifles, handguns, and muzzleloaders October 1 to January 30. |
| Mason | GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstine Island. |
| Pacific | <p>GMU 684 (Long Beach) the following Long Beach Peninsula restriction applies only during modern firearm general deer and elk seasons: Beginning at the end of Outer Harbor Way in the City of Ilwaco to U.S. Highway 101, west and north on Highway 101 to Sandridge Road; north on Sandridge Road to 95th Street; west on 95th Street to Tarlatt Slough; out Tarlatt Slough to Willapa Bay, north along the shoreline of Willapa Bay, then west to the Pacific Ocean. South along the west coast of the peninsula to Cape Disappointment State Park; east along state park boundary to Baker Bay; east along Baker Bay to the point of beginning.</p> <p>The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.</p> <p>GMU 681 (Chinook Valley) beginning at confluence of Wallacut River, east along the Columbia River to the Astoria-Megler bridge; west along U.S. Highway 101 to Houtchen Road, north on Houtchen Road to the Chinook River; west on the Chinook River to the Chinook Valley Road; west on the Chinook Valley Road to Highway 101 and Wallacut River bridge; southwest on Wallacut River to point of beginning.</p> |
| Pierce | <p>Ketron Island in GMU 652 limited to archery, shotgun, and muzzleloader.</p> <p>GMU 655 (Anderson) limited to archery, shotgun, and muzzleloader. McNeil Island closed to hunting.</p> <p>See GMU 652 restriction area outlined for King County.</p> <p>GMU 627 (Kitsap) south of Highway 302 on the Key (Longbranch) Peninsula is a firearm restriction area.</p> |
| San Juan | All San Juan County, including GMUs 411 (Orcas), 412 (Shaw), 413 (San Juan), 414 (Lopez), 415 (Blakely), 416 (Decatur), 423 (Henry), 424 (Stuart), and those portions of GMU 410 (Islands) that occur in San Juan County. |
| Snohomish | All areas west of Highway 9, until the intersection of Highway 9 and Highway 2, then east along Highway 2 to Highway 203, then all areas west of Highway 203 to the Snohomish/King County line. |

| COUNTY | AREA |
|----------|---|
| Skagit | All mainland areas and islands, including GMU 419 (Guemes), in Skagit County west of I-5 and north of the Skagit/Snohomish County line, except Cypress Island. This restriction applies to big game hunting only. |
| Skamania | That portion of GMU 564 (Battle Ground) in Skamania County. |
| Thurston | GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River. |
| Whatcom | All mainland areas and islands of Whatcom County that are west of I-5. This restriction applies to big game hunting only. |

(b) Archery tag holders may only hunt during established archery seasons with archery equipment as defined under WAC 220-414-070.

(c) Muzzleloader tag holders may only hunt during established muzzleloader seasons with muzzleloader equipment or archery equipment as defined by department rule.

(d) Modern firearm tag holders may hunt during established modern firearm seasons with bows and arrows; crossbows; muzzleloaders; revolver-type handguns; semiautomatic handguns of .40 (10 mm) caliber or larger; or shotguns, so long as the equipment and ammunition complies with department rules.

(6) A violation of subsection (5) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

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

WAC 220-413-180 Special closures and firearm restriction areas.

Written Supporting Comments:

None.

Written Opposing, Neutral, and Other Comments:

None.

Fish and Wildlife Commission Hearing, Public Comments:

None.

Rationale-Agency Action Regarding Comments:

N/A



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: August 03, 2021

TIME: 8:50 AM

WSR 21-16-092

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 21-10-079 on May 03, 2021 ; 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)

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

WAC 220-413-180 Special closures and firearm restricted areas.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-----------------------|--------|-------------------------|--|
| September 16-18, 2021 | 8 a.m. | Webinar | This meeting of the Fish and Wildlife Commission will take place by webinar. See http://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: October 22, 2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Wildlife Program

Address: PO Box 43200, Olympia, WA. 98504

Email: V7556@PublicInput.com

Fax: (360) 902-2162

Other: website for public commenting: <https://publicinput.com/V7556>

By (date) September 15, 2021

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator

Phone: (360) 902-2349, TTY (711)

Fax:

TTY: (360) 902-2207

Email: Title6@dfw.wa.gov

Other: <https://wdfw.wa.gov/accessibility/requests-accommodation>

By (date) September 15, 2021

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

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

The purpose of this proposal is to add the state of Ohio to the list of states and provinces where it is unlawful to import or possess certain parts of deer, elk, or moose. We also alphabetized the list of states and provinces, so the list is easier to reference. The anticipated effects of the proposal would be limited to hunters that choose to hunt deer in Ohio. This rule requires additional time to process a carcass but given the amount of time needed to travel to and from Ohio, it is likely hunters are already processing their carcass in accordance with this rule, thus anticipated effects are minimal.

WAC 220-413-180 Special closures and firearm restricted areas.

The purpose of this rule change is to clarify that firearm restrictions for all San Juan County includes Game Management Units (GMUs) 423 (Henry) and 424 (Stuart). There are no anticipated effects associated with this proposal other than providing clarification for hunters.

Reasons supporting proposal:**WAC 220-413-030 Importation and retention of dead nonresident wildlife.**

Chronic Wasting Disease (CWD) is a prion disease (pathogenic agents that are transmissible and able to induce abnormal folding of specific normal cellular proteins) that affects cervids (family of hooved ruminant mammal) and is fatal. There is no treatment or vaccine and the disease presents a substantial risk to Washington's cervid populations. CWD has not been detected in wild or captive cervid populations in Washington. CWD can be spread to new areas when infected animal parts are discarded on the landscape. The intent of this rule is to reduce the risk of hunters transporting deer, elk, or moose parts into Washington that are infected with CWD. The states and provinces identified in this rule have detected CWD in wild cervid populations. The Department became aware that Ohio had detected CWD in wild white-tailed deer populations in February 2021.

WAC 220-413-180 Special closures and firearm restricted areas.

In April 2021, the Fish and Wildlife Commission adopted a rule that formally identified Henry and Stuart Islands in San Juan County as standalone GMUs. The Department failed to realize at the time that WAC 220-413-180 also needed to be amended because it clarifies that firearm restrictions for all San Juan County also apply to islands in San Juan County that are standalone GMUs. This proposal corrects that omission.

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?

☐ 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: This proposal does not require a cost benefit analysis 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 checked="" 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) .

Explanation of exemptions, if necessary: The portion of the proposed rule related to GMUs is a correction from a previous rule amendment. The portion related to adding Ohio to the restricted states for importation of wildlife parts does not affect small businesses because this change does not impose additional costs or regulatory requirements for any businesses.

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:

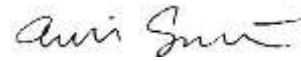
TTY:
Email:
Other:

Date: August 3, 2021

Name: Annie Szvetecz

Title: WDFW Agency Rule Coordinator

Signature:

A handwritten signature in black ink, appearing to read "Annie Szvetecz", is written over the signature line.