



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at http://apps.leg.wa.gov/wac/default.aspx?cite=82-05.

CONTACT INFORMATION (please type or print)

Petitioner's Name Brad Thomssen
Name of Organization
Mailing Address
City State WA Zip Code
Telephone Email

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
Provide relevant examples.
Include suggested language for a rule, if possible.
Attach additional pages, if needed.
Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: WDFW

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: See Attached

The rule is needed because: See Attached

The new rule would affect the following people or groups: See Attached

**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

I am requesting the following change: \_\_\_\_\_

This change is needed because: \_\_\_\_\_

The effect of this rule change will be: \_\_\_\_\_

The rule is not clearly or simply stated: \_\_\_\_\_

**3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

September 26, 2022

To Whom It May Concern,

Please find attached my "Petition For Adoption, Amendment, Or Repeal Of A State Administrative Rule" form.

I have checked box, "1. New Rule – I am requesting the agency adopt a new rule."

As per the questions associated with the form"

"The subject (or purpose) of this rule is:" Immediately begin Rule Making for the 2023 Spring Bear Hunting Season / 2023 Spring Black Bear Special Permit Hunts.

"The rule is needed because:" The WDFW Commission needs to begin Rule Making now for the 2023 Spring Bear Hunting Season. Protect loss of neonates, minimize timber damage, and keep the WDFW in line with their mandate to Preserve, Protect, Perpetuate and Manage Wildlife.

"The new rule would affect the following people or groups:" Those who understand the history, purpose and role of Sport Hunting as one of the three pillars of Spring Black Bear Damage Management in Washington State. Hunters, Timber Interests, Wildlife Viewing, General Public.

I refer my reasons for the Commission to immediately begin rule making for the 2023 Spring Bear Hunting Season as being found in the book 'Black Bear of Washington' written by Richard J Poelker and Harry D Hartwell. Published by the Washington State Game Department. Focus on Section III of the book. The section titled 'Management'

The reason for a Spring Bear Hunting Season has always been to alleviate bear damage.

Bear damage is not a passing phase in forestland management.

Bears eat Sapwood.

Sapwood use is found to be highest in the spring.

Spring Black Bear Damage Management has always been addressed by:

Sport Hunting

Control Operations

Management Regulations

The book "Black Bear of Washington" is the result of "The Cooperative Black Bear Study, Federal Aid in Wildlife Restoration Project W-71-R, was a joint research effort by several state, federal and private agencies. Project leadership was provided by the Washington Department of Game, Contributing agencies were the Washington Department of Natural Resources, Washington Forest Protection Association, U.S. Fish and Wildlife Service, U.S. Forest Service, Weyerhaeuser Company, Washington State University and the University of Washington. Project headquarters was locate at the Forest Land Management Center, Department of Natural Resources, Olympia, Washington". (pg. iv, Black Bear of Washington)

The WDFW Commission cancelled the 2022 Spring Bear Hunting Season.

I believe the book "Black Bear of Washington" is the most comprehensive multi agency Black Bear Study ever conducted. That book, that multi year study, science and summary, including the many local, state, federal and private entities involved in that study make the case for the return of the Spring Bear Hunting Seasons here in Washington State.

Regarding the Cooperative Black Bear Study:

"... it is a final report of the Black Bear Study, Federal Aid in Wildlife Restoration (Pittman-Robertson) Project W-71-R. This (is a) cooperative study begun in 1963 by state, federal and private agencies to investigate the problem of black bear damage to coniferous forests and gain new information with regard to black bear biology and populations:"

This Petition can serve to correct issues regarding:

- Priority points earned by previous permit applicants
- The return of the Spring Black Bear Hunting Seasons
- Correct the biological impact to ungulate populations caused by the loss of the season
- Address lethal removal of bears as described in the document 'Bear Timber Damage 2022 FAQ'
- Address impact the loss of the Spring Bear Hunting Season had on recreational opportunities for youth, senior and disabled hunters.
- Bring back a balanced approach to bear management during the vital spring fawning/ calving season.
- Removal of the Spring Bear Hunting Season, as was done, has eroded trust in the commission, impacted WDFW management plans, reduced WDFW revenue, and resulted in confusion.

In 2022 the WDFW department's expert biologists supported the season and included the reasons for the Spring Black Bear Hunting Seasons continuation in their proposal.

"Washington Department of Fish and Wildlife / Fish and Wildlife Commission Presentation Summary Sheet / Meeting date: 11/19/2021 / Agenda item: 2022 Spring Black Bear Special Permits – Decision / Presenter(s): Stephanie Simek, Ph.D. Carnivore, Furbearer, Game Bird Section Manager, Wildlife Program / // this document in its entirety can be found at / Previous Meetings / 2022 / January 21, 2022 – Special Commission Meeting / Agenda / Petitions / pg 17 / Background summary /

"The proposal is to recommend the spring black bear special permit hunts for the 2022 season. The proposal meets the Commission's mandate to maximize the public recreational hunting opportunities. Further these special permit hunts allow WDFW to geographically distribute hunters and resulting harvest as compared to the general fall black bear season. This distribution helps to satisfy the department's mandate to preserve, protect, perpetuate, and manage wildlife. These hunts also use harvest as a tool to assist with mitigating bear timber damage and minimizing human-bear interactions or where ungulate neonate survival is low, while providing additional recreational opportunities. The spring black bear special permit season is designed to target specific areas."

For Brevity here I will be paraphrasing from pages 142 – 144 of 'Black Bear of Washington' section 'Study conclusions';

[ In Washington State Black Bear damage is severe enough to have serious economic impact in affected areas. Control Operations are expensive to forest industry, distasteful and wasteful of a game resource. The primary objective of the Cooperative Black Bear Study was thus established: to develop techniques for management of black bear in Washington.

Sapwood use was found to be highest in the spring following the bear emergence. This use correlated with a relatively low abundance of other preferred food items early in the growing season. Analysis of tree sapwood from damage and non damage areas revealed no differences to which bear damage could be attributed. Information on the age of trees receiving damage, bear densities in damage areas and amounts of available forage support the thesis that bear damage results, at least in large measure, from existence of a high bear density in an area of maturing timber stands with declining carrying capacity.

Bear damage is not a passing phase in forestland management. With increasing dependence on tree farming operations to sustain the timber industry, land will continually be entering the stage where it has greater potential for bear damage. ]

Sport Hunting Pressure in specific bear damage areas has a significant impact on bear timber damage management.

The Spring Bear Hunting seasons provide a balanced approach during the vital spring fawning / calving season.

It helps correct the biological impact to ungulate populations.

Minimizes human-bear conflict interactions.

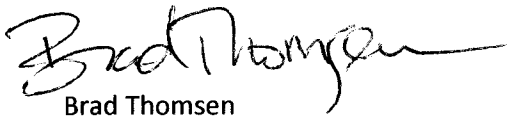
It allows WDFW to geographically distribute hunters and resulting harvest as compared to the fall black bear season.

The Spring Bear Season allows WDFW to geographically distribute hunters where ungulate neonate survival is low.

Control Operations are expensive to forest industry, distasteful and wasteful of a big game resource.

The Spring Bear Hunting Season meets the Commission's mandate to maximize the public recreational hunting opportunities.

Thank-you.

A handwritten signature in black ink that reads "Brad Thomsen". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Brad Thomsen



## Bear Timber Damage 2022 - FAQ

### Why did the original Bear Timber Damage Program stop?

The validity of a Washington Administrative Code (WAC) rule providing for the issuance and use of the black bear timber damage depredation permits found in [WAC 220-440-210](#) was challenged in an appeal to the Washington State Court of Appeals. The court invalidated the rule and thus the Department has limited ability within current laws in order to address bear caused timber damage.

### What is currently happening with the litigation?

A portion of the court case was resolved when Washington State Court of Appeals invalidated the rule. There are portions of the litigation that were remanded to Thurston County Superior Court, and the Department cannot comment on active litigation.

### What is Washington Department of Fish and Wildlife (WDFW) able to provide in response to timber damage this season?

Under [RCW 77.12.240](#), WDFW may authorize the lethal removal of black bears causing damage to private property subject to the limitations in RCW 77.15.245. WDFW is considering requests for authorization to kill timber-damaging black bears with firearms (“boot hunting”) on a case-by-case basis. Under very limited circumstances, the local WDFW conflict specialist may be able to deploy a culvert trap in an effort to trap and remove a timber-damaging bear, but only if a trap is available and the conflict specialist has the time and ability.

### How do I request WDFW assistance responding to timber damage?

Each timber company will need to work with their local Wildlife Conflict Specialist (WCS) to address bears causing timber damage. The WCS will need to retrieve the following information:

- Location of damage.
- Verification of the fresh damage either by a site visit, a photograph, or any other means as requested by the WCS.
- What non-lethal methods have been employed in attempt to prevent the damage.
- Whether supplemental feeding is currently occurring on the property or not.
- Any additional information the timber company or WCS feels is important for consideration.

The WCS will evaluate whether a kill permit is appropriate for each specific case, or alternatively, may consider if culvert trapping is an option. If the timber company would like to request a kill permit, the company should coordinate with the WCS to submit the above information along with a request for issuance of a kill permit.

## Who approves each kill permit?

Every permit will need to be reviewed, approved, and signed by the Wildlife Conflict Section Manager, Jim Brown, or whomever he designates as acting in his absence.

## How long will it take to receive a kill permit?

Each permit request will be evaluated on a case-by-case basis considering the information provided by a permit applicant and potentially additional information gathered by WDFW in a field visit or desk review. Normally, if a timber company has provided the WCS with needed information, WDFW staff will have kill permits issued within three business days of receiving a request. Promptly responding to requests for any additional information needed for approval will assist with the speed of processing.

## How long will the kill permit be valid for?

The duration of each kill permit will be considered on a case-by-case basis.

## How many bears are allowed to be taken under each permit?

Each permit will state the number of bear(s) approved to be killed, which will depend on the specific damage situation. If a timber company would like to request a permit to kill more than one bear in a location, the request should include information explaining why the removal of two or more bear is necessary to address the timber-damage occurring at that location.

## Can I receive more than one kill permit if I have multiple locations of damage?

Yes. However, each location of damage will require a separate kill permit and will need to be reviewed for approval independent of other damage locations on the property.

## Can I receive a kill permit for bear timber damage if I am in a grizzly bear recovery zone?

Yes, but hunters will need to comply with the bear identification test. If this situation occurs, WDFW will outline any additional requirements upon issuance of the permit, and those requirements must be met before the permit may be used.

For more information on where the grizzly bear recovery zones are and the bear identification program, please visit our website at this link: <https://wdfw.wa.gov/hunting/requirements/bear-identification-testing>

## Will there be requirements associated with the take of a bear under a kill permit?

Yes. Each permit will include conditions and requirements based on a case-by-case analysis of the specific timber damage situation. This will include time, place, and manner restrictions, as well as harvest reporting requirements (e.g., bear tooth envelope to be returned to WDFW). Each permit will also address the disposition/possession of any carcasses. Barring unusual circumstances, the gall

bladder will need to be turned over to the WCS while the hunter would be able to retain the remainder of the carcass.

Is a license or tag required for the take under a kill permit issued in response to bear timber damage?

No, there is no WDFW license, tag, or fee required.

When can I apply for a bear timber damage kill permit?

Bear timber damage kill permits are generally issued beginning around April 15<sup>th</sup> and are not usually issued after June 30<sup>th</sup> of each year. If a timber owner has a problem with timber damage outside of this time frame, s/he may contact the WCS to assess the situation and to discuss options for addressing the cause of the damage.