

## Small Game

WAC 220-416-110, WAC 220-430-010,  
WAC 220-450-010 and WAC 220-417-030

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## Summary Sheet

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**Meeting dates:** April 5-6, 2019

**Agenda item:** Small Game – Decision

**Presenter(s):** Anis Aoude, Game Division Manager

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### **Background summary:**

Staff briefed the Commission on proposed amendments to four WACs. Three WACs relate to game farms and game birds raised on game farms and one WAC relates to trapping:

WAC 220-416-110 - Use of game birds for training dogs, field trials—Marking requirements

WAC 220-430-010 - Game farm license provisions

WAC 220-450-010 - Criteria for planting aquatic plants and releasing wildlife

WAC 220-417-030 - Wild animal trapping

Highlights of the proposed game farm rule amendments include:

Adding an option for marking game birds that were acquired from a licensed game farmer for the purpose of training dogs, field trials, or hunting.

Clarifying license requirements for game farms and for selling game birds.

Establishing criteria for revoking or denying a game farm license.

Relaxing requirements for obtaining game birds that are to be released for the purpose of training dogs, field trials, or hunting, while also strengthening requirements for where those birds may be acquired from.

The proposed trapping rule amendments specify that trappers must check nonkilling restraining trap sets every 24 hours.

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### **Policy issue(s) and expected outcome:**

Increase compliance with game bird marking requirements (WAC 220-416-110).

Support game farm license holders and increase compliance with game farm license provisions (WAC 220-430-010).

Decrease risk of avian disease transmission (WAC 220-450-010).

Improve humane treatment and welfare of trapped furbearers and by-catch (WAC 220-417-030).

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### **Fiscal impacts of agency implementation:**

No fiscal impacts beyond the status quo.

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### **Public involvement process used and what you learned:**

The Department notified approximately 12,000 individuals and organizations informing them of the opportunity to provide comment on the proposed regulation amendments. Additionally, these individuals and organizations were informed of the opportunity to provide verbal testimony at the March 1-2, 2019 Commission meeting in Spokane.

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### **Action requested and/or proposed next steps:**

Adopt WACs 220-416-110, 220-430-010, 220-450-010, and 220-417-030 as presented.

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**Draft motion language:**

I move to adopt WACs 220-416-110, 220-430-010, 220-450-010, and 220-417-030 as presented.

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**Post decision communications plan:**

WDFW Website

News Release

Targeted outreach to affected stakeholders (trappers, field trial permit applicants, and game farm license holders)

Hunting Pamphlet

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*Form revised 2-15-18*

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

**WAC 220-416-110 Use of game birds for training dogs, field trials—Marking requirements.** It is unlawful to possess game birds acquired from a licensed game farmer for the purpose of training dogs, field trials, or hunting unless the birds are marked in the following manner:

(1) Captive reared waterfowl shall be physically marked in at least one of the following manners:

(a) (~~Removal of the hind toe from the right foot.~~) Banding of one metatarsus with a seamless metal band; or

(b) Pinioning of a wing: Provided(~~(-)~~) that this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight((-)); or

(c) (~~Banding of one metatarsus with a seamless metal band.~~) Removal of the hind toe from the right foot; or

(d) Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

(2) All other game birds shall be physically marked (~~by~~) in at least one of the following manners:

(a) Banding of one metatarsus with a band purchased from the department; or

(b) Nasal scarring: Provided that this scarring shall be a permanent, readily discernible deformity caused by an anti-pecking device; or

(c) Removal of the first joint of the outside toe on the right foot prior to four weeks of age (~~or marked by a band purchased from the department~~).

[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 § 220-416-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.040. WSR 83-12-055 (Order 206), § 232-12-044, filed 6/1/83; WSR 81-22-002 (Order 174), § 232-12-044, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-044, filed 6/1/81. Formerly WAC 232-12-120.]

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

WAC 220-416-110 Use of game birds for training dogs, field trials—Marking requirements.

### **Supporting Comments:**

There were two (2) comments received in support of the proposed changes. One commenter stated “Looks good” and the other stated “This is a reasonable solution to a problem. I fully support this change.”

### **Opposing, Neutral, and Other Comments:**

No comments received in opposition.

### **Direction and Rationale:**

The department will move forward with the proposed changes to the Fish and Wildlife Commission. The proposed changes provide an additional method for game bird marking and will increase compliance with game bird marking requirements (WAC 220-416-110).

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

**WAC 220-417-030 Wild animal trapping.** (1) The trapping season authorizes the taking of furbearing animals for their hides and pelts only. Furbearers may not be taken from the wild and held alive for sale or personal use without a special permit from the director.

(2) Any wildlife trapped for which the season is not open shall be released unharmed. Any wildlife that cannot be released unharmed must be left in the trap, and the department of fish and wildlife must be notified immediately.

(3) Lawfully trapped wild animals must be lethally dispatched or immediately released. A firearm may be used to dispatch trapped animals.

(4) It is unlawful to trap for wild animals:

(a) With body-gripping traps without a special permit from the director.

(b) Unless kill traps are checked and animals removed within seventy-two hours.

(c) Unless (~~(animals captured in)~~) restraining traps (any nonkilling set) are (~~(removed within)~~) checked every twenty-four hours and captured animals are restrained in a trap for no more than twenty-four hours (~~(of capture)~~).

(d) Using game birds, game fish or game animals for bait, except nonedible parts of game birds, game fish or game animals may be used as bait.

For purposes of this section, the meat of animals classified as furbearing animals in WAC 220-400-020 is not considered edible.

(e) Within thirty feet of any exposed meat bait or nonedible game parts which are visible to flying raptors.

(5) Game bird feathers may be used as an attractor.

[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), amended and recodified as § 220-417-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.150, and 77.12.240. WSR 15-10-033 (Order 15-95), § 232-12-141, filed 4/28/15, effective 5/29/15. Statutory Authority: RCW 77.12.040, 77.12.020, 77.32.070, 77.32.530. WSR 01-10-048 (Order 01-69), § 232-12-141, filed 4/26/01, effective 5/27/01. Statutory Authority: RCW 77.12.040. WSR 00-20-032 (Order 00-197), § 232-12-141, filed 9/27/00, effective 10/28/00; WSR 99-17-034



(Order 99-118), § 232-12-141, filed 8/11/99, effective 9/11/99; WSR 98-01-207 (Order 97-253), § 232-12-141, filed 12/23/97, effective 10/1/98; WSR 92-18-083 (Order 563), § 232-12-141, filed 9/2/92, effective 10/3/92; WSR 90-19-097 (Order 460), § 232-12-141, filed 9/19/90, effective 10/20/90; WSR 87-15-082 (Order 293), § 232-12-141, filed 7/20/87; WSR 81-12-029 (Order 165), § 232-12-141, filed 6/1/81. Formerly WAC 232-12-310.]

## Summary of Public Comments Received During the Official Comment Period

### WAC 220-417-030 Wild animal trapping.

#### **Supporting Comments:**

There were two (2) comments received in support of the proposed changes. One commenter suggested that traps should be checked every 12 hours instead of every 24 hours.

#### **Opposing, Neutral, and Other Comments:**

There were four (4) comments received in opposition to the proposed changes. The common theme in the opposing comments was requesting a longer time period for checking restraining traps (live capture). The four opposing comments were as follows: One (1) suggested no change, One (1) suggested not to make things harder for users and allow more opportunities, Two (2) suggested longer trap check intervals (36 hours and 48 hours).

#### **Direction and Rationale:**

The department will move forward with the proposed changes to the Fish and Wildlife Commission. The 24 hour check of restraining traps was implied in the existing rule. The proposal is not changing the window of time that live capture traps must be checked but rather clarifying that it occurs every 24 hours. The proposed changes will foster humane treatment and welfare of trapped furbearers and by-catch animals (WAC 220-417-030).

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

**WAC 220-430-010 Game farm license provisions.** It is unlawful to operate a game farm without a current, valid Washington state game farm license. It is unlawful to sell those species listed in subsection (2) of this section without a current, valid Washington state game farm license except with the written permission of the director.

(1) Under a current, valid license issued by the department, game farms licensed prior to January 1, 1992, may continue to possess, propagate, sell and transfer wildlife they lawfully possessed on January 1, 1992~~((, under their license issued by the department))~~. Transfers of wildlife other than those species listed under subsection (2) are restricted to licensed game farms authorized by written license to possess said wildlife.

(2) Game farms licensed on or after January 1, 1992, may purchase, possess, propagate, sell or transfer the following wildlife, except species designated as deleterious exotic wildlife: ~~((a))~~ Game birds - Pheasant, of the genus *Phasianus*; gray partridge of the genus

*Perdix*; chukar of the genus *Alectoris*; quail of the genus *Colinus*, *Callipepla*, and *Oreortyx*; waterfowl of the family *Anatidae*.

(3) Application for a game farm license shall be made on a form provided by the department.

(4) The director or designee of the director may issue, with conditions or restrictions, a game farm license, if the applicant meets the requirements of subsection (1) or (2) above and complies with the following criteria:

(a) The applicant is the owner or tenant of or has a possessory interest in the lands, waters, and riparian rights shown in the application.

(b) The rearing and holding facilities are adequate and structurally sound to prevent the egress of game farm wildlife.

(c) Operating conditions are clean and humane.

(d) No hazards to state wildlife exist from the operation.

(e) The license covers only the immediate premises and areas described on the application where wildlife will be held.

(5) Holders of a game farm license must make annual reports no later than the 15th of January to the director on forms to be furnished by the department. Violation of this subsection is an infraction, punishable under RCW 77.15.160.

(6) A licensed game farm must be inspected annually. All inspection costs will be paid by the licensee. The inspection must occur during the months of June, July, or August. An inspection form will be provided by the department and must be completed and signed by a licensed veterinarian or an agent authorized by the department. The inspection form must accompany the annual report and be submitted to the director no later than the 15th day of January.

(7) During June, July, or August, a licensed game farm must conduct annual avian influenza disease testing of ten percent or a maximum of thirty representative game birds on-site. Testing required under this subsection and subsection (8) of this section must be performed by a qualified testing agent approved by WDFW. Testing is not required for the year in which all birds on-site were transferred from a game farm that has complied with the testing requirements of this rule within one year of the transfer. Copies of testing records must be kept for one year. The licensee is responsible for all testing costs. Any test results indicating the presence of avian influenza disease must be reported immediately to the Washington state department of agriculture state veterinarian.

(8) If birds being held on the game farm exhibit symptoms of respiratory infection, diarrhea, central nervous system malfunction,

or more than twenty-five percent flock mortality, licensed game farms must test for one or more of the following diseases as soon as possible upon the observation of symptoms: Mycoplasma gallisepticum and Mycoplasma synoviae, pullorum, salmonella, histomoniasis, and exotic Newcastle disease. The licensee is responsible for all testing costs.

(9) A game farm license is not required for captive-bred mink, *Mustela vison*, and captive-bred silver fox, *Vulpes fulva*, lawfully acquired from a licensed breeder or fur farm and held for fur farming purposes.

(10) A game farm license may be revoked and any future licenses may be denied by the director or director's designee if the department determines:

(a) Information contained in a game farm license application was inaccurate or false;

(b) The game farm licensee fails to comply with department statutes or rules.

(11) Revocation of a game farm license shall remain in effect until all issues pertaining to revocation are resolved.

(12) If the initial application or the application to renew a game farm license is denied or revoked, the department will provide

the applicant, in writing, a notice containing a statement of the 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 appeal requests to WDFW Legal Services Office, P.O. Box 40100, Olympia WA 98504-0100.

(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.

(13) A game farm license applicant who provides false or misleading information in their game farm license application may be subject to prosecution under RCW 9A.76.175 or 40.16.030. A game farm license holder who fails to comply with department statutes or rules as required by their game farm license may be subject to prosecution under RCW 77.15.340.

[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 § 220-430-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 07-01-049 (Order 06-300), § 232-12-027, filed 12/14/06, effective 1/14/07; WSR 06-09-021 (Order 06-67), § 232-12-027, filed 4/11/06, effective 5/12/06. Statutory Authority: RCW 77.12.040, 77.12.020, 77.32.070, 77.32.530. WSR 01-10-048 (Order 01-69), § 232-12-027, filed 4/26/01, effective 5/27/01. Statutory Authority: RCW 77.04.055, 77.12.040 and 77.12.570. WSR 91-24-016 (Order 520), § 232-12-027, filed 11/22/91, effective 12/23/91. Statutory Authority: RCW 77.12.030, 77.12.040, 77.16.020 and 77.32.211. WSR 85-20-127 (Order 258), § 232-12-027, filed 10/2/85. Statutory Authority: RCW 77.12.040. WSR 82-19-026 (Order 192), § 232-12-027, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-027, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-027, filed 6/1/81. Formerly WAC 232-12-070.]



## WAC 220-430-010 Game farm license provisions

### RECOMMENDED ADJUSTMENTS

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

#### Page 10

- Change: Add language under sub-section (2) to clarify that a game farm license does not authorize the licensee to purchase, possess, propagate, sell or transfer deleterious exotic wildlife.

*Game farms licensed on or after January 1, 1992, may purchase, possess, propagate, sell or transfer the following wildlife, except species designated as deleterious exotic wildlife: (((a))) Game birds - Pheasant, of the genus Phasianus; gray partridge of the genus Perdix; chukar of the genus Alectoris; quail of the genus Colinus, Callipepla, and Oreortyx; waterfowl of the family Anatidae.*

Rationale: This adjustment aligns WAC 220-430-010 with WAC 220-640-200 by providing consistency in treatment of deleterious exotic wildlife species (e.g. mute swan)

## Summary of Public Comments Received During the Official Comment Period

### WAC 220-430-010 Game farm license provisions.

#### **Supporting Comments:**

There were four (4) comments received in support of the proposed changes. One of the four further suggested we clarify language regarding deleterious wildlife.

#### **Opposing, Neutral, and Other Comments:**

There was one comment received in opposition of the proposed changes. This commenter stated they opposed further regulations and/or the state dictating who is eligible to own and raise game birds for profit.

#### **Direction and Rationale:**

The theme of the opposing comment centers on a misconception that the regulations are being more restrictive. The proposed changes actually clarify the intent of the original language and further provides criteria related to revoking or denying a permit and guidance for an appeal. The department will move forward with the proposed changes and add a recommended adjustment that will address deleterious game birds and waterfowl. The addition of deleterious game birds and waterfowl provides consistency between this rule and WAC 220-640-200. The proposed changes will support game farm license holders and increase compliance with game farm license provisions (WAC 220-430-010).

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

**WAC 220-450-010 Criteria for planting aquatic plants and releasing wildlife.** (1) Release by persons other than the director. It is unlawful for persons other than the director to plant aquatic plants or release any species, subspecies, or hybrids of animals which do not already exist in the wild in Washington. If such species, subspecies, or hybrid does already exist in the wild in Washington, it may be released within its established range by persons other than the director, but only after obtaining a permit from the director.

(a) Application for a permit must be made on a form provided by the department. It must be submitted at least thirty days prior to acquisition of the wildlife or aquatic plants intended for release or planting, and must provide all information indicated.

(b) Permits will only be issued if the director determines there will be no adverse impact on the wildlife or wildlife habitat of the state.

(c) Each permit shall require that at least thirty days prior to planting or release of wildlife or aquatic plants they must be made

available for inspection by the director. It shall be the responsibility of the applicant to show that the wildlife will not pose a disease threat. If the director is not satisfied that the wildlife or aquatic plants do not pose a disease threat, they shall not be released or planted in the state. Director approval for release or planting may be withdrawn for cause.

(d) Each permit shall require that an applicant intending to release wildlife in the state shall report immediately to the director the outbreak of any disease among the wildlife intended to be released. If the director determines that such outbreak presents a threat to the wildlife of the state, the director may immediately order such action as necessary including quarantine or destruction of stock, sterilization of enclosures and facilities, cessation of activities, and disposal of wildlife in a manner satisfactory to the director.

(e) Each permit shall require that wildlife to be released shall not be branded, tattooed, tagged, fin clipped or otherwise marked for identification without approval of the director or as required in WAC 220-416-110.

(f) Legally acquired pheasant of the genus *Phasianus*; gray partridge of the genus *Perdix*; chukar of the genus *Alectoris*; quail of

the genus *Callipepla* and *Colinus*; and mallards (*Anas platyrhynchos*) may be released without a permit for purposes of dog training, and hunting pursuant to WAC 220-416-110. Game birds of these species released for these purposes must be (~~purchased from facilities that have~~) acquired from a department facility, a state- or federally licensed game farm facility that has been inspected by a certified veterinarian within the past twelve months, or a facility with current National Poultry Improvement Plan certification. Rock doves and Eurasian collared doves may be released without a permit for purposes of bird dog training.

(2) Release by the director. The director may plant aquatic plants or release animal species, subspecies, or hybrids which have been planted or released previously in Washington if they do not pose a disease threat and if planting or release will not cause adverse impact on the wildlife or wildlife habitat of the state. Before releasing any species, subspecies, or hybrid of animal not already existing in the wild in Washington, the director shall report to the commission on the planned release, stating the basis for determining that the planned release fulfills the criteria set forth herein. The director may release nonnative species, subspecies, or hybrids not

previously released in Washington only if the director in his or her sole discretion has determined that:

(a) There is no reasonable expectation of adverse impact on the wildlife or wildlife habitat of the state and there is an adequate plan for evaluating such impact following the release;

(b) The commission has classified the species, subspecies, or hybrids to be released pursuant to RCW 77.12.020;

(c) Suitable habitat is available;

(d) The nonnative species, subspecies, or hybrids to be released are free of exotic pathogens;

(e) The release serves the public interest.

(3) This section does not apply to release of classified or unclassified fish or shellfish by persons who have caught or taken the fish or shellfish, provided the fish or shellfish are released into the water or on the tidelands at the approximate location where taken, except that fishing contest participants may release fish at a contest-designated location in the same body of water from which the fish were taken.

[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), amended and recodified as § 220-450-010, filed 2/15/17, effective 3/18/17. Statutory Authority:

RCW 77.04.012, 77.04.055, 77.12.047, 77.12.150, and 77.12.240. WSR 15-10-033 (Order 15-95), § 232-12-271, filed 4/28/15, effective 5/29/15.

Statutory Authority: RCW 77.12.047 and 77.12.020. WSR 04-11-036 (Order 04-98), § 232-12-271, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.040, 77.12.020, 77.32.070, 77.32.530. WSR 01-10-048 (Order 01-69), § 232-12-271, filed 4/26/01, effective 5/27/01.

Statutory Authority: RCW 77.04.055, 77.12.040 and 77.16.150. WSR 91-24-015 (Order 521), § 232-12-271, filed 11/22/91, effective 12/23/91.

Statutory Authority: RCW 77.12.020, 77.12.040 and 77.16.150. WSR 89-12-044 (Order 397), § 232-12-271, filed 6/2/89. Statutory Authority: RCW 77.12.040. WSR 82-04-034 (Order 177), § 232-12-271, filed 1/28/82; WSR 81-12-029 (Order 165), § 232-12-271, filed 6/1/81. Formerly WAC 232-12-675.]

## Summary of Public Comments Received During the Official Comment Period

WAC 220-450-010 Criteria for planting aquatic plants and releasing wildlife.

### **Supporting Comments:**

There were four (4) comments received in support of the proposal. The common theme of the supporting comments was the proposed changes provide clarity, common sense guidance, and ensure health of bird populations.

### **Opposing, Neutral, and Other Comments:**

No comments received in opposition.

### **Direction and Rationale:**

The department will move forward with the proposed changes to the Fish and Wildlife Commission. The proposed changes will assist in decreasing the risk of avian disease transmission.





# PROPOSED RULE MAKING

## CR-102 (August 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: January 18, 2019

TIME: 11:41 AM

WSR 19-03-129

**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 18-23-030 on November 14, 2018 ; 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)

### Amended Rules

WAC 220-410-040 Game management units (GMUs) boundary descriptions – Region four.

WAC 220-410-060 Game management units (GMUs) boundary descriptions – Region six.

WAC 220-412-070 Big game and wild turkey auction, raffle, and special incentive permits.

WAC 220-412-100 Landowner hunting permits.

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

WAC 220-413-090 Field identification of wildlife – Evidence of sex – Definitions.

WAC 220-413-180 Special closures and firearm restrictions.

WAC 220-413-200 Reducing the spread of hoof disease – Unlawful transport of elk hooves.

WAC 220-414-070 Archery requirements.

WAC 220-414-080 Hunting – Hunter orange clothing requirements.

WAC 220-415-020 2018-2020 Deer general season and definitions.

WAC 220-415-030 2019 Deer special permits.

WAC 220-415-040 Elk area descriptions.

WAC 220-415-050 2018-2020 Elk general season and definitions.

WAC 220-415-060 Elk special permits.

WAC 220-415-070 2019 Moose seasons, permit quotas, and areas.

WAC 220-415-120 2019 Bighorn sheep season.

WAC 220-415-130 2019 Mountain goat seasons and permit quotas.

WAC 220-416-060 2019-2020 Migratory waterfowl seasons and regulations.

WAC 220-416-110 Use of game birds for training dogs, field trials – Marking requirements.

WAC 220-417-030 Wild animal trapping.

WAC 220-430-010 Game farm license provisions.

WAC 220-450-010 Criteria for planting aquatic plants and releasing wildlife.

### Hearing location(s):

**Date:**                      **Time:**                      **Location:** (be specific)                      **Comment:**

Date:	Time:	Location:	Comment:
March 1-2, 2019	8:00 a.m.	Natural Resources Building Room 172 1111 Washington Street SE Olympia, WA 98501	

**Date of intended adoption:** April 5-6, 2019 (Note: This is **NOT** the effective date)

### Submit written comments to:

Name: Wildlife Program

Address: PO Box 43200, Olympia, WA 98504

Email: wildthing@dfw.wa.gov

Fax: (360) 902-2162

Other: <https://wdfw.wa.gov/hunting/regulations/seasonsetting/2019/>

By (date) February 13, 2019

**Assistance for persons with disabilities:**

Contact Tami Lininger

Phone: (360) 902-2267

Fax:

TTY: (800) 833-6388

Email: tami.lininger@dfw.wa.gov

Other:

By (date) February 22, 2019

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

WAC 220-410-040 Game management units (GMUs) boundary descriptions – Region four.

The purpose of the proposal is to clarify boundary language as it pertains to Game Management Unit 485 Green River. The existing language can be somewhat complicated. The proposed changes take advantage of the well-marked boundaries of the Green River watershed which are identical to the GMU boundary.

WAC 220-410-060 Game management units (GMUs) boundary descriptions-Region six.

The purpose of the proposal is to clarify boundary language as it pertains to the boundary shared by Game Management Unit 653 White River and Game Management Unit 485 Green River. The existing language can be somewhat complicated. The proposed changes take advantage of the well-marked boundaries of the Green River watershed which are identical to the GMU boundary.

WAC 220-412-070 Big game and wild turkey auction, raffle, and special incentive permits.

Proposed change (1) would allow holders of an Eastside Elk Auction Permit, Eastside Elk Raffle Permit, South-Central Washington Big Game Raffle Permit, or Eastern Washington Elk Incentive Permit to hunt elk in GMU 334 (Ellensburg). This GMU is currently excluded from the legal hunt area.

Proposed change (2) would redirect the holder of the 'Rocky Mountain' bighorn sheep raffle permit to a portion of the Wenaha-Mountain View herd complex with a greater number of mature rams.

WAC 220-412-100 Landowner hunting permits.

This proposal modifies hunt dates on properties enrolled in WDFW's Landowner Hunting Permit (LHP) program for the 2019 hunting seasons. These sites offer special hunting opportunities to the public through permits issued by WDFW, raffles, or selection by the landowner.

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

The proposal will ban the importation and retention of specific parts of dead nonresident wildlife that could contain Chronic Wasting Disease (CWD) from Tennessee. Specific circumstances are fully set forth in WAC 220-413-030 to include the state of Tennessee.

WAC 220-413-090 Field identification of wildlife – Evidence of sex – Definitions.

The proposal amends WAC 220-413-090 Field identification of wildlife-Evidence of sex-Definitions by changing subsection 1, related to the possession and transport of game birds by adding the fully feathered wing as an acceptable field identification requirement, with the exception of Canada and Cackling geese harvested in Goose Management Area 2 Coast and Inland where the head must be left attached for subspecies determination.

WAC 220-413-180 Special closures and firearm restrictions.

The proposed changes to the Special Closures and Firearm Restriction Areas WAC are administrative changes that clarify firearm restrictions in portions of Grays Harbor County and Pacific County only apply during modern firearm general deer and/or elk seasons. It also clarifies that Key Peninsula and Longbranch Peninsula are the same location in Pierce County.

WAC 220-413-200 Reducing the spread of hoof disease – Unlawful transport of elk hooves.

This rule is an attempt to reduce the potential risk of inadvertently spreading the causative agents of treponeme associated hoof disease (TAHD) in elk.

WAC 220-413-200 was most recently updated in September 2018. Since that time, TAHD has been confirmed along the border of GMUs 638 and 618, in the upper Wynoochee Valley (GMU 636) just south of Olympic National Park, and in GMU 621, necessitating the addition of GMUs 618, 621, and 638. With the addition of these 3 GMUs, the rule would apply in all but 15 of the 61 western Washington GMUs that are not islands in Puget Sound. The Department believes it prudent to add all western Washington GMUs to the restriction.

New Game Management Units (GMUs) are being proposed in which transport of elk hooves from harvested elk would be restricted. These new GMUs include all 400, 500, and 600 GMUs. The rule does allow, under certain circumstances, the legal transport of elk hooves to facilitate research by the Department and/or our collaborators.

WAC 220-414-070 Archery requirements.

The purpose of the proposal is to eliminate the restriction that makes it unlawful to hunt big game animals with any arrow weighing less than six grains per pound of draw weight with a minimum arrow weight of 300 grains. Such a rule change will ensure hunters are not unknowingly in violation of a restriction, while in no way negatively affecting the kill efficacy of modern archery equipment commonly in use today.

WAC 220-414-080 Hunting – Hunter orange clothing requirements.

This proposal clarifies the hunter orange rule to address the overlap between turkey hunting and general season modern firearm deer and elk seasons. This proposed change will allow turkey hunters not to wear orange except during the general modern deer and elk seasons. This change will allow turkey hunters more flexibility and maintain safety during the general modern firearm seasons. This proposal adds turkey to the hunter orange rule and requires turkey hunters that are hunting during a modern deer or elk firearm season to wear florescent orange.

WAC 220-415-020 2018-2020 Deer general seasons and definitions.

The purpose of this proposal is to retain general season deer hunting opportunity for 2019. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases the opportunity when deer populations allow, and reduces the opportunity when declining deer numbers warrant a change.

WAC 220-415-030 2019 Deer special permits.

The purpose of this proposal is to retain special permit deer hunting opportunity for 2019. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases the opportunity when deer populations allow, and reduces the opportunity when declining deer numbers warrant a change.

WAC 220-415-040 Elk area descriptions.

The purpose of this proposal is to allow the department to focus elk hunting pressure on a smaller scale than the Game Management Unit. Elk Areas help expand hunting opportunity that would normally not be available. Elk Areas also help accommodate wildlife conflict mitigation using hunting as a tool. The purpose of the proposal is to adjust the boundaries of Elk Area 6054, such that harvest is focused in areas where conflicts are most frequent.

WAC 220-415-050 2018-2020 Elk general seasons and definitions.

The purpose of the proposal and its anticipated effects, including any changes in existing rules:  
The elk seasons for fall of 2019 represent the second year of the 2018-2020 three-year hunting season package. The purpose of the proposal is to increase opportunities in some areas to assist with efforts to mitigate elk damage. The proposal also corrects typographical errors associated with season dates for the western Washington and Elk Area 3722 general elk modern firearm seasons.

WAC 220-415-060 2019 Elk special permits.

The purpose of this proposal is to retain elk special permit hunting opportunity for 2019. The purpose is also to balance the elk hunting opportunity between user groups. The proposal also increases elk hunting opportunity when elk populations allow, and reduces elk hunting opportunity when declining elk numbers warrant a change.

WAC 220-415-070 2019 Moose seasons, permit quotas, and areas.

The purpose of this proposal is to adjust moose permit limits to reflect population changes and recent harvest.

WAC 220-415-120 2019 Bighorn sheep season.

The purpose of this proposal is to adjust bighorn sheep hunt permit limits to reflect population changes and recent harvest.

WAC 220-415-130 2019 Mountain goat seasons and permit quotas.

The purpose of this proposal is to adjust mountain goat hunt permit limits to reflect population changes and recent harvest.

WAC 220-416-060 2019-2020 Migratory waterfowl seasons and regulations.

The proposal amends WAC 220-416-060 2018-19 Migratory waterfowl seasons and regulations to specify legal season dates, bag limits for the 2019-20 season.

Changes include:

- Adjusting season dates relative to 2019-2020 calendar dates
- Lowering Northern Pintail bag-limit to 1 pintail per day and associated possession limits per the USFWS Northern Pintail Harvest Strategy
- Proposed shift of 12-days for white goose hunting from the beginning of the season to February 22 – March 4, 2020 in Goose Management Area 4
- Proposed addition of dates to brant season in Pacific County, contingent upon the most recent 3-year average results per the Pacific Brant Population Management Plan harvest strategy.

WAC 220-416-110 Use of game birds for training dogs, field trials – Marking requirements.

The proposed changes clarify that only one method is required for marking game birds and adds an additional method option, which is nasal scarring caused by an anti-pecking device. In addition, the proposal adjusts the ordering of existing options for marking non-waterfowl game birds.

WAC 220-417-030 Wild animal trapping.

The proposed changes clarify that restraining traps (live capture traps) must be checked every 24 hours, whether or not an animal has been captured.

WAC 220-430-010 Game farm license provisions.

The proposed changes clarify that a game farm license is required to sell species listed in subsection 2 (game birds and waterfowl). Also, the proposed changes clarify that a current, valid license is required to continue to possess, propagate, sell and transfer wildlife that was lawfully possessed on January 1, 1992. Lastly, the proposed changes add conditions for revocation or denial of a game farm's license and grounds for prosecution under existing RCW.

WAC 220-450-010 Criteria for planting aquatic plants and releasing wildlife.

The proposed changes clarify that game birds released for dog training and hunting pursuant to WAC 220-416-110 do not need to be purchased. Instead, they simply need to be acquired from certain facilities. These facilities include a department facility, a state- or federally-licensed game farm facility that has been inspected by a certified veterinarian within the past twelve months, or a facility with current National Poultry Improvement Plan certification.

**Reasons supporting proposal:**

WAC 220-410-040 Game management units (GMUs) boundary descriptions – Region four.

The proposed amendments will make the boundaries more discernable for hunters. The proposed changes will also make enforcement of hunting season rules and trespass rules more straightforward.

WAC 220-410-060 Game management units (GMUs) boundary descriptions-Region six.

The proposed amendments will make the boundaries more discernable for hunters. The proposed changes will also make enforcement of hunting season rules and trespass rules more straightforward.

WAC 220-412-070 Big game and wild turkey auction, raffle, and special incentive permits.

1) GMU 334 has historically been excluded from the legal hunt area for auction, raffle, and special incentive permits, in addition to Quality Elk and Bull Elk special permits because it primarily consists of private residential and agricultural properties within and/or immediately adjacent to the city limits of Ellensburg, which makes it difficult for most hunters to find an area within the GMU where they have permission to hunt. In addition, the potential for human-elk conflicts within this GMU is high and the Department limits elk numbers by providing numerous opportunities to harvest spike bull (or true spike) and antlerless elk during general seasons. However, with no opportunities to harvest branch-antlered bulls, the number of mature bulls has steadily increased and they are frequently the source of damage complaints from agricultural producers. Including opportunities to harvest branch-antlered bulls in GMU 334 would provide increased opportunity to hunters, reduce the number of branch-antlered bulls, and reduce the number of human-elk conflicts that occur in association with branch-antlered bulls.

2) These bighorn herds are closely managed, so biologists typically have good data on the number and distribution of the large-sized rams sought by auction and raffle holders. WDFW also co-manages these herds with Oregon and the Nez Perce Tribes, so fine-scale distribution of hunters is helpful.

WAC 220-412-100 Landowner hunting permits.

Several years ago, the Fish and Wildlife Commission developed a policy to expand the private lands available to the general public for hunting. One of the programs that was authorized is the Landowner Hunting Permit Program. This program encourages landowners to provide opportunity to the general hunter in exchange for customized hunting seasons and the ability to generate funding to offset the cost of providing public access.

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

Because Tennessee has identified chronic wasting disease in wild, free-ranging deer, the department seeks to mitigate the risk to public health and safety by adding the state of Tennessee to WAC 220-413-030.

WAC 220-413-090 Field identification of wildlife – Evidence of sex – Definitions.

The proposed amendment to WAC 220-416-090 Field identification of wildlife-Evidence of sex-Definition, brings field identification of game birds in line with federal possession and transport identification requirements. Identification of migratory waterfowl by wing is a typical training component for federal and state enforcement and should be allowed as an appropriate method of identification for game bird hunters in Washington. The exception of Canada and Cackling geese harvested in Goose Management Area 2 Coast and Inland where the head must be left attached for subspecies determination must be required due to the use of a bill measurement criteria set in WAC 220-413-060 2019-2020 Migratory waterfowl seasons and regulations that differentiates the Dusky Canada goose subspecies which is closed to harvest.

WAC 220-413-180 Special closures and firearm restrictions.

The added language was needed to clarify that modern firearms could be used within these areas to mitigate damage issues during established permit and/or damage hunts, which increases the department's ability to accommodate both firearm restriction needs and wildlife conflict mitigation. The Key Peninsula is also known to some as Longbranch Peninsula; the proposed change clarifies they are the same location.

WAC 220-413-200 Reducing the spread of hoof disease – Unlawful transport of elk hooves.

This proposal adds GMUs where transport of elk hooves will be restricted in order to reduce the potential risk of the disease spreading.

WAC 220-414-070 Archery requirements.

Washington is the only state that has a minimum arrow weight to draw weight ratio and only one of five that have a similar regulation of minimum overall weight of 300 grains. With the advent of carbon arrow technology, which dominates today's market, it is likely a vast majority of archery hunters are unknowingly in violation of the arrow weight to draw weight ratio restriction. In addition, it is highly unlikely any archer would shoot an arrow that weighed less than 300 grains. Lastly, we have no additional information that indicates either of these restrictions increases kill efficacy.

WAC 220-414-080 Hunting – Hunter orange clothing requirements.

This proposal will increase turkey hunter success and maintain safety. Turkey seasons in the past did not overlap with modern deer or elk firearm season. New proposals to control growing turkey populations make it necessary to overlap those seasons. Last year we modified the hunter orange rule to include turkey. We have since found that the rule as written was too broad and turkey hunters had to wear orange throughout the fall season. This recommended rule adjustment provides more flexibility for turkey hunters, while maintaining the hunter orange requirement during the deer and elk modern firearm seasons.

WAC 220-415-020 2018-2020 Deer general seasons and definitions.

These proposals provide for recreational deer hunting opportunity and protects deer from overharvest. The proposal would maintain sustainable general deer hunting season opportunities for 2019. The proposal helps address deer agricultural damage problems and provides for deer population control when needed.

WAC 220-415-030 2019 Deer special permits.

These proposals provide for recreational deer hunting opportunity and protects deer from overharvest. The proposal would also maintain sustainable deer special permit hunting season opportunities for 2019. The proposal helps address deer agricultural damage problems and provides for deer population control when needed.

WAC 220-415-040 Elk area descriptions.

This proposal allows the department to use hunting as a management tool and expands elk hunting opportunity.

WAC 220-415-050 2018-2020 Elk general seasons and definitions.

The proposal provides for recreational elk hunting opportunity and helps address elk agricultural damage problems and provides for elk population control when needed.

WAC 220-415-060 2019 Elk special permits.

This proposal provides for recreational elk hunting opportunity and protects elk from overharvest. The proposal would maintain sustainable elk special permit hunting opportunity for 2019. The proposal helps address elk agricultural damage problems and provides for elk population control when needed.

WAC 220-415-070 2019 Moose seasons, permit quotas, and areas.

Population abundance estimates and document of recent past harvest.

WAC 220-415-120 Bighorn sheep seasons and permit quotas.

Population abundance estimates and document of recent past harvest.

WAC 220-415-130 2019 Mountain goat seasons and permit quotas.

Population abundance estimates and document of recent past harvest.

WAC 220-416-060 2019-2020 Migratory waterfowl seasons and regulations.

Waterfowl seasons and regulations are developed based on cooperative management programs among states of the Pacific Flyway and the U.S. Fish and Wildlife Service, considering population status and other biological parameters. The rule establishes waterfowl seasons and regulations to provide recreational opportunity, control waterfowl damage, and conserve the waterfowl resources of Washington.

WAC 220-416-110 Use of game birds for training dogs, field trials – Marking requirements.

The proposal provides clarity so that the WAC is not misinterpreted to mean that game birds must be marked by all methods.

The use of anti-pecking devices is standard among game farms in the western US, particularly for pheasants which can be aggressive in captivity. By allowing nasal scarring caused by these devices to meet the marking requirements, the department is reducing the burden on game farmers to apply an additional mark to game birds. This proposed change will also improve compliance in marking requirements.

The proposal to adjust the order of the listed marking requirements is intended to emphasize less invasive methods.

WAC 220-417-030 Wild animal trapping.

The current WAC states that an animal captured in a restraining trap must be removed within 24 hours but doesn't state that traps must be checked every 24 hours. The proposed change clarifies that the traps must be checked every 24 hours and captured animals may not be restrained for more than 24 hours.

WAC 220-430-010 Game farm license provisions.

The proposed changes support game farm license holders by emphasizing that certain species cannot be sold without a game farm license. This is intended to reduce confusion and to ensure that unlicensed individuals are not selling these species.

In addition, the proposed changes provide clarity regarding license requirements to game farm license holders who maintain species that were lawfully possessed prior to prior to January 1, 1992.

The proposed changes also provide the department with the necessary tools to ensure that game farm license holders are compliant with the game farm license provisions.

WAC 220-450-010 Criteria for planting aquatic plants and releasing wildlife.

The proposed changes simplify requirements for obtaining game birds for dog training and hunting pursuant to WAC 220-416-110. The changes also seek to ensure that game birds are acquired from facilities that undergo appropriate inspections and follow appropriate guidelines to reduce the risk of disease transmission.

**Statutory authority for adoption:** RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, 77.12.150, 77.12.240, 77.12.570, 77.32.070, and 77.32.530.

**Statute being implemented:** RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.047, 77.12.150, 77.12.240, 77.12.570, 77.32.070, and 77.32.530.

**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	Natural Resources Building 1111 Washington St. SE Olympia, WA 98501	(360) 902-2515
Implementation:	Eric Gardner	Natural Resources Building 1111 Washington St. SE Olympia, WA 98501	(360) 902-2515

Enforcement: Steve Bear  
Natural Resources Building  
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)(e) (Dictated by statute)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- 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: Proposed rule does not affect small businesses.

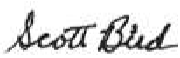
**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

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:

<b>Date:</b> January 18, 2019	<b>Signature:</b>  
<b>Name:</b> Scott Bird	
<b>Title:</b> Rules Coordinator	