



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Permanent Rule Only

Effective date of rule:

Permanent Rules 16-18

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

To provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. This clarifies roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities. The changes assist the Department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the Department as well as lessen the likelihood for confusion regarding the tools used for mitigation. The changes incorporate feedback, suggestions, and concerns received by stakeholders and interest groups.

Citation of existing rules affected by this order:

Repealed: 232-28-266 and 232-12-025

Amended: 232-12-142, 232-36-051, 232-36-055, 232-36-060, 232-36-065, 232-36-100, 232-36-110, 232-36-210, 232-36-300, 232-36-510

Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-16-134 on August 5, 2015 (date).

Describe any changes other than editing from proposed to adopted version:

See attached document titled "Attachment A".

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Wildlife Program Customer Service phone (360) 902-2515
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Date adopted: November 13, 2015

NAME (TYPE OR PRINT)

Brad Smith

SIGNATURE

TITLE

Commission Chair

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 28, 2016

TIME: 4:33 PM

WSR 16-04-066

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>6</u>	Amended	<u>10</u>	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

**Attachments A- Statement of Changes
Wildlife Interactions Rules**

Rules amended as part of this rulemaking:

WAC 232-12-142	Special trapping permit – Use of body gripping traps
WAC 232-36-051	Killing of wildlife causing private property damage
WAC 232-36-055	Disposal of wildlife killed for personal safety or for causing private property damage
WAC 232-36-060	Director or his/her designee is empowered to grant wildlife control operator certifications
WAC 232-36-065	Director or his/her designee is empowered to grant wildlife control operator permits to address wildlife interactions
WAC 232-36-100	Payment for commercial crop damage – Limitations
WAC 232-36-110	Application for cash compensation for commercial crop damage – Procedure
WAC 232-36-210	Application for cash compensation for livestock damage or other domestic animal – Procedure
WAC 232-36-300	Public hunting requirements
WAC 232-36-510	Failure to abide by the conditions of permits, provide completed forms, or submit required document or reports

Rules repealed as part of this rulemaking:

WAC 232-12-025	Depredation hunts
WAC 232-28-266	Damage prevention hunts

Rules proposed as part of this rulemaking:

WAC 232-36-054	Use of body-gripping traps and exceptions
WAC 232-36-066	Report required of certified wildlife control operators
WAC 232-36-090	Limitations to managing damage caused big game on private property
WAC 232-36-310	Damage prevention permit hunts: deer, elk, and turkey
WAC 232-36-320	Black bear timber damage depredation permits
WAC 232-36-330	Bear and cougar depredation permit hunts for domestic animal or livestock loss

Differences between the text of the proposed rule and the rule as adopted:

General Note: Minor technical changes were made throughout the proposed rules to adjust grammar and formatting concerns.

WAC 232-12-142 Special trapping permits

- Change: Struck the introductory sentence directing applicants to submit a special trapping permit application.

Rationale: The introductory statement was repetitive of subsection (6), which directs a person to complete and submit a department –provided application.

- Change: The definition of body-gripping traps under (1)(a) was modified to define unpadded foot-hold traps and language describing specific falconry traps was removed.

Rationale: Changes retain the definition of a body-gripping trap as defined in RCW 77.15.192 and remove references to falconry traps because they are addressed in subsection (1)(d).

- Change and Rationale: In subsection (1)(c), struck the “in water” definition as it is no longer referenced within the rule.
- Change and Rationale: In subsection (1)(c), inserted a revised definition of “padded jaw-leghold or padded foot-hold trap” for clarification of the terms.
- Change and Rationale: Under (1)(d), language referencing falconry traps was modified to be broader and more inclusive in nature.
- Change: Under subsection (11), added text to clarify that retention of raw fur obtained through the use of a special trapping permit requires a Washington state trapper’s license.

Rationale: This language was added to clarify that the retention rule is specific to special trapping permits.

- Change: In (11) language was revised to clarify possession of a carcass is lawful if accompanied by a transfer authorization as described in WAC 232-12-077.

Rationale: This language allows the trapper to transfer raw fur to another party for personal and educational uses.

- Change: In subsection (15)(a), reinstated "600 Capitol Way North".

Rationale: This language allows for receipt of certified mail from the applicants that request an appeal.

WAC 232-36-051 Killing wildlife causing private property damage

- Change and Rationale: In (2)(b), separated deer and elk damage to crops from black bear and cougar damage to livestock or domestic animals. Deer and elk will be addressed in (2)(b) and black bear and cougar will be addressed in (2)(d).

- Change: In (2)(b), added language requiring a landowner to have attempted non-lethal control techniques in addition to receiving verbal or written approval from the department in order to remove a deer or elk causing damage to crops.

Rationale: Reflects the value that landowners should not resort to lethal removal without having first attempted non-lethal control techniques.

- Change: Language added to (2)(b) to allow an owner to remove one individual deer or elk during the physical act of damaging crops with verbal or written approval from the department within a 12 month period. Language was also added to require notification to the department within 24 hours of the kill.

Rationale: Language regarding verbal or written approval has been added to allow the department an opportunity to take steps to address the conflict issue and work with the owner to minimize wildlife caused damage. Prior approval and notification after kill allows the department to provide the appropriate level of customer service, accountability, and transparency to all interested parties and potentially avoid wastage. Limiting the action to once per calendar year minimizes potential of persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes which the department currently utilizes to mitigate wildlife caused damage.

- Change and Rationale: In (2)(b), added the term "commercial" to provide consistency with other rules.

- Change: In (2)(b), added language that directs the department to document animals harvested under this subsection and to ensure that harvest is consistent with herd management objectives when available.

Rationale: This change ensures that animals that are causing damage and are harvested are accounted for in the overall harvest and management of a particular area.

- Change: Created sub-section (2)(d) and moved damage to livestock into the sub-section. Added the word “black” before bear to allow an owner to kill (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit. Added language to clarify that one animal could be taken within a 12 month period and that the owner must notify the department within 24 hours of killing an animal.

Rationale: Specifically identifying “bear” as “black bear” provided clarity that the rule does not authorize shooting a grizzly bear. In addition, limiting the action to once per calendar year minimizes potential of persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes that the department utilizes to mitigate wildlife caused damage. Notifying the department within 24 hours allows the department an opportunity to document the kill, address disposition of carcass to avoid wastage, and provide accurate information regarding the event when requested by interested parties.

- Change: In subsection (4), removed sentence prohibiting Wildlife Control Operators (WCOs) from killing big game animals.

Rationale: The sentence prior to the deleted sentence indicates that WCOs will be directed under their certifications and permits to assist with abating wildlife-caused damage. At the present time, the department is not permitting WCOs to remove big game animals and does not have a certification course for big game animals. Removing this exclusion will allow the department to regulate WCO participation through their certifications and the permit conditions.

WAC 232-36-054 Use of body-gripping traps and exceptions

- Change: Added language under subsection (5) to allow for retention of raw fur for personal use and educational purposes.

Rationale: This addition provides consistency between WAC 232-36-054 and WAC 232-12-142. Many trappers and WCOs utilize the fur of animals for their own personal use as well as for educational opportunities. This change minimizes wastage and allows the trapper or WCO to utilize acquired furs in a non-commercial capacity.

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage

- Change: In section (1), added language to clarify that animals killed are disposed of according to RCW 77.15.170.

Rationale: This addition provides a direct reference to the law regulating waste of wildlife and highlights the Commission’s desire to ensure animals harvested using department permits are utilized whenever possible.

- Change: In section (2), removed the statement “may not be retained”.

Rationale: There are times when animals that are causing damage to private property are removed without a permit from the department (e.g., beaver removed by a trapper during trapping season and under a trapping license) and it would otherwise be legal for them to keep the animal. The rule still requires lawful disposal, which is described in subsection (4) of this rule.

WAC 232-36-060 Certification of Wildlife Control Operators

- Change: In subsection (1)(b), struck “Applicants may document the two-year experience requirement by” and replaced it with “Methods of documenting experience include, but are not limited to”.

Rationale: Based on working with stakeholders, this language allows for multiple methods of verifying experience.

- Change: In section (1)(b), changed language so the rule provides examples of how WCO applicants can document the required two years of experience.

Rationale: Provides clarity that the methods are not limited to the few that are listed in rule.

- Change: In (1)(e), strike as written and replace with:

(1)(e) Not have, within the last three years:

(i) More than one finding of paid or committed as a final disposition for an infraction under Chapter 77.15 RCW; or

(ii) A conviction for a fish and wildlife crime under Chapter 77.15 RCW.

Rationale: This language provides clarification on violations that would prohibit certifications. As proposed, the new rule will include felony convictions.

- Change: In section (1)(e), language was changed to allow for one infraction during a three-year period instead of not allowing any infraction over a five year period.

Rationale: Because many infractions are minor violations (e.g., illegally fishing with a barbed hook), not allowing a WCO to have even one was overly-punitive. The timeframe was changed to three years to match the timeframe for which a WCO license is valid.

- Change: In section (3), removed “harassing” and “releasing” from the list of actions and added language to clarify that the permit being referenced in this section is the special trapping permit needed for a body gripping trap (reference: RCW 77.15.194).

Rationale: Because this section refers to the body-gripping trap special permit, there was no need to include “harassing” or “releasing” as the traps are intended to kill the animal.

WAC 232-36-065 Use of wildlife control operators to address wildlife interactions.

- Change: In subsection (3), added “except for beaver released according to RCW 77.32.585”.

Rationale: Stakeholders asked for clarification that beaver could be released as provided by law.

- Change: In subsection (9)(a), reinstated “600 Capitol Way North”.

Rationale: This language allows for receipt of certified mail from the applicants that request an appeal.

WAC 232-36-066 Report required of certified wildlife control operators.

- Change and Rationale: Added “knowingly” to the beginning of subsection (4) to align the rule with the language provided in RCW 77.15.270

WAC 232-36-090 Limitation to managing damage caused by big game on private property

- Change and Rationale: Added language under subsection (4)(b) to identify that a written refusal statement must be submitted within 30 days of offer of preventative measures. This provides clarity around the 30 day requirement.

WAC 232-36-100 Payment for commercial crop damage - Limitations

- Change: Added language in (4) to include a department approved checklist of preventative measures as a valid way to qualify for compensation.

Rationale: Allowing a department approved checklist was inadvertently omitted in the previous version. There are occasions when an owner may be impacted but not have an active agreement with the department. The intent is to allow the claimant to utilize one of the three options (i.e. damage prevention agreement, director's waiver, and department approved checklist) and create consistency between 232-36-100, 232-36-110, and 232-36-210.

- Change: Utilized the last sentence from subsection (4) to create a new subsection (5). This is not additional language, but rather a stand-alone bullet point created from existing language. This insertion resulted in subsequent subsections being shifted by one number.

Rationale: This bullet needs to be separated as it references compliance with the agreement versus having an agreement or other form of documentation of preventative measures. Compliance with the damage prevention cooperative agreement conditions that were agreed upon by the owner and the department is important to illustrate the owner has been working with the department.

- Change: Former subsection (14), which is new subsection (15) - Language was added to ensure the department is notified at least 72 hours prior to harvest. Language requiring a WDFW directed adjustor was removed to clarify the owner can utilize any licensed adjustor.

Rationale: This aligns WAC 232-36-100 with WAC 232-36-110 by allowing the owner to select either a department contracted adjustor or one of their own choosing and by allowing the owner to proceed with harvesting if they have notified WDFW within 72 hours prior to harvest. This change provides the department an opportunity to assign an adjustor to assess damage prior to crop harvest.

- Change: Struck former subsection (15), which is new subsection (16), regarding denying claims once funds were expended and replaced it with language found in WAC 232-36-110 which outlines the process that allows the department to maintain a list of claims and pay those in chronologic order once additional funding becomes available.

Rationale: Replacing language in this subsection provides consistency with proposed WAC 232-36-110, which clarifies that claims will roll over, in chronological order, to the next fiscal year when funds are expended for the current fiscal year.

WAC 232-36-110 Application for cash compensation for commercial crop damage – Procedure.

- Change: In (1), language was added to include the department-approved checklist and a Director’s waiver as a valid means of eligibility for compensation.

Rationale: The intent is to provide consistency in rules associated with compensation for losses. Allowing the claimant to submit one of the three options (i.e. damage prevention agreement, Director’s waiver, and department approved checklist) creates consistency between 232-36-100, 232-36-110, and 232-36-210.

WAC 232-36-210 Application for cash compensation for livestock damage or domestic animal – Procedure.

- Change: Inserted the Director’s waiver, in section (10)(e), as part of the acceptable documents, in addition to the department approved checklist or the damage prevention cooperative agreement, required for claims for higher than normal losses.

Rationale: The Director’s waiver allows owners who do not have a damage prevention cooperative agreement or a department approved checklist but have a waiver, signed by the Director, to be eligible to apply for cash compensation for livestock losses. This allows an owner who may not be able to comply with a damage prevention cooperative agreement or a department approved checklist to acquire approval through providing the justification on their waiver and having the Director approve their justification.

WAC232-36-310 Damage prevention permit hunts – Deer, elk, and turkey

- Change: In subsection (3)(e), inserted a new (i) “Season Framework: July 1 – March 31”.

Rationale: The season framework was not identified in the proposal and should be included to clearly define when these actions may occur in GMUs 105-124.

WAC 232-36-320 Black bear timber damage depredation permits

- Change: In section (5)(c), replaced language allowing animals (or their parts) and permit materials to be submitted five days after permit expiration with a seven day requirement.

Rationale: Disposition of the carcass will continue to be designated on the permit and the extended time will allow for animal parts and/or permit materials to be collected and submitted with consideration for landowners and permittees who

often need to coordinate their response and may be working on multiple properties across a large landscape.

- Change: In subsections (5)(c) and (d), deleted “renders” and added “may render” and authorized the department to make that determination.

Rationale: This change makes WAC 323-36-320 consistent with similar sections in WAC 232-36-330. The level of violation may be minor (e.g., turned paperwork into the department in eight days instead of seven) and if so, should not warrant making the permittee ineligible for future permits.

WAC 232-36-330 Black bear and cougar depredation permit hunts for domestic animal or livestock loss

- Change and Rationale: In section (1)(c), replaced “may” with “will” to clarify that department staff need to be in communication with property owners to verify damage before removing an animal.

- Change: In section (4)(a), added language to require biological samples to be submitted within 48 hours of take.

Rationale: This ensures biological information is collected for bear and cougar harvested under a depredation permit.

- Change: In subsection (4)(c), replaced “renders” with “may render” and authorized the department to make that determination.

Rationale: This change makes WAC 323-36-330 consistent with similar sections in WAC 232-36-320 and other sections within WAC 232-36-330. The level of violation may be minor, and if so, should not warrant making the permittee ineligible for future permits.

NEW SECTION

WAC 232-36-054 Use of body-gripping traps and exceptions. (1)

It is unlawful to trap for wild animals with body-gripping traps without a special permit from the director.

(2) Body-gripping traps, including conibear-type traps in water, as defined in RCW 77.15.192 may be used for the following purposes with a special trapping permit issued by the director:

(a) To protect public health and safety, in consultation with the department of health or the United States Department of Health and Human Services.

(b) To abate damages caused to private property, domestic animals, livestock or timber, which cannot be reasonably abated by nonlethal control tools. Any person requesting a special trapping permit must apply in writing, stating the threat or damages, the nonlethal control methods attempted or why they cannot be applied, and agree to use the above traps for no more than thirty days under the permit granted, pursuant to RCW 77.15.194 and WAC 232-12-142.

(c) To protect threatened or endangered species, if such traps are used by department employees or agents of the state.

(d) To conduct wildlife research, except that conibear-type traps are prohibited for this purpose.

(3) Traps must be checked every twenty-four hours and animals removed, pursuant to RCW 77.15.194.

(4) It is unlawful to trap within thirty feet of any exposed animal carcass, meat bait or nonedible game parts which are visible to flying raptors, except that nothing in this section prohibits department employees or agents of the state from trapping within thirty feet of exposed animal carcass, meat bait or nonedible game parts.

(5) Animals taken with the use of a body-gripping trap may not be retained and must be disposed as conditioned in the special trapping permit or as specified in WAC 232-36-055. Raw fur may only be retained for personal use or educational purposes which do not result in retail sale or commerce.

NEW SECTION

WAC 232-36-066 Report required of certified wildlife control operators. All wildlife control operators (WCOs) must report all WCO related activity, regardless of trapping success or whether they trapped or not for the previous year on or before April 20th of each year.

(1) Reports must be made using the department's designated WCO annual report form or web-based WCO reporting system.

(2) If a WCO chooses to report using the WCO annual report form versus the web-based WCO reporting system, it is the responsibility of the certified WCO to obtain a form from the department and ensure the form is received by Washington department of fish and wildlife as conditioned on the form, prior to the reporting deadline.

(3) A WCO who fails to report his or her activity by April 20th will be in violation of reporting requirements.

(4) Knowingly providing false or misleading information on reports is considered a gross misdemeanor per RCW 77.15.270.

(5) Failure to report trapping activity as required under this section is an infraction, punishable under RCW 77.15.160.

NEW SECTION

WAC 232-36-090 Limitations to managing damage caused by big game on private property. Pursuant to this section the department shall establish guidelines for assisting landowners with minimizing big game damage to private property. Nothing in this section shall be construed to require the department to seek landowners that may be experiencing damage. It is incumbent upon the landowner to notify the department if they are experiencing damage.

(1) A landowner, lessee, or employee of and on behalf of the landowner may contact the department for assistance upon recognition of a damage or depredation event.

(2) Upon confirmation of damage or depredation, the department will offer assistance and work cooperatively with the landowner, lessee, or employee of the landowner on damage prevention measures.

(a) Damage prevention measures offered by the department shall be reasonable, fiscally responsible, and deemed effective in abating damage by the wildlife damage management profession. New techniques may be employed to determine feasibility.

(b) Practical long-term response for damage resolution shall be considered and written into agreements when feasible.

(3) The department will document when prevention measures are rejected by the landowner, lessee, or employee of the landowner.

(4) If the landowner, lessee, or employee of the landowner, rejects prevention measures offered by the department:

(a) The department is not required to take further action if at least three attempts to offer the prescribed prevention measures have been rejected.

(b) The landowner, lessee, or employee of the landowner may submit, within thirty days of offer of preventative measures, a written refusal statement documenting reasons supported by facts why they reject the prescribed measures and offer alternative solutions with justification. This written refusal statement must be submitted to the department and illustrate that the prevention measures prescribed by the department will not result in lessening the damage or depredation and/or would cause physical damage to persons or property.

(i) The department shall take no further action until a written refusal statement has been received by the department and approved by the director or director's designee for assistance to continue.

(ii) If the written refusal letter is approved by the director or director's designee, the department may continue working with the landowner to develop alternative measures.

(5) A landowner, lessee, or employee of the landowner, is ineligible for a compensation claim and the department shall take no further action unless agreed upon prevention measures have been employed.

(6) Nothing in this section prohibits a landowner, lessee, or employee of the landowner, from killing wildlife pursuant to WAC 232-36-051.

NEW SECTION

WAC 232-36-310 Damage prevention permit hunts—Deer, elk, and turkey. (1) A landowner may enter into a damage prevention cooperative agreement (contract) with WDFW. The landowner may receive a damage prevention permit, if deemed necessary by the department. Hunts conducted pursuant to a damage prevention permit must adhere to the special seasons provided in this section. Nothing in this section prevents a landowner from protecting their property.

(a) The landowner agrees not to file a damage claim unless damage exceeds the threshold established by the department and conditioned in the damage prevention cooperative agreement, except for Elk Areas 3721 and 3722. Landowners will work with the department to allow access to hunters during the general hunting seasons as determined by the department.

(b) A damage prevention cooperative agreement may include:

(i) An approved checklist of the reasonable preventative and non-lethal means that must be employed prior to lethal removal;

(ii) A description of the properties where lethal removal is allowed;

(iii) Other conditions developed within department procedural documents.

(c) A damage prevention permit issued to a landowner by the department and provided to the hunter by the landowner authorizes the hunter to use a deer or elk damage license or tag to hunt and take a legal animal as prescribed on the permit.

(d) A damage prevention permit may include:

(i) A description of the properties where lethal removal is allowed;

(ii) The species and sex of the animal that may be taken; the terms of the permit; the dates when lethal removal is authorized; and

(iii) Other conditions developed within department procedural documents.

(2) **General deer and elk removal criteria:**

(a) Only persons with a damage prevention permit may hunt and take one deer or one elk as designated on the permit.

(b) Hunters must have a valid big game license, damage deer/elk license or tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their deer or elk damage tag are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt; this does not preclude a landowner from utilizing a kill permit or their right to protect their property under WAC 232-36-051.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal (e.g., antlerless, deer, elk) as indicated on the permit. If a deer or elk is wounded inside the damage hunt area, it may be pursued outside permit boundaries with adjacent landowner permission.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(3) **Deer:**

(a) Tag Required: Deer hunters must have a current valid big game license, damage deer hunting license or tag and a damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon (or as specified on the damage prevention permit).

(c) Location: Statewide.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Antlerless Only.

(iii) Kill Quota: 300 per license year.

(d) Location: Region One.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Antlerless Only.

(iii) Kill Quota: 300 per license year.

(e) Location: GMUs 105-124.

(i) Season Framework: July 1 - March 31.

(ii) Legal Deer: Whitetail Antlerless Only.

(iii) Kill Quota: 300 per license year.

(4) **Elk:**

(a) Tag Required: Elk hunters must have a valid big game license, a damage elk hunting license or tag and damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon.

(c) Location: Eastern Washington - GMUs 100, 200, and 300 series.

(i) Season Framework: July 1 - March 31.

(ii) Legal Elk: Antlerless Only.

(iii) Kill Quota: 200 per license year.

(d) Location: Western Washington - GMUs 400, 500, and 600 series.

(i) Season Framework: July 1 - March 31.

(ii) Legal Elk: Antlerless Only.

(iii) Kill Quota: 100 per license year.

(e) Location: Hanford Area - GMUs 372 and 379.

(i) Legal Elk: Antlerless Only.

(ii) Season Framework: July 1 - March 31.

(iii) Kill Quota: 70 per license year.

(f) Location: Elk Area 3721.

(i) Legal Elk: Spike or antlerless July 1 - March 31; any bull May 15 - June 30.

(ii) Season Framework: May 15 - March 31; as described in (f)(i) of this subsection.

(iii) Kill Quota: 100 Spike or antlerless per license year; 60 bulls per license year.

(g) Location: GMUs 501-578.

(i) Legal Elk: Antlerless Only.

(ii) Kill Quota: 100 per license year.

(h) Access in Elk Area 3721 may not be sold as a condition of use of these permits. The director may consider damage claims from landowners in Elk Areas 3721 and 3722 who accept these permits and do not charge for access.

(5) **General turkey removal criteria:**

(a) Only persons with a damage prevention permit may hunt and take one turkey as designated on the permit.

(b) Hunters must have a valid small game license and an unfilled turkey tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their turkey tag under a damage permit are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal as indicated on the permit.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(6) **Turkey:**

(a) Tag Required: Turkey hunter must have an appropriate valid, unaltered, unnotched turkey tag or license on his/her person, along with the damage prevention permit.

(b) Hunting Method: Any legal turkey hunting method.

(c) Season Framework: October 1 - March 1.

(d) Location: Statewide.

(e) Legal Turkey: Either sex.

(f) Kill Quota: 300 per license year.

(7) It is unlawful to violate the provisions of this section. Violation of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750(1) depending on the violation. Hunters who violate this section will be punished under RCW 77.15.400, 77.15.410, 77.15.430 depending on the species hunted and circumstances of the violation.

NEW SECTION

WAC 232-36-320 Black bear timber damage depredation permits.

This section applies to any person participating in a director-authorized black bear timber depredation hunt pursuant to RCW 77.12.240 or 77.15.245.

(1) Definitions: As used in this section and in the context of bear depredation removals for damage to timberlands, the following definitions apply:

(a) "Damage to timberlands" means there is evidence that bears have damaged private commercial timber that is confirmed through criteria outlined by the department.

(b) "Removal" means the act of killing one or more bear.

(2) Black bear removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for black bear timber depredation action must have confirmed bear caused timber damage as defined in criteria developed by the department.

(c) The department will verify reported damage.

(d) The department will consider forest management objectives and shall ensure bear removals are consistent with population management objectives.

(3) Hunter selection:

(a) Landowners or the landowner's designee may only select hunters authorized by the department to participate in a black bear timber depredation removal effort on their property.

(b) The landowner or the landowner's designee and the hunters participating in the removal will be identified as permittees on permits issued for bear removal.

(4) Permit required for participation in bear removal:

(a) If approved for a bear removal action, the department will issue a permit for bear removal. The approved selected hunter(s) must be in possession of the bear timber depredation permit while conducting the removal.

(b) Only hunters whose names appear on the permit may participate in the black bear timber depredation removal.

(5) General requirements:

(a) Removals must be reported within twenty-four hours of take as prescribed in the black bear depredation permit.

(b) All harvested bears must be disposed of as conditioned on the permit.

(c) Within seven days after harvest, the permittee must submit all animals, parts of animals and all permit materials as prescribed in the black bear timber depredation permit. If a bear is not harvested under the bear depredation permit and the permit expires, the permittees must return all permit materials to the department within seven days of expiration. Failure to comply with this subsection may render the permittee(s) ineligible for the next year's black bear depredation permit as determined by the department.

(d) The black bear timber depredation permit belongs to the state of Washington. A violation of any condition of the permit may result in revocation of the permit and may render the permittee(s) ineligible for future black bear timber depredation permits as determined by the department.

(e) A violation of subsection (4) or (5) of this section is punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

NEW SECTION

WAC 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss. This section applies to any person participating in a director-authorized bear or cougar depredation permit hunt for domestic animal or livestock loss pursuant to RCW 77.12.240 or 77.15.245:

(1) Black bear and cougar removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for bear or cougar removal action must have confirmed bear or cougar caused property damage.

(c) The department will verify reported damage.

(d) The department shall ensure bear and cougar removals are consistent with population management objectives.

(2) Hunter selection:

(a) Landowner or landowner's designee may only select hunters authorized by the department to participate in a bear or cougar removal effort.

(b) The landowner or landowner's designee and the hunters participating in the removal will be identified as depredation permittees on depredation permits issued for bear or cougar removal.

(3) Permit required for participation in bear or cougar removal:

(a) If approved for bear or cougar removal action, the department will issue and condition the depredation permit and selected hunters participating in removals under this section must comply with provisions of the depredation permit.

(b) Selected hunter(s) must be in possession of the depredation permit while conducting the removal.

(c) Only hunters whose names appear on the depredation permit may take part in the hunt.

(4) General requirements:

(a) Removals must be reported within twenty-four hours of take. Biological samples required on the permit must be submitted and the carcass must be disposed of within forty-eight hours as conditioned in the depredation permit.

(b) All harvested animals must be disposed of as designated on the permit.

(c) Failure to comply with this section may render the permittee ineligible for future bear or cougar depredation permits as determined by the department.

(d) The depredation permit belongs to the state of Washington. A violation of any condition of the depredation permit may result in revocation of the depredation permit and may render the permittee(s) ineligible for future bear or cougar damage depredation permits; until all issues pertaining to the revocation are resolved at the department's discretion.

(e) A violation of subsection (3) of this section or this subsection (4) are punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

WAC 232-36-051 Killing wildlife causing private property damage.

The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered species or protected (~~(species)~~) wildlife, and/or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW 77.12.240 the killing of wildlife destroying or injuring property.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) It is unlawful to kill protected (~~(species (as defined in WAC 232-12-011))~~) wildlife or endangered species (as defined in (~~WAC 232-12-014~~)) RCW 77.08.010) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(a) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(b) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage to a commercial crop or to livestock.

It is permissible to kill unclassified wildlife, predatory birds, and game animals that are in the act of damaging commercial crops or attacking livestock or other domestic animals, under the following conditions:

(a) Predatory birds (defined in RCW 77.08.010(~~(+39)~~)) and unclassified wildlife that are in the act of damaging commercial crops or attacking livestock or other domestic animals may be killed with the express permission of the crop, livestock, domestic animals, or property owner at any time on private property, to protect domestic animals, livestock, or commercial crops.

(b) ~~If an owner (with a valid, written damage prevention agreement with the department may kill an individual (one) game animal while it is in the act of damaging commercial crops; a permit will be provided if authorized in the agreement.~~

(c) ~~An individual (one) game animal may be killed during the physical act of attacking livestock or domestic animals.~~

(d) ~~Multiple game animals may be killed while they are in the act of damaging commercial crops or attacking livestock if the owner is issued a kill permit by the department.~~

(e) ~~A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the~~

~~animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.))~~ has attempted nonlethal damage control techniques and acquires verbal or written approval from the department, they may kill an individual (one) deer or elk during the physical act of damaging commercial crops within a twelve-month period. The owner must notify the department within twenty-four hours of kill. The department will document animals harvested under this subsection and will ensure harvest is consistent with herd management objectives developed cooperatively with comanagers where available.

(c) Multiple deer or elk may be killed if they are in the act of damaging commercial crops if the owner, owner's immediate family member, agent of the owner, or owner's documented employee is issued damage prevention or kill permits and the owner has a valid, written damage prevention cooperative agreement with the department.

(d) An owner may kill an individual (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit within a twelve-month period. The owner must notify the department within twenty-four hours of kill.

(3) Killing wildlife causing damage or killing wildlife to prevent private property damage.

~~(a) ((An individual (one) game animal may be killed during the physical act of attacking domestic animals.~~

~~(b))~~ Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed by the owner of private property, owner's immediate family, agent of the owner, or the owner's documented employee with the express permission of the private real property owner at any time, to prevent private property damage on private real property.

~~((e))~~ (b) Subject to subsection (7) of this section, the following list of wildlife species may be killed by the owner of the property, owner's immediate family member, agent of the owner, owner's documented employee, or licensed hunters/trappers in a lawful manner with the express permission of the private real property owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

~~((d))~~ (c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may ((include special hunting season)) authorize permits ((such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.

~~(e))~~ to remove animal(s) to abate private property damage.

(d) Landowners are encouraged to allow general season ((hunters during established hunting seasons)) hunting and trapping on their property to help minimize damage potential and concerns.

(4) Wildlife control operators may assist property owners under the conditions of their certification or permits ~~((, as established in WAC 232-36-060 and 232-36-065))~~ to remove animals causing damage.

(5) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements, possession, and harvest restrictions.

(6) Hunting licenses and/or associated tags are not required to kill wildlife under this section ~~((,))~~ unless the killing is pursuant

to subsections ~~((3)(e) and (d))~~ (2)(c) and (3)(b) of this section. Hunters and trappers participating in harvesting wildlife under this section must comply with provisions of each permit. Tribal members operating under subsection (5) of this section are required to meet tribal hunting license, tag, and permit requirements.

(7) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state ~~((including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC)).~~

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage. The fish and wildlife commission is authorized pursuant to RCW 77.36.030, to establish the limitations and conditions on disposal of wildlife killed or trapped because they were threatening human safety or causing property damage.

Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this title are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC. Wildlife taken under this chapter remains the property of the state and may be disposed of in the manner and under the conditions that follow:

(1) ~~((Wildlife taken under WAC 232-36-050 (1)(b) and 232-36-051 (1)(b), and 232-36-051 (1)(a)(iii) must be reported to the department within twenty four hours, and the animal and all parts must be provided to the department or its designees.~~

~~(2) Wildlife taken under WAC 232-36-051 (1)(a)(i) and (ii) becomes the property of the private landowner and may be lawfully disposed consistent with state laws and rules including, but not limited to, Titles 77 RCW and 232 WAC.~~

~~(3) Wildlife taken under WAC 232-36-051 (1)(a)(iv) must be disposed of consistent with the conditions identified under the permit.~~

~~(4) Wildlife taken under WAC 232-36-051(2) may be lawfully possessed by the owner, licensee, and/or permit holder. Possession of legally taken wildlife by tribal members is subject to the laws of their tribe and must be consistent with their agreement with the state.))~~
Wildlife killed subsequent to a permit provided by the department shall be possessed or disposed of in accordance with permit provisions and consistent with RCW 77.15.170.

(2) Except as otherwise provided, all parts of wildlife killed in protection of private property without a permit authorized by the department must be lawfully disposed of as specified by the department or as otherwise provided in statute, rule, or local ordinance.

(3) Except as otherwise provided, big game animals or parts of big game animals killed in protection of private property without a permit must be reported to the department within twenty-four hours.

(4) Disposal methods: Unless otherwise specified in permits issued by the department:

(a) The person killing wildlife, or their designee, is responsible for disposal of killed wildlife and must dispose of the animal, within twenty-four hours or as soon as feasible, in a manner so as not

to become a public or common nuisance or cause pollution of surface or groundwater.

(b) The person responsible for disposal of dead wildlife must dispose of it by burial, landfilling, incineration, composting, rendering, or another method approved (such as natural decomposition) that is not otherwise prohibited by federal, state, or local law or regulation.

(c) A person disposing of dead wildlife by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding; and not in a manner likely to contaminate groundwater.

(d) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-060 ~~((Director or his/her designee is empowered to grant wildlife control operator certifications.))~~ Certification of wildlife control operators. For purposes of training individuals to assist landowners with employing nonlethal management techniques, or to harass, kill, trap, release, ~~((and dispatch animals))~~ wildlife that ~~((are))~~ is causing damage to private property, the director or his/her designee may ~~((issue))~~ certify wildlife control operators (WCOs) ~~((certifications)).~~

(1) To ~~((qualify))~~ be eligible to apply for WCO certification, applicants must:

(a) Be at least eighteen years of age;

(b) Must pass the Washington state trapper education exam and possess a minimum of two years experience that demonstrates the knowledge and ability to control wildlife species causing conflict or property damage. Methods of documenting experience include, but are not limited to, possessing a trapper's license for two years, providing a letter of recommendation from a currently certified WCO or trapper, providing evidence being employed in the wildlife abatement field for two years, providing a written statement verifying they are currently working with a certified WCO, or other method as identified by the department;

(c) Take and ~~((complete))~~ pass the department's approved WCO basic certification~~((s))~~ course(s);

~~((c) Be certified by the department and have the equipment, knowledge, and ability to control the wildlife species causing conflict or property damage;))~~

(d) Be legally eligible to possess a firearm and without a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW, unless firearm possession rights have been restored;

(e) Not have ~~((a gross misdemeanor fish and wildlife conviction))~~ within the last ~~((five))~~ three years~~((; and))~~;

(i) More than one finding of paid or committed as a final disposition for an infraction under chapter 77.15 RCW; or

(ii) A conviction for a fish and wildlife crime under chapter 77.15 RCW.

(f) Pay the enrollment fee for each certification training/education (RCW 77.12.184). ((After July 1, 2010,)) This fee shall be fifty dollars ((RCW 77.12.184)) per certification.

(2) ((Once a person is granted)) The department may grant a WCO certification if the applicant meets the criteria for eligibility in subsection (1) of this section and passes the basic certification courses.

(3) If the department grants WCO certification, ((he or she)) the WCO must apply for a permit ((pursuant to WAC 232-36-065 in order to harass, kill, trap, release, or dispatch animals causing damage to private property)) to lawfully engage in killing, trapping, or dispatching wildlife using a body gripping trap.

(4) WCO certification is valid for three years.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-065 ~~((Director or his/her designee is empowered to issue))~~ Use of wildlife control operators ((permits)) to address wildlife interactions. The director or director's designee may issue permits to persons that fulfill the requirements to become a certified wildlife control operator (WCO) for purposes of assisting property owners in managing animals causing damage to private property((, the director or his/her designee may issue permits to wildlife control operators (WCOs). Only WCOs who are certified by the department)). Only persons meeting the WCO certification requirements qualify for such a permit.

(1) ((If the certification for a WCO included training for the use of live traps, the WCO may use live traps)) Certified WCOs may use nonbody-gripping traps or body-gripping traps with a special trapping permit, outside of designated harvest season to capture ((any animal)) wildlife causing damage or creating an animal problem, as ((that term is)) defined in RCW 77.15.192.

(2) ((Depending on a WCO's certification training, he or she may use body gripping traps, but only if he or she complies with RCW 77.15.194.

(3)) WCOs with a valid trapping license may retain raw fur of wildlife taken using a special trapping permit, for personal use or educational purposes that does not result in retail sale or commerce. The carcass must be disposed of in a lawful manner according to WAC 232-36-055.

(3) WCOs who trap wildlife under the authority of a department permit may not release wildlife outside of the property boundary where they were captured without a permit from the department, except for beaver released according to RCW 77.32.585, or dispose of such wildlife without the consent of the property owner where ((the)) wildlife is to be ((released or)) disposed.

(4) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee without a WCO certification.

(5) WCOs must submit a complete annual report of all control activity ((on the form supplied)) as directed by the department. ((The report must be received or postmarked on or before the twentieth day

~~of April each year.)) Failure to submit a report may result in ((the department revoking)) revocation of the WCO's certification ((and)) or permits and ((suspending the person's right to)) denial of future certifications ((and)) or permits.~~

~~((5))~~ (6) The department may develop additional conditions and procedures to include training requirements for WCOs consistent with this rule.

(7) WCO certification and associated permits will be revoked and future certification and permits may be denied by the director or ((issuing authority when, in the judgment of)) director's designee if the department determines:

(a) Information contained in a WCO's application was inaccurate or false;

(b) The WCO fails to comply with department statutes or rules;
~~((or))~~

(c) The WCO violates a trapping or other fish and wildlife law(((
~~(6) A WCO who provides false or misleading information in his or her WCO certification application may be punished under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and permit may be punished under RCW 77.15.750. A WCO who violates trapping or other wildlife laws may be punished under the appropriate statute in Title 77 RCW for that crime.~~

~~(7))~~; or

(d) The WCO is no longer eligible to possess a firearm, has been convicted of a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW.

(8) Revocation of certifications and permits shall remain in effect until all issues pertaining to revocation are resolved.

(9) If the initial application ((for WCO certification is denied or revoked,)) or the application to renew a WCO's certification is denied or revoked, the department ((shall)) will provide the applicant, in writing, a notice containing a statement of the ((specific)) reason(s) for the denial or revocation.

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

~~((8))~~ (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.

(10) WCO certification ((and permits are)) is valid for three years.

~~((9) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee or other consideration without a WCO certification and permit.~~

~~(10) The department may develop additional conditions and procedures, to include training requirements, for WCOs consistent with this rule.))~~ (11) A WCO who provides false or misleading information in his or her WCO certification application may be subject to prosecution un-

der RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and associated permit may be subject to prosecution under RCW 77.15.750. A WCO who violates trapping or other fish and wildlife laws may be subject to prosecution under the appropriate statute in Title 77 RCW for that crime or infraction.

AMENDATORY SECTION (Amending WSR 13-05-003, filed 2/6/13, effective 3/9/13)

WAC 232-36-100 Payment for commercial crop damage—Limitations.

Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and ~~((shall))~~ will only be paid ~~((only))~~ to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage ~~((shall))~~ does not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

(1) The claim is for a noncommercial crop;
(2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(3) The loss estimate is less than one thousand dollars;

(4) ~~((No claim will be processed unless))~~ The owner does not have a valid damage prevention cooperative agreement signed by the owner and the department, or a waiver signed by the director, or does not provide~~((s the department with an))~~ a department approved checklist of the preventative and nonlethal means that have been employed~~((, and))~~ to prevent damage;

(5) The owner has not complied with the terms and conditions of his or her agreement(s) with the department;

~~((+5))~~ (6) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash consistent with conditions of the damage prevention cooperative agreement with the department. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop or for the time period specified by the department in writing to the owner;

~~((+6))~~ (7) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;

~~((+7))~~ (8) The owner or lessee has denied prevention measures offered by the department. The prevention measures offered shall be applicable, legal, practical, and industry recognized;

(9) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others that exceeds one thousand dollars is eligible for compensation from the department;

~~((+8))~~ (10) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;

~~((+9))~~ (11) The crop is grown or stored on public property;

~~((+10))~~ (12) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;

~~((+11))~~ (13) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;

~~((+12))~~ (14) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

~~((+13))~~ (15) The owner or designee ~~((has))~~ harvested commercial crops ~~((without an investigation completed under the direction of the department; or~~

~~+14))~~ prior to providing a seventy-two hour notice to the department;

(16) The department ~~((has expended all funds appropriated for payment of such claims for the current fiscal year)) will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.~~

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure. Pursuant to this section, the department may distribute ~~((money))~~ funds appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partnerships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

(1) ~~((Owners))~~ Claimants who have ~~((worked))~~ cooperated with the department and have a valid damage prevention cooperative agreement or a department approved checklist to prevent deer or elk damage, or a waiver from the director, yet ~~((who))~~ still experience loss and meet eligibility requirements, may file a claim for cash compensation.

(2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.

(3) A complete~~((r))~~ written claim and completed crop assessment must be submitted to the department within sixty days of ~~((when the damage stops))~~ harvest.

(4) ~~((Owners))~~ Claimants may only file one claim per year. Multiple partners in a farming operation are considered one ~~((owner))~~ claimant. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.

(5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.

(6) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) A copy of ~~((applicant's))~~ claimant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service or other documentation indicating the ~~((applicant's))~~ claimant's gross sales or harvested value of commercial crops for the previous tax year.

(b) The assessment method used is consistent with WAC 232-36-120, valuation of property damage.

(c) ~~((Applicant must provide))~~ Proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.

(d) Written documentation of approved methodology used to assess and determine final crop loss and value.

(e) ~~((Applicant must provide))~~ Records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.

(f) A declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is true and accurate to the best knowledge of the claimant ~~((true and accurate))~~.

(g) A copy of the insurance policy and payment on the commercial crop where loss is claimed.

(h) ~~((Copy))~~ Copies of any applications for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

(7) Completion of a damage claim assessment ~~((of))~~ for the amount and value of commercial crop loss is the ~~((primary))~~ responsibility of the claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjustor in cooperation with the claimant:

(a) The (~~owner~~) claimant must submit a damage claim assessment prepared by a crop insurance adjustor licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors (~~and written authorization to proceed with an assessment. The owner must~~). The claimant may select an adjustor from the approved list and work with the department and the adjustor to arrange for the completion of a crop damage assessment(~~Adjustor fees will be the responsibility of the department.~~) or select a state licensed adjustor of their own choosing.

(i) If the claimant selects an adjustor from the approved list, the department will provide the adjustor written authorization to proceed with an assessment and adjustor fees will be the shared responsibility of the owner and the department. The claimant portion of the assessment fees may not exceed one half or a maximum of six hundred dollars, whichever is smaller, and will be deducted from the final payment.

(ii) If the claimant selects a state licensed adjustor of their own choosing then the claimant accepts full responsibility for the assessment fees.

(c) The department or the (~~owner~~) claimant may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjustor of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjustor to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding pursuant to chapter 34.05 RCW.

Settlement of claims:

(9) (~~The crop adjustor's fee is not subject to the ten thousand dollar payment limit per owner.~~

~~(10))~~ Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

~~((11))~~ (10) The (~~owner~~) claimant will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered (~~satisfied~~) accepted and not subject to appeal.

~~((12))~~ (11) The department (~~shall~~) will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim (~~shall~~) will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

WAC 232-36-210 Application for cash compensation for livestock damage or ~~((other)) domestic animal—Procedure.~~ Pursuant to this section, the department may distribute money specifically appropriated by the legislature or other funding entity to pay livestock or guard dog losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130(2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of livestock or guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

~~(1) ((Owners who have worked with the department to prevent livestock depredation, yet who still experience loss or losses that occur under emergent situations, may file a claim for cash compensation if they meet eligibility requirements.~~

~~(2))~~ Claimant must notify the department within twenty-four hours of discovery of livestock or other domestic animal attack or as soon as feasible.

~~((3))~~ (2) Damage claim assessment of amount and value of domestic animal loss is the primary responsibility of the claimant.

~~((4))~~ (3) Investigation of the loss and review and approval of the assessment will be conducted by the department:

(a) The ~~((owner))~~ claimant must provide access to department staff or designees to investigate the cause of death or injury to domestic animals and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

~~((5) Claimant must request a damage claim application within ten days of a loss.~~

~~(6))~~ (4) To be eligible a claimant must submit a written statement, within thirty days of discovery of a loss to indicate his or her intent to file a claim.

(5) A complete, written claim must be submitted to the department within ~~((sixty))~~ ninety days of a discovery of an attack on domestic animals or livestock to be eligible for compensation.

~~((7) The))~~ (6) A claim form declaration must be signed, affirming that the information provided is factual and truthful, per the certification set out in RCW 9A.72.085 before the department will process ~~((a))~~ the claim.

~~((8))~~ (7) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) ~~((Claimant must provide))~~ Proof of legal ownership or contractual lease of claimed livestock.

(b) ~~((Claimant must provide))~~ Records documenting the value of the domestic animal based on ~~((current))~~ either market price or value at the time of loss depending upon the determination for cause of loss.

(c) Declaration signed under penalty of perjury indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this chapter, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) A copy of any insurance policy covering loss claimed.

(e) ~~((Copy))~~ Copies of applications for other sources of loss compensation and any payment or denial documentation.

(f) The department approved checklist of preventative measures that have been deployed, or documented compliance with the terms and conditions of the claimant's agreement with the department, or the director approved waiver.

Settlement of claims:

~~((9))~~ (8) Subject to ~~((money))~~ funds appropriated to pay for domestic animal losses, undisputed claims will be paid up to ten thousand dollars.

~~((10))~~ (9) Valuation of the lost livestock;

(a) For losses caused by wolves, livestock value will be determined by the market at the time the animals would normally be sold. Livestock will be valued based on the average weight of herd mates at the time of sale multiplied by the cash market price received~~((+))~~ and depredated cows or ewes will be replaced based on the value of a bred animal of the same age and type as the one lost~~((, and))~~. Bulls will be replaced using actual purchase price prorated based on a four-year depreciation cycle minus salvage value.

(b) For losses caused by bear or cougar, livestock value will be determined by the market values at the time the animals are lost.

(c) The department may utilize the services of a certified livestock appraiser to assist in the evaluation of livestock claims.

~~((11))~~ (10) Claims for higher than normal livestock losses, reduced weight gains, or reduced pregnancy rates due to harassment of livestock caused by wolves must include:

(a) At least three years of records prior to the year of the claim. Claims will be assessed for losses in excess of the previous three-year running average;

(b) The losses must occur on large ~~((open))~~ pastures or range land used for grazing, lambing, or calving where regular monitoring of livestock is impractical (and therefore discovery of carcasses infeasible) as determined by the department;

(c) Verification by the department that wolves are occupying the area;

(d) The losses cannot be reasonably explained by other causes;

~~((Claims will be assessed for losses in excess of the previous three year running average; and~~

~~(f) Owners must be in compliance with the department's preventative measures checklist and/or damage prevention agreement.~~

~~((12))~~ Compliance with the department's preventative measures checklist, or damage prevention cooperative agreement, or a waiver signed by the director.

(11) Compensation paid by the department~~((, in addition to any other compensation,))~~ combined with any other compensation may not exceed the total value of the assessed loss.

~~((13))~~ (12) Upon completion of ~~((the))~~ an evaluation, the department will notify the ~~((owner))~~ claimant of its decision to either deny the claim or make a settlement offer (order). The ~~((owner))~~ claimant has sixty days from the date received to accept the department's offer for settlement of the claim ~~((or to submit an appeal of~~

~~the order~~). If the claimant wishes to appeal the offer, they must request an informal resolution or adjudicative proceeding as described in WAC 232-36-400. The acceptance must be in writing and the signed originals must be mailed in to the department. The ~~(response)~~ appeal must be in writing and ~~(the signed document)~~ may be mailed or submitted by ~~(fax or)~~ e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

~~((14))~~ (13) If the claimant accepts the department's offer, the department will send payment to the ~~(owner)~~ claimant within thirty days from receipt of the written acceptance document.

~~((15))~~ (14) The department will prioritize payment for livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the current fiscal year, the claim shall be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-300 Public hunting requirements. "Public hunting" generally means that land is open for licensed hunters. The intent of ~~((the))~~ this provision ~~((in this chapter))~~ is to allow hunting at an appropriate time, manner, and level to help prevent property damage.

As specified in WAC 232-36-100, cash compensation for crop damage claims will only be paid when the property where the crop damage occurred is open to public hunting; unless the department determines that hunting is not practical. Public hunting is defined as:

(1) The landowner opens the property on which the damage or loss is claimed for general access to all licensed hunters during the season for the species causing damage, other species may be included to provide additional hazing, prior to the occurrence of damage; or

(2) The landowner has entered into and complied with any agreement with the department covering the land(s) on which the damage is claimed. ~~((Access))~~ Agreements shall require that:

(a) The land is open to general access to licensed hunters; or

(b) The landowner allows the department to select a limited number of hunters who are authorized to access the land to minimize or prevent damage; or

(c) The landowner and the department determine ~~((how hunters will be selected and authorized))~~ the number of hunters, timing, weapon options and the required permission for access to hunt on the landowner's property ~~((in order))~~ to effectively ~~((prevent))~~ minimize damage.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-510 Failure to ((abide-by)) comply with the conditions of permits, provide completed forms, or submit required documents or reports for the purposes of this chapter. (1) Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750.

(2) Failure to provide reports or ((abide-by)) comply with the conditions of landowner agreements is an infraction pursuant to RCW 77.15.160.

(3) Failure to ((abide-by)) comply with the conditions of wild-life ((conflict)) control operator certification or permits is a misdemeanor pursuant to RCW 77.15.750.

(4) A person who provides false or misleading information required by this chapter may be in violation ((of)) subject to prosecution under RCW 9A.76.175 or 40.16.030.

WAC 232-12-142 Special trapping permit~~((Use of body-gripping traps))~~. (1) As used in this section, unless the context clearly requires otherwise, the following definitions apply:

~~(a) ("Animal" means any nonhuman vertebrate.~~

~~(b) "Animal problem" means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal.~~

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

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

~~((e) "In water" means beneath the water surface so that the trap is completely submerged.~~

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

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

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

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

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

~~((j) "Raw fur" means a pelt that has not been processed for purposes of retail sale.)~~

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

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

(4) ~~((It is unlawful for any))~~ Persons issued a special trapping permit ~~((to fail to complete and submit to the department))~~ must submit a report of ~~((animals))~~ wildlife taken ~~((under the permit. This report is due))~~ to the department within ten days ~~((of))~~ after the permit expiration date ~~((of))~~ as defined on the permit.

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

(6) A person seeking a special trapping permit shall complete and submit ((a complete)) a department-provided application ((to the department). The applicant shall provide the following information:

(a) Applicant's name, address, and telephone number.

(b) Location(s) of animal problem (physical address or legal description including township, range, and section number).

(c) Description of the animal problem:

(i) Duration of the animal problem.

(ii) Description of the damage or potential damage being caused (i.e., crop, timber, property, livestock, or pet animals, etc.).

(iii) Any threat or potential threat to the health and/or safety of people.

(d) Species of animal causing the problem and, if known, the number of animals involved.

(e) Description of the measures taken to prevent or alleviate the problem or damage.

(f) Explanation of why the measures taken were ineffective to abate the problem or why such measures could not reasonably or effectively be used to abate the animal problem.

(g) Whether Conibear type traps in water, padded foot hold traps or nonstrangling type foot snares will be used.

(h) Species and number of animals to be removed)).

(7) ((For)) To conduct wildlife research, the applicant shall ((provide the following information:

(a) Applicant's name, address, and telephone number.

(b) Location(s) where wildlife trapping will occur (physical address or legal description including township, range, and section number).

(c) Whether padded foot hold traps or nonstrangling type foot snares will be used.

(d) Species and number of animals to be captured.

(e) Research objective or proposal.

(f) A copy of a valid department scientific collection permit.

(8) A completed report of animals taken pursuant to a special trapping permit shall include the following information:

(a) Permittee's name, address, and telephone number.

(b) The number of the permit for which the report is being submitted.

(c) The common name of the animal(s) taken, the number of animals taken, and the disposition.

(d) For any nontargeted animals taken, the common name of the animal, the number of animals, and the disposition.

(9) Successive permits for the same animal problem)) submit a scientific collection permit application as provided by the department.

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

((10)) (9) The conditions of a special trapping permit shall ((include:

(a) The term of the permit is thirty days.

(b) Any body gripping trap authorized under a permit shall be checked at least every twenty four hours.

(c) Each body gripping trap authorized under a permit shall have attached to its chain or to the trap a legible metal tag with either

~~the department identification number of the trapper or the name and address of the trapper in English letters not less than one eighth inch in height.~~

~~(d) Nontargeted species shall be released unharmed if possible.~~

~~(e) Any mammal trapped pursuant to a permit must be lethally dispatched or released as soon as possible, unless taken for scientific research, in which case the animal may be retained alive if so provided in the permit.~~

~~(f) The carcass of any mammal)) be determined by the department and be annotated on the permit.~~

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

~~((g))~~ (11) Any retention of raw fur obtained through the use of a special trapping permit requires a valid Washington state trapper's license unless the carcass is accompanied by a transfer authorization, as described in WAC 232-12-077, from a licensed trapper.

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

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

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

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

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

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

(e) The application is ~~((not complete))~~ incomplete.

~~((i))~~ (14) A special trapping permit may be revoked ((when, in the judgment of)) if the department determines:

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

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

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

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

(15) If the department denies or revokes a special trapping permit ((is denied or revoked,)) the department ((shall)) will provide the applicant((, in writing,)) a written notice including a statement of the specific reason(s) for the denial or revocation.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-266 Damage prevention permit hunts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-025 Depredation hunts.