

Concise Explanatory Statement

Rules amended as part of this rulemaking:

WAC 220-450-060 Definitions - Wildlife rehabilitation permits.

WAC 220-450-070 Wildlife rehabilitation permits – Requirements and restrictions.

WAC 220-450-080 Wildlife rehabilitation – Responsibilities of primary permittees and subpermittees.

WAC 220-450-090 Wildlife rehabilitation – Permit revocation, modification, or suspension.

WAC 220-450-100 Wildlife rehabilitation – Facility requirements and inspections – on- and off-site care.

WAC 220-450-110 Wildlife rehabilitation – Releasing wildlife.

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

WAC 220-450-130 Wildlife rehabilitation – Records retention and reporting requirements.

WAC 220-450-140 Wildlife rehabilitation – Falconers assisting with raptor rehabilitation.

WAC 220-450-150 Wildlife rehabilitation – Transfer, import, and export of wildlife and restrictions.

WAC 220-450-160 Wildlife rehabilitation – Possession of dead wildlife and wildlife parts.

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and mal-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

WAC 220-450-180 Wildlife rehabilitation – Euthanizing wildlife.

WAC 220-450-190 Wildlife rehabilitation – Disposing of wildlife remains.

WAC 220-450-200 Wildlife rehabilitation – Commercial uses.

The following rules are repealed:

WAC 220-450-210 Oiled bird rehabilitation – Facility requirements.

WAC 220-450-220 Reporting receipt, death, carcass, retention, and release of oiled birds.

Background/Summary of Project:

The department has long supported wildlife rehabilitation in Washington State. Approximately 18,000 sick, injured, and orphaned wild animals were brought by the public to permitted facilities in 2017 alone, demonstrating the public's interest in caring for and rehabilitating wild animals. Adoption of these rules will assist with permit compliance best animal husbandry and welfare at the facilities, supporting the most humane care for release to the wild of both physically and psychologically healthy wildlife, and providing wildlife relief from suffering. We believe this is the caliber of service the public wants and deserves for the wildlife they bring into care at our permitted facilities. Other important goals of this revision are the protection of wildlife populations from disease introduction and transmission, and competition with released wildlife; safety of the individual animals being released; and protection of the public from ineffectively rehabilitated wild animals.

In 2012, the department recognized the need for more specificity in the wildlife rehabilitation rules, and expanded the wildlife rehabilitation WACs from one to fifteen. Since the adoption of those rules in 2013, the department has continued working and

communicating with wildlife rehabilitators, keeping records of the topic areas which lacked clarity and direction. We identified areas where rehabilitators had the most difficulty in meeting department expectations, public's expectations, and following permit rules and conditions. The current changes will make the rules more navigable and easier to understand, increase clarity, reduce confusion, and increase rehabilitators' ability to provide best animal welfare and service to the public.

This project is the result of several years of communication with wildlife rehabilitators, and is the product of a partnership that includes significant feedback and input from that community. Department discussion to amend the wildlife rehabilitation WACs began in the summer of 2017. By February 2018 recruitment began for the Wildlife Rehabilitation Advisory Committee (WRAC), a 12-member team selected by the Director and consisting primarily of wildlife rehabilitators and public representatives. The WRAC met seven times over six months. Wildlife rehabilitators on the WRAC worked hard, were very supportive of the department and eager to participate so extensively in the amendment process. Despite some of the major differences in facility operations, participants all agreed on the need for rules and permit conditions in order to provide for the best animal welfare and public service, as well as respecting the department's need for compliance. Our partnership with these professionals has been highly rewarding.

The department received and reviewed public comments on the revisions during the 30-day comment period between December 2018 and January 2019. All members of the WRAC were given the opportunity to review and comment on the amendments, and eight members submitted reviews with suggestions and remarks. Their review recommendations were included in the Recommended Adjustments for the January 11, 2019 public hearing.

The proposed rule revisions were also sent to all permitted wildlife rehabilitators and facilities for review before the January 11 meeting. Six facilities submitted comments, and many were incorporated into rules presented at the January 11, 2019 public hearing.

Three public comments were received during the official comment period. One was a response to the online survey, agreeing with the majority of the revisions but did not provide rationale for the two items opposed. Two commentaries were submitted by wildlife rehabilitation sub-permittees of permitted wildlife rehabilitators. Both were complimentary and supported the revisions. One reviewer asked for adjustments in the off-site sub-permittee language, and changes were made for the January 11, 2019 public hearing.

A public hearing on all proposed rules was held on January 11, 2019, where the department and the Fish and Wildlife Commission received public testimony from four individuals. Two were WRAC representatives and two were affiliated with one of those representatives. The final proposed rules included adjustments made based on comments received during the hearing.

Follow-up:

All permitted wildlife rehabilitators and sub-permittees will be forwarded the new WACs. The WACs will be accompanied by a document summarizing the amended WACs and highlighting the rules that have changed significantly, particularly those affecting their daily operations. Wildlife rehabilitators will be given a grace period to “catch up” with the rules and come into compliance. They will be notified of this grace period in two places:

- Initial summary of the WACs
- Permit renewal letters

The Wildlife Rehabilitation Manager will continue communicating closely with wildlife rehabilitators to guide them through compliance with the new rules, and welcome feedback as to how the rules are working. The Wildlife Rehabilitation Manager will also collaborate with wildlife rehabilitators in forming and instituting some requirements in the new rules.

WAC 220-450-060 Definitions - Wildlife rehabilitation permits.**Reasons for adopting these rules:**

The purpose of the proposal is to eliminate unnecessary definitions, add definitions of terms inserted within the new amendments, and improve and refine definitions that were causing confused interpretation of the rules. Refining this rule will aid wildlife rehabilitators in understanding the rules, and therefore, assist them in compliance, and will aid the department in evaluating compliance of rehabilitators.

This revision is consistent with providing easy-to-understand rules by which wildlife in captivity may experience best practices for housing and welfare, and compliance is made less complicated for the permitted wildlife rehabilitator.

Differences between the proposed rule and the rule as adopted:

None.

Comments received during the official public comment period and as testimony received at the public hearing:**Supporting Comments:**

Eight (8) supporting comments.

Other Comments: One (1) added the word “wild;” two (2) suggested “hacking” definition clarification.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments.

Other Comments: One suggested defining “Veterinary summaries.” Three (3) suggested refining definitions.

Direction and Rationale:

Change: In section (4) added the words “wildlife” and “static” to the sentence.

Rationale: “Wildlife” was suggested by a reviewer to reinforce the nature of the animal, such as opposed to captive-bred. “Static” was added to conform to the term “static

display” in the associated WAC, and make the distinction that these animals are not used in programs.

Change: In section (7) we refined the sentence structure.

Rationale: The sentence did not thoroughly define the term “hacking”, omitting any suggestion of the provision of food. The placement of the word “temporary” was especially problematic implying that the birds may eventually be permanently possessed.

Change: In section (10) added a description to clarify imprinting.

Rationale: Imprinting is a difficult word to define in the context of wildlife rehabilitation and subject to dispute, therefore any additional detail to the definition is essential.

Change: In section (23) added defining language.

Rationale: There are two categories of subpermittees needing description in order to correspond to the associated WACs.

Change: In section (23) removed unnecessary language.

Rationale: “At the facility” was made redundant with language in the new definition.

Change: In section (24) added language.

Rationale: It is necessary to make clear that wildlife is the subject of taming.

Change: In section (25) added a description to define veterinary summaries.

Rationale: The term is in corresponding WACs but was not defined, therefore, wildlife rehabilitators could not know exactly what they needed to submit for compliance.

Supplemental Recommended Adjustments:

Change: In Section (5) Euthanasia added the word “and.”

Rationale: The addition makes the sentence flow better.

Change: Deleted under (5) Euthanasia, “or inability to be rehabilitated to release.”

Rationale: Advised by public comment that this phrase prevented the option of placing some animals in education display or programs, if all of the animals that could not be released had to be euthanized. The intent of (5) Euthanasia is to prevent animals from languishing in pain and suffering, and provide for protection of wild populations, and the public.

Change: Added “foster” means to serve as a conspecific surrogate parent or conspecific companion to wildlife in rehabilitation.

Rationale: Public comment indicated that “foster” was not clearly understood and needed to be defined.

Change: In “education animal” and (12) change “wild animal” to “wildlife.”

Rationale: In RCW 77.08.010 “Wild animals” means those species of the class Mammalia...” whereas “wildlife” means all species of the animal kingdom whose members exist in Washington in a wild state. This definition is the correct definition because animals referred to in these rules can be all wildlife not just mammals.

Change: In (17) add the word “wildlife” to “animal.”

Rationale: In RCW 77.08.010 “wild animals” means those species of the class Mammalia...” whereas “wildlife” means all species of the animal kingdom whose members exist in Washington in a wild state. This definition is the correct definition because animal can be all wildlife not just mammals.

Change: In (24) add the words “such as wildlife.”

WAC 220-450-070 Wildlife rehabilitation permits – Requirements and restrictions.

Reasons for adopting these rules:

These amendments make the rule consistent with the department's responsibility to safeguard wildlife in captivity, and strengthen staff's ability to evaluate and certify qualifications of those applying for a wildlife rehabilitation permit. Since the expanded wildlife rehabilitation rules were adopted in 2013, we have recorded where additional qualifications, guidelines, and regulations were necessary for wildlife rehabilitators to provide proper care for wildlife, and meet the department requirements. These revisions better ensure that humane care and treatment is provided for wildlife in rehabilitation which is expected by the department and the public.

Differences between the proposed rule and the rule as adopted:

Change: Capitalized minimum standards for wildlife rehabilitation.

Rationale: Minimum Standards for Wildlife Rehabilitation is the name of a book.

Change: In subsection (ii) added clarification language to the sentence.

Rationale: The addition makes it clear that 48 hours applies only to veterinarians who do not have a wildlife rehabilitation permit and not those with permits who may keep wildlife longer.

Change: In subsection (iii) added a sentence.

Rationale: The Wildlife Rehabilitation Advisory Committee felt that training could not be spread out over a long period of time and be effective. This was unintentionally omitted in the previous version.

Change: In subsection (iv) added clarification language to the sentence.

Rationale: Wildlife Rehabilitation Advisory Committee reviewers requested clarification of "good standing" to provide for consistency, and accept letters from only qualified permittees.

Change: In section (b) added clarification to veterinarian exemptions.

Rationale: Veterinarians felt the requirements would prohibit most veterinarians from becoming wildlife rehabilitators because of time constraints on their practice, and that their medical education augmented by wildlife courses substituted for some of the experience needed.

Change: In section (f)(iii) language was added to define facility "changes."

Rationale: These details were added to answer questions presented by wildlife rehabilitators about how they would know when to notify the department about changes and remain in compliance.

Change: In (4) large-carnivore rehabilitation endorsement, (i) the sentence was modified to allow for additional Large Carnivore Endorsement candidates.

Rationale: Public comment asserted that large carnivore wildlife biologists are qualified and capable of handling and restraining large carnivores, therefore may be credited partial experience.

Change: In (4) large-carnivore rehabilitation endorsement, (iii) added wording to define in "good standing."

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in (2)(iv), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In (5) raptor rehabilitation endorsement, (d) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in (2)(iv) and large carnivore endorsement in (4)(iii), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In (6) raptors-only rehabilitation permits, (c) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in (2)(iv) and large carnivore endorsement in (4)(iii), and assure that the letter was coming from a qualified wildlife rehabilitator.

Change: In (7) Oiled-wildlife rehabilitation endorsement, (b) the word "alcid" was replaced with wildlife.

Rationale: Word change to correct an error and include all wildlife.

Supplemental Recommended Adjustments:

Change: In (2)(a)(iv) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: (3)(a) Changed "rehabilitative" to "and rehabilitate."

Rationale: Incorrect word.

Change: (4)(a)(i) Added "at the discretion of the department and on a case by case basis, wildlife biologists professionally employed as a large carnivore biologist with five hundred or more hours of documented experience may substitute a portion of the required hours for direct handling and experience."

Rationale: This language was added in response to public testimony. Professional large carnivore biologists are knowledgeable about large carnivore biology, behavior, and natural history, important to wildlife rehabilitation. If they are experienced field biologists in handling or controlling large carnivores, they are aware of safety for both humans and the animals, and capable of handling these animals.

Change: In (4)(a)(iii) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: In (5)(d) added the word "and" and deleted the word "modified," and "or."

Rationale: "Modified" may present some confusion because permits can be modified in the form of a requested amendment by permittee, not necessarily because of permit and rule violations. This also addresses the public comment concern that modifying a permit may prevent a wildlife rehabilitation permit or endorsement candidate from obtaining a letter of recommendation from the permittee for possible unrelated species issues and negating all hours spent training at that facility.

Change: In (6)(c) replaced "...recommendation from a currently permitted wildlife rehabilitator" to "letter of recommendation from a current primary permittee in good standing and who has not had a suspended or revoked wildlife rehabilitation permit within the last three years."

Rationale: To make this phrase consistent with (2)(a)(iv), (4)(a)(iii), and (5)(d) eliminating the word "modified."

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

One (1) comment suggested clarifying terms and time frames. One (1) suggested clarify reporting requirements.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments.

Other Comments: One (1) corrected an omission, and one (1) corrected a typographic error.

WAC 220-450-080 Wildlife rehabilitation – Responsibilities of primary permittees and subpermittees.

Reasons for adopting these rules:

The purpose of the proposed revision is to define, more clearly, the responsibilities of primary permittees and their sub-permittees, and impose stricter requirements and conditions on these two classes of permittees. Better definition of responsibilities and relationships of the primary permittee to the sub-permittee is intended to alleviate misunderstanding of sub-permittee and primary permittee roles and clearly make the primary permittee responsible for their sub-permittees. This proposal also expands required qualifications of sub-permittees to improve care of wildlife in sub-permittee custody, and allow the department more control of who may become a sub-permittee. The existing rule has failed to provide the tools by which the department can manage sub-permittees, and protect wildlife in their care; relying too much on the primary permittee to certify qualifications and oversee the operations of their sub-permittees. The amendments to this rule will strengthen department oversight of sub-permittees, prevent cases of mal-treatment of wildlife and illegal possession of wildlife, and afford the department greater ability to verify and enforce compliance of sub-permittees.

Differences between the proposed rule and the rule as adopted:

Change: In section (1) Minimum Standards for Wildlife Rehabilitation, capitalization was required.

Rationale: Minimum Standards for Wildlife Rehabilitation is the title of a book.

Change: In section (2) additional language was added for clarification.

Rationale: There are two categories of subpermittees, this addition makes it clear that primary permittees are responsible for both categories.

Change: In section (2)(c) language was removed and added for clarification.

Rationale: The removal makes it clear that primary permittees must visit off-site subpermittees to oversee and manage properly the wildlife under their care. The written record allows the department to verify that visits were conducted.

Change: In section (2)(d) clarification language was added.

Rationale: Welfare of the wildlife is of primary concern, and reviewers felt another step requiring a primary permittee to regularly schedule visits and reporting would help assure good care.

Change: In section (2)(e) clarification language was added.

Rationale: Qualifications are different for on-site and off-site subpermittees, therefore, the distinction was added that the on-site subpermittee is authorized for this responsibility.

Change: In section (2)(f) language was added for clarification.

Rationale: Again, there are two categories of subpermittees, therefore, the distinctions must be made in the rule.

Change: In section (3)(c) language was added to require stricter qualifications for subpermittees.

Rationale: Both categories of subpermittees must be qualified to properly care for wildlife either at the primary facility or the subpermittee facility. These requirements were lacking in the previous WACs. The Wildlife Rehabilitation Advisory Committee felt that the requirements must be added to ensure proper care of wildlife.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Eight (8) supporting comments.

One (1) comment appreciated retaining subpermittees, and also supported the additional requirements and restrictions on subpermittees

Opposing, Neutral, and Other Comments:

There was one (1) comment in opposition to allowing subpermittees.

Other Comments: Three (3) advocated increased experience hours for subpermittees.

One (1) requested definition of "sufficient experience." Two (2) requested increasing number of subpermittees allowed per primary permittee. One (1) strengthen primary oversight requirement. One (1) asked for clearer distinction between on- and off-site subpermittees, and one (1) requested permitting cottontail rabbits for subpermittees.

WAC 220-450-090 Wildlife rehabilitation – Permit revocation, modification, or suspension.

Reasons for adopting these rules:

The purpose of the proposal is to present a better and more effective description of when, and how the department may take action when non-compliance, violations, or mal-practice is discovered at a wildlife rehabilitation facility. This rule outlines the procedure for assisting wildlife rehabilitators to return to compliance, and the department's process to finally revoke a non-compliant permittee.

This revision is consistent with the department's responsibility to protect wildlife in captivity from inhumane treatment, protect free wildlife populations from the spread of

disease and mal-behavior caused by improper handling of animals, and protect the public from dangerous wildlife to the best of the department's ability; and the principle that all wildlife held under a wildlife rehabilitation permit remains the property of the state held in trust for Washingtonians, and that wildlife rehabilitation is controlled and regulated by the state. The current rule has failed to provide a coherent system for suspending and revoking permits of wildlife rehabilitators who violate rules and permit conditions. This revision should provide a less cumbersome and more efficient step-wise method for assisting wildlife rehabilitators to come into compliance and enforcing state laws and department rules.

Differences between the proposed rule and the rule as adopted:

Change: In section (1)(a) added clarifying wording.

Rationale: It is permissible for wildlife rehabilitators to display wildlife remotely through camera monitors, CCTV, or one-way sound proof glass, and is not a revocable offense, which was not made clear in the original language.

Change: In section (1)(b) detail was added for clearer interpretation.

Rationale: A definition was added to aid in compliance and enforcement, and leave less room for interpretation of the term.

Change: In section (1) (add) an additional violation was added.

Rationale: Wildlife Rehabilitation Advisory Committee reviewers felt that clearly stating the separation of predators and prey, and improper association of species as violations was necessary to safeguard against this activity and ensure safety and welfare of the wildlife in rehabilitation.

Change: In section (2)(a) corrected word.

Rationale: Previous words did not make sense.

Change: In section (2)(b) clarifying and detailing language added.

Rationale: Addition was in response to concern that timelines were too short. Details were added to explain that timelines within compliance plans are case specific and individually set according to remedies.

Change: In section (3) changed "will" to "may."

Rationale: There may be cases where inspections are not necessary or mandatory, therefore, the department is given the opportunity to make that determination.

Change: In section (3) deleted incorrect sentence and added correct wording.

Rationale: There may be cases where inspections are not necessary or mandatory therefore, the department is given the opportunity to make the determination to restore or amend a permit without the need for inspection.

Supplemental Recommended Adjustments:

Change: Changed title from "Permit revocation, modification, or suspension" to "Permit modification, suspension, or revocation."

Rationale: This reversal of words reflects the step-wise order of compliance beginning in (2)(a).

Change: (1)(a) "Publicly displaying wildlife in rehabilitation or using wildlife in rehabilitation for public education" to "Directly displaying to the public wildlife in rehabilitation or directly using wildlife in rehabilitation for public education."

Rationale: The purpose of this rule is to protect wildlife from stress and human disturbance. Wildlife in rehabilitation may be displayed remotely or indirectly to the

public by cameras, CCTV, or one-way sound-proof glass because there are no adverse impacts or disturbances to the wildlife. Because wildlife facilities use these techniques to educate the public about wildlife and rehabilitation, there were fears that their permit would be in jeopardy for “displaying” wildlife.

Change: (2)(a) Replaced the words “and at” with “after.”

Rationale: No clear time was given for when the modification remedy could be done and the word “after” better designates a time.

Change: Language changed in (2)(b) to “the permit will be suspended and a requirement to adhere to a department-provided corrective action plan and timeline(s) in the corrective action plan will be imposed. The permittee must provide a response to, and apply compliance plan remedies within the timelines specified in the compliance plan.”

Rationale: In response to a comment regarding length of time in which to comply with department corrections and remedies, language was changed in this clause to make the remediation more understandable. There are timelines within the corrective action plans that are individually set case-by-case according to circumstances of the violations.

Change: In (3) replaced “will” with “may.”

Rationale: There may be times when an inspection is not needed and the flexibility of doing an inspection or not should be open to the department.

Change: In (3) deleted the sentence “The permittee may receive permit amendment of restoration pending permittee compliance and department-documented validation inspection.” Replaced it with “The department may amend the permit or restore the permit pending permittee compliance and department-documented compliance validation.”

Rationale: The wording is less confusing and better states the intent.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

One (1) comment specifically expressed appreciation for the addition of mal-habitation and the stepwise compliance process.

Opposing, Neutral, and Other Comments:

One opposed these proposed rule amendments stating 14 days was too short a time period to complete compliance tasks, there should be a “plea” process up the chain of command, more flexibility of rule to allow composition of written documents, and, especially, review by subject experts. Other comments: One (1) comment suggested emphasizing housing wildlife with the wrong species (such as predator and prey) as an offense. One (1) comment asked for redefining “mal”-habitation.

WAC 220-450-100 Wildlife rehabilitation – Facility requirements and inspections – on-and off-site care.

Reasons for adopting these rules:

The purpose of this proposal is to develop language for a better explanation of facility requirements to increase assurance that wildlife rehabilitators provide healthy, safe, and

comfortable caging, and a stress-reduced environment. Details were added to emphasize and codify the necessity for wildlife rehabilitators to follow the most current version of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation. Understanding the need for these standards aids the rehabilitator in providing the safest and best living environment for captive wildlife, and supports the department with consistent criteria to assist the rehabilitator in compliance. Importantly, off-site sub-permittee restrictions and requirements were strengthened to give the department more control over sub-permittee operations and protect wildlife in both the sub-permittee and primary permittee facilities.

Disease monitoring was enhanced to protect free wildlife populations.

Oiled wildlife rehabilitation facility specifications were incorporated into this rule to reduce the number of rules, and reinforce that oiled wildlife rehabilitation is part of general wildlife rehabilitation permitting and rules. Inclusion of the oiled wildlife rehabilitation endorsement in the general facilities WAC helps these permit candidates and renewals locate the rules more easily.

Wildlife rehabilitation housing and operations are essential for captive wildlife health, safety, and successful release, and the department must continue improving standards required of wildlife rehabilitators. The intent of this proposal is to improve wildlife housing at new and existing facilities, and assist wildlife rehabilitators in providing the best conditions. Included in this revision is a provision to make inspections consistent with RCW [77.15.096](#) providing for inspections without warrant at any reasonable time and without a rehabilitator present.

The current rule fails to define clearly off-site permittees and their facilities which has been problematic in tracking and enforcing best practices of sub-permittees, therefore, detailed requirements and restrictions were added.

Differences between the proposed rule and the rule as adopted:

Change: In section (2) facilities, (f) replaced the words "of stock" with "of wildlife" in care.

Rationale: Stock is an improper word for wildlife and not used in the definitions for wildlife.

Change: In section (2) facilities (h) added language for clarification.

Rationale: The new wording makes it clear that wildlife may be transferred back to the wildlife rehabilitation facility once a primary permittee is associated with that facility.

Change: In section (3) removed language for clarification.

Rationale: This sentence became redundant with the above section and subsection and therefore removed.

Change: In section (4) oiled-wildlife facility requirement, changed the sentence structure for better clarification.

Rationale: Recommended by the department's Oil Spill Team that it was understood by all wildlife rehabilitators.

Change: In section (5) added oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (6) added oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (6) (a) replaced “or” with “of.”

Rationale: Erroneous word.

Change: In section (7) added oiled-wildlife facility requirements. Intake space requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (8) added oiled-wildlife facility requirements. Stabilization resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (9) added oiled-wildlife facility requirements. Wash/rinse resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (10) added oiled-wildlife facility requirements. Drying resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (12) added oiled-wildlife facility requirements. Semi-static areas.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (12)(ii) added wording for necessary direction.

Rationale: Two items were identified by the Oil Spill Team as acceptable for accomplishment off-site.

Change: In section (13) added oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Change: In section (13)(c)(iii) added wording for necessary direction.

Rationale: This item was identified by the Oil Spill Team as acceptable for accomplishment off-site.

Change: In section (13)(c) removed (iv) Electrical: One hundred square feet and (v) Mechanical: Two hundred square feet.

Rationale: Requested by the department’s Oil Spill Team because these capacities are already existing in the facilities, so additional space for mechanical and electrical is not needed.

Change: In section (14)(c)(ii) removed European starling and added hummingbirds.

Rationale: European starling was removed to discourage the rehabilitation and release of this species. Wildlife Rehabilitation Advisory Committee reviewers suggested the addition of hummingbirds because of their need for over-night care.

Change: In section (14)(c)(vii) language was removed and added to this section for compliance with veterinary regulations.

Rationale: By law, veterinarians are the only practitioners in wildlife rehabilitation that can prescribe treatment. Primary permittees may direct subpermittees in husbandry and rehabilitation, and explain veterinarian prescribed treatment.

Change: In section (14)(c)(viii) language was removed and added to this section for wildlife welfare purposes.

Rationale: The requirement to return an animal to the primary facility for release evaluation was removed to decrease the number of times animals must be transported but still requires assessment for release by the primary permittee.

Change: In section (14)(e) (add) wording.

Rationale: Restriction was added in response to wildlife rehabilitator concerns that subpermittees are not experienced enough to practice on their own.

Supplemental Recommended Adjustments:

Change: Added in (12)(b)(ii)(C) and (D) may be accomplished off-site.

Rationale: This addition was requested by the WDFW Oil Spill Team because capacity is needed on-site, moving wildlife off site will not affect animal care.

Change: Added subpermittees may not operate their own facilities.

Rationale: Added in response to comments that subpermittees are not permitted to practice wildlife rehabilitation without an association with a primary permittee and may not perform all wildlife rehabilitation tasks and duties.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) comment was concerned with what “visual and auditory” stressors meant and, specifically, how would an enforcement officer interpret it. One (1) proposed a word change. Two (2) proposed adding or removing species to the subpermittee permitted species list. Two (2) stated that transport back to the primary facility for release check was too much stress on the animal. One (1) expressed confusion over when to transfer animals after the primary permittee left. One (1) corrected the statement that a permittee may structure a treatment plan – only veterinarians may legally provide that. One (1) suggested shifting much of this WAC to WAC 220-450-080 Wildlife Rehabilitation – Responsibilities of primary permittees and subpermittees. One (1) questioned the qualifications of subpermittees to provide critical care. Two (2) asked for clarification on how veterinarians can separate domestic animals and wildlife.

WAC 220-450-110 Wildlife rehabilitation – Releasing wildlife.

Reasons for adopting these rules:

All wildlife rehabilitation facilities are to have release protocols that give wildlife the best chance at survival when back in the wild. The purpose of this proposal is to include additional provisions for release, and strengthen the requirement that release protocols be followed. Substantial additions were made to this revision to better protect free wildlife populations from competition from released individuals, non-native species, and disease. In particular is the addition of cervid, amphibian, and introduced species release restrictions.

The primary importance of this rule's amendment is the protection of free wildlife populations. The revisions to this rule are consistent with the department's mandate to protect wildlife populations and, particular to this rule, prevent the transmission and introduction of disease. Supporting this proposal will provide this protection with increased regulations on the release of rehabilitated wildlife.

Differences between the proposed rule and the rule as adopted:

Change: In section (5)(e)(iii) added language to allow for care of amphibians.

Rationale: Wildlife rehabilitators must be allowed to feed reptiles and amphibians food purchased from reputable suppliers, therefore, language was added to allow for that.

The previous sentence prohibited that practice.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Eight (8) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) stated that once reptiles and amphibians are in rehabilitation, they need food from pet stores, and that European starlings should never be rehabilitated and released. Three (3) were concerned with what to do if their facility received a cervid from outside of their WDFW Region and asked for guidance in the WAC. One (1) expressed the same concern over reptiles and amphibians and suggested also disease surveillance of this group. One (1) wondered how to obtain department authorization on where to release cervids.

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

Reasons for adopting these rules:

The purpose of the proposal is to make clear that licensed veterinarians may admit wildlife for first aid, stabilization, and euthanasia, but tightens restrictions on them. The increased restrictions places a time-limit on how long a non-permitted veterinarian may hold wildlife at his or her hospital, and the requirement for transfer. This revision adds the definition of the Principal Veterinarian required by all wildlife rehabilitators.

Well-meaning veterinarians often have little to no experience in treating and handling wildlife, which can result in very poor care to tragic consequences to the individuals.

This revision requires that wildlife admitted to a veterinary clinic be transferred within 48

hours to a wildlife rehabilitator. Conversely, veterinarians have been unsure of and uncomfortable with accepting wildlife for fear of illegal possession and rehabilitation of wildlife. This rule revision makes it clear that even unpermitted veterinarians may admit wildlife. One of the essential services that veterinarians can provide for wildlife and the public is immediate euthanasia of a suffering animal. Support of this proposal will encourage provision of that service.

Differences between the proposed rule and the rule as adopted:

Change: In section (1) edits to comply with state veterinary regulations.

Rationale: Veterinarians must report reportable diseases to the state, and some were uncomfortable with the previous language.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Eight (8) supporting comments.

Opposing, Neutral, and Other Comments:

There was one (1) opposing opinion but with no comments given. Other comments: One (1) comment corrected the statement that veterinarians report reportable diseases to the state **or** the primary permittee whereas veterinarians **must** report reportable diseases to the state. One (1) comment asked for more time to transfer wildlife from a veterinary hospital to a wildlife rehabilitation facility.

WAC 220-450-130 Wildlife rehabilitation – Records retention and reporting requirements.

Reasons for adopting these rules:

The purpose of the proposal is to enhance the understanding that records are a vital part of any wildlife rehabilitation program, and are necessary for best practices and animal welfare. Little has changed in this WAC except the designation of department required records. This designation allows department agents access to the records, enhancing compliance.

Good record keeping provides documentation that animals are being cared for thoroughly and properly. Department agents and staff must be allowed to inspect records to verify that a facility is conforming to best husbandry and treatment practices for wildlife. In past compliance cases, this has been an issue. Supporting this revision will permit the department to require the records and verify that wildlife is getting the best care at a facility.

Differences between the proposed rule and the rule as adopted:

Change: In section (1) added the word written and removed records.

Rationale: Reviewers asked for clarification on how to verify volunteer records. Forms will be supplied to wildlife rehabilitators.

Change: In section (3) added clarifying language.

Rationale: The person required to submit the report was not clear and could cause confusion, therefore “Primary Permittee” was added.

Change: In section (3) removed language for simplicity.

Rationale: "Prior year's records" is the definition of daily ledger, therefore redundant.

Change: In section (5) added language.

Rationale: Reviewers asked for this addition to make sure that, for ease of submission, it was an acceptable method of record submission.

Supplemental Recommended Adjustments:

Change: In (3) the language "The Primary Permittee must" was added.

Rationale: This clarified that it is a requirement for permittees to submit an annual report and daily ledger every year.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Three (3) requested word additions and changes. Two (2) asked for definition of "Veterinary summaries." Two (2) asked for what was meant by documenting volunteer training.

WAC 220-450-140 Wildlife rehabilitation – Falconers assisting with raptor rehabilitation.

Reasons for adopting these rules:

The purpose of the proposal is to further delimit restrictions on falconers assisting in rehabilitation of raptors. Little has changed in this WAC except the clarification that falconers may not practice wildlife rehabilitation nor use raptors in their care for falconry. The proposed revisions clarify the limits on falconers who assist with raptor rehabilitation. Support of this proposal will maintain the separation of the activities of falconry and wildlife rehabilitation.

Differences between the proposed rule and the rule as adopted:

Change: In section (1) language was added for clarification.

Rationale: Falconers may not raise any raptor orphans for purposes of rehabilitation which was not previously clearly stated, therefore hatchlings was added to avoid misunderstanding; misspelling of "nestling" was corrected.

Change: In section (4) Allowable activity for raptor conditioning was added.

Rationale: Public comment indicated that there was confusion as to where raptors in the conditioning phase could be housed. Therefore, we reinstated the clause that it is permissible for raptors to be housed at an approved falconry facility where the raptor is being conditioned.

Change: In section (4) language was removed for clarification.

Rationale: The department does not have the facilities or capacity to care for non-releasable raptors. We will assist rehabilitation facilities in placement.

Change: In section (5) language was added for clarity and understanding.

Rationale: The primary goal of wildlife rehabilitation is release to the wild, therefore the Wildlife Rehabilitation Advisory Committee felt it was counter to that goal for a falconer to acquire a bird for falconry after assisting with conditioning for release.

Supplemental Recommended Adjustments:

Change: Added that a falconer may house a raptor undergoing conditioning for release at an approved falconry facility that does not meet wildlife rehabilitation facility standards so long as the falconry facility meets the standards under department rule for housing raptors.

Rationale: Response to public comment. Falconers are permitted to condition raptors for release held on a primary permittee's wildlife rehabilitation permit. Public comment indicated that there was confusion as to where the raptor could be housed. It is permissible for the raptor to be housed at an approved falconry facility where the raptor is being conditioned.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There was one (1) opposition to this rule with comments offering justifying reasons.

Other comments: One (1) requested delineation of time limit that raptors in conditioning phase remain on the rehabilitation permit. One (1) requested instruction on where non-releasable raptors would go if transferred to WDFW. Two (2) asked if falconers were subpermittees on the primary rehabilitator's permit.

WAC 220-450-150 Wildlife rehabilitation – Transfer, import, and export of wildlife and restrictions.

Reasons for adopting these rules:

The purpose of the proposal is to tighten restrictions on moving wildlife among wildlife rehabilitation facilities to prevent disease transmission and dispersion. Substantial restrictions on cervid and bat transfers were added.

It is especially important that free wildlife populations be protected from the introduction and transmission of existing diseases and emerging diseases. It is equally important to protect the public from the spread of zoonotic diseases. Supporting this proposal will provide a means for this protection by increasing restriction and regulations on the transfer and movement of wildlife in rehabilitation around the state.

Differences between the proposed rule and the rule as adopted:

Change: In section (1) incorrect term was replaced with correct term.

Rationale: Certificate of Veterinary Inspection is the title of the document required by Washington State Department of Agriculture to import an animal into the state. The inspection (examination) must be done by a United States Department of Agriculture certified veterinarian.

Change: In section (4)(b) "beaver" was added.

Rationale: This was requested by WDFW game program to coincide with beaver management.

Change: And in section (c) language was removed for clarity.

Rationale: The term “among” was redundant in this case.

Change: In section (4)(c) language was added.

Rationale: This addition allows for regulated and monitored transfer of cervids in certain instances and under specific conditions.

Change: In section (4) a subsection was added.

Rationale: WDFW is very concerned about transmission of existing and emergent cervid diseases into and within Washington, and must protect the wild populations from disease infection. This section was added to strengthen restrictions on artificial cervid movement and transport around the state.

Change: In section (4)(d) language was added and deleted for clarification purposes.

Rationale: Reviewers were confused by the existing wording.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Two (2) suggested clarification for “geographic conditions.” Three (3) reviewers asked for guidance on what to do if an out-of-WDFW Region cervid was brought to a wildlife rehabilitation facility.

WAC 220-450-160 Wildlife rehabilitation – Possession of dead wildlife and wildlife parts.

Reasons for adopting these rules:

The purpose of the proposal is to only clarify what may be possessed by wildlife rehabilitators. Only minor word changes were made to this WAC.

Differences between the proposed rule and the rule as adopted:

Change: In section (2) to correct a spelling error.

Rationale: The word “rectrices” was missing the c.

Change: In section (3) language was added for consistency.

Rationale: This rule applies to all wildlife, not just birds, therefore the terms were corrected.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Two (2) comments requested word additions.

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and mal-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

Reasons for adopting these rules:

The purpose of the proposal is to further clearly describe clearly the rules and restrictions for obtaining education and foster animals taken from the wild, and to better protect wildlife used for education from stress and mistreatment at a facility. Animals not suited as program animals are specifically added in this revision for their wellbeing and the public's protection. To help prevent over habituation and taming of wildlife at facilities, the 2013 wildlife rehabilitation rules included the provision that *Wildlife tamed by, imprinted on, or habituated to humans while at the primary permittee's facility or subpermittee's facility must be humanely euthanized no later than one hundred eighty days following admission to the rehabilitation facility, to protect the public and to protect the animal from human abuse* (WAC 220-450-170 (2)). Added to this provision is the option of transfer. These animals must still be evaluated for safe retention as education animals.

Considerable concern has been expressed about the conditions under which wildlife is kept for education, and the circumstances under which those wild animals became education animals. Added to this rule is greater protection for wildlife held for education by requiring an application for education and foster animals certifying that the animal is in fact nonreleasable, and will not experience pain, suffering, and undue stress while captive.

Differences between the proposed rule and the rule as adopted:

Change: In the title, changed mal-habituated to over-habituated.

Rationale: The term mal-habituated is rarely used therefore not easily understood. Over-habituated is more descriptive and more easily defined in the text of the WAC.
Change: In section (1)(b) added "static" in front of display and "program" in front of education.

Rationale: There are two types of public education – static display are animals that remain in cages for viewing, program animals are those that are removed from cages and used in an education program or presentation such as a raptor on the fist. Many species of animals are inappropriate for active programs, and must be protected through this rule by distinguishing the two types of education.

Change: In section (1)(c) replaced "of" with "or."

Rationale: This was a misspelling.

Change: In section (1)(e) language was added for clarification.

Rationale: WDFW strictly discourages exhibiting wildlife as pets. This language was added with the intent to make that clearer.

Change: In section (1)(f) language was added for clarification.

Rationale: It is critically important that all caution is taken not to tame, over-habituate (some "habituation" is needed in wildlife rehabilitation facilities to decrease stress on the

animal), or imprint wildlife in a wildlife rehabilitation facility. The clearer the terms are presented, the more likely it can be avoided by wildlife rehabilitators, and evaluated by enforcement agents.

The words static display and programs were again inserted to distinguish between the two types of uses of wildlife as education animals.

Change: In section (1)(k) language was added for clarification.

Rationale: Many species of wildlife are inappropriate as education animals, both in static display and in programs. Paying close attention to the Wildlife Rehabilitation Advisory Committee and other reviewers, these species were added to protect as many as possible from poor quality of life.

Supplemental Recommended Adjustments:

Change: Changed the WAC title from: “Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, and tamed wildlife and live retention for foster and education” to “Wildlife rehabilitation—Disposition of nonreleasable and over-habituated, mal-imprinted, **or** tamed wildlife and live retention for foster and education.”

Rationale: Wildlife does not need to meet the criteria for all three conditions, just one.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Six (6) comments asked for changes in allowable education species. Two (2) comments requested better distinction between static display and education program animals. One (1) comment asked for deletion of “mal-habituation” and that mal-imprinted wildlife should not be used for fostering. One (1) asked for education program handler requirements to be outlined in the rule.

WAC 220-450-180 Wildlife rehabilitation – Euthanizing wildlife.

Reasons for adopting these rules:

The purpose of the proposal is to prevent prolonged suffering of wildlife at a facility, and ensure they receive the service of euthanasia in a timely and appropriate manner. An addition was made to ensure that wildlife presenting with diseases threatening wildlife populations be immediately reported to the department, and provides for euthanasia of those animals.

This proposal seeks to ensure that all wildlife so severely injured or non-treatable are admitted to a permitted wildlife rehabilitation facility be given the service of euthanasia in a humane and timely manner, and that those animals not languish for long periods of time.

Differences between the proposed rule and the rule as adopted:

Change: In the first paragraph, added the word using to complete the sentence structure.

Rationale: The word “using” was inserted upon suggestion from a reviewer for ease of interpretation.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) comment asked for a word addition.

WAC 220-450-190 Wildlife rehabilitation – Disposing of wildlife remains.

Reasons for adopting these rules:

The purpose of the proposal is to provide direction for the appropriate disposition of deceased wild animals in rehabilitation. Language was strengthened to ensure free wildlife was not poisoned by improperly disposed of chemically treated deceased wildlife. Added were provisions for disposition of animals with reportable diseases. Amendments to this proposal protect free wildlife from euthanasia, immobilization, and drug chemicals, and from disease transmission.

Differences between the proposed rule and the rule as adopted:

Change: Replaced the word “burned” with “incinerated.”

Rationale: The department veterinarian recommended the word incinerated as a more appropriate term for the action.

Change: In section (1)(c) removed and replaced with correct language.

Rationale: Several wildlife rehabilitators clarified that the United States Fish and Wildlife Service does not impose a 30 day deadline on sending eagle carcasses to the National Repository, therefore the department did not want a restriction beyond what the federal guidelines require. Rehabilitators often wait to send eagle carcasses in large batches which can be more than 30 days.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Two (2) said the United States Fish and Wildlife Service does not impose a time limit on sending eagle carcasses to the National Repository.

WAC 220-450-200 Wildlife rehabilitation – Commercial uses.

Reasons for adopting these rules:

The purpose of the proposal is to allow wildlife rehabilitators to collect donations and funds to support the wildlife rehabilitation facility but not charge for services. This WAC has substantial changes concerning collecting funds for facility operations.

Wildlife rehabilitators maintain and operate their facilities and services on a donation basis only making it difficult to obtain funding for wildlife rehabilitation. This revision gives them options for collecting funds to support their wildlife rehabilitation practice.

Differences between the proposed rule and the rule as adopted:

Change: In section (4) added the words “wild” and “static” to the sentence.

Rationale: “wild” was suggested by a reviewer to reinforce the nature of the animal, such as opposed to captive-bred. “static” was added to conform to the term “static display” in the associated WAC, and make the distinction that these animals are not used in programs.

Change: In section (7) refined the sentence structure.

Rationale: The sentence did not thoroughly define the term “hacking” omitting any suggestion of the provision of food. The placement of the word “temporary” was especially problematic implying that the birds may eventually be permanently possessed.

Change: In section (10) added a description to clarify imprinting.

Rationale: Imprinting is a difficult word to define in the context of wildlife rehabilitation and subject to dispute, therefore any additional detail to the definition is essential.

Change: In section (23) added clarification language.

Rationale: There are two categories of subpermittees needing description in order to correspond to the associated WACs.

Change: In section (23) removed unnecessary language.

Rationale: “At the facility” was made redundant with language in the new definition.

Change: In section (25) added a description to clarify veterinary summaries.

Rationale: The term is in corresponding WACs but was not defined, therefore, wildlife rehabilitators could not know exactly what they needed to submit for compliance.

Comments received during the official public comment period and as testimony received at the public hearing:

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. There were no additional comment.

The following rules are repealed:

WAC 220-450-210 Oiled bird rehabilitation – Facility requirements.

The purpose of the proposal is to eliminate this rule and merge oiled facility requirements into the existing wildlife rehabilitation facility requirements rule for ease of

location, and to emphasize that oiled wildlife facilities are a part of general wildlife rehabilitation permitting. Oiled facility requirements were not changed substantially. Moving oiled wildlife facility requirements to *WAC 220-450-100 Wildlife rehabilitation—Facility requirements and inspections—On- and off-site care* simplifies the oiled wildlife rules and places facility requirements in a logical place in the general wildlife rehabilitation rules.

WAC 220-450-220 Reporting receipt, death, carcass, retention, and release of oiled birds.

The purpose of the proposal is to eliminate this rule and merge the requirements with existing appropriate wildlife rehabilitation rules for ease of location.