

Concise Explanatory Statement (CES)

Concise Explanatory Statement for Target Shooting

Rules amended as part of this rulemaking:

WAC 220-500-140 Firearms and target practicing.

Rules repealed as part of this rulemaking:

N/A

Rules created as part of this rulemaking:

N/A

Reasons for adopting these rules:

An increase in target shooting on Washington Department of Fish and Wildlife (WDFW) - managed lands in recent years as well as an increase in visitors generally has created several challenges, including concerns over public safety and impacts to private property, littering, and damage to wildlife habitat via wildfires. In addition, discrepancies with rules on intermixed or adjacent state-managed lands (e.g. DNR lands) has led to confusion among shooters about the rules applicable to specific sites. The proposed rule is part of an attempt to address these challenges.

WDFW wishes to continue welcoming recreational target shooters to WDFW-managed lands while also protecting public safety and private property and minimizing damage to habitat. The proposed update to WAC 220-500-140 clarifies the WDFW definition of recreational target shooting; distinguishes between department designated target shooting areas and dispersed target shooting; distinguishes between shooting single projectiles (i.e. rifle bullets and shotgun slugs) and shooting shot (i.e. bird shot); describes when a backstop is required when discharging specific types of firearms/implements; lists specific locations where recreational target shooting would be prohibited (e.g. from or across roads, designated trails, water body, etc. or w/in 500' of buildings, campgrounds, etc.); restricts allowable targets to those commercially or privately manufactured specifically for target shooting; restricts recreational target shooting to 30 minutes before sunrise until 30 minutes after sunset; and requires recreational target shooters to remove shell casings, shotgun hulls, ammunition packaging, targets, & target debris.

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:

WDFW received 1243 responses to a public survey during the official comment period.

<i>Survey Question</i>	<i>Yes</i>	<i>No</i>	<i>Unsure</i>
Have you ever participated in target shooting on WDFW-managed lands?	66%	19%	15%
Does the proposed rule update meet the goal of continuing to provide shooting opportunities on WDFW-managed lands?	38%	36%	26%
Does the proposed rule update meet the goal of protecting public safety?	48%	30%	22%
Does the proposed rule update meet the goal of reducing risk of wildfire?	40%	35%	25%
Does the proposed rule update meet the goal of reducing litter and damage to habitat?	45%	34%	21%
Is the language of the proposed rule update clear and easy to understand?	50%	33%	17%
Do you support adoption of the proposed rule update?	31%	51%	17%

Written Supporting Comments:

Supporting comments expressed appreciation for increased restrictions on recreational target shooting. Proponents of the rule’s adoption expressed concerns about safety, conflicts between target shooting and other recreation uses, wildfire risk, littering, and other habitat impacts associated with target shooting. Supporting comments also offered recommendations, including additional restrictions, such as confining target shooting to designated ranges, shortening seasons when shooting is allowed, and imposing stricter penalties. Other recommendations included clarifying language regarding elements of the proposed rule (e.g. backstops), creating more designated places to shoot, increasing enforcement, and making the rule LESS restrictive, particularly in the types of targets and ammunition allowed under the proposed update.

Written Opposing, Neutral, and Other Comments:

Some opponents of the rule expressed that target shooting should be banned entirely from WDFW-managed lands and the rule is not restrictive enough. The majority of opposing comments called the proposed rule too restrictive and/or said that the existing rule is adequate and/or that target shooting should not be regulated on state lands. Many opponents questioned the enforceability of the proposed rule, suggest that the rule contains mostly common sense and is therefore unneeded, and WDFW should focus on enforcing existing rules, especially related to littering. Opponents said that the bad behavior of “a few bad apples” does not justify a rule that will impact all target shooters and limit access to shooting opportunities. As mitigation for the loss of opportunities, some recommended creating more opportunities by designating sites and better communicating their location and availability. Others protested the proposed rule’s treatment of specific types of ammunition, targets, and shooting sites.

Some commenters responded “unsure” when asked if they support or do not support the proposed rule update. Some of their comments requested clarification one specific elements of the proposed rule update or clearer language overall. Many said the proposed rule is too restrictive in specific parts, including allowable targets and when shooting is allowed.

Nearly all comments – supporting, opposing, and unsure – expressed a desire for more designated shooting areas and better communication from WDFW on when and where it is okay to practice target shooting. There was also strong agreement that littering is a problem associated with recreational target shooting on WDFW-managed lands.

Fish and Wildlife Commission Hearing, Public Comments:

Six members of the public testified at the June 10, 2020 hearing in support of the proposed update to WAC 220-500-140 Firearms and target practicing. Several of the speakers had participated on the Wenas Target Shooting Advisory Committee, which had recommended a statewide rule to improve regulation of target shooting. The primary arguments in support were to increase protection for habitat and public safety and to reduce litter. One speaker supported the rule update for improving public safety, but urged the Department to address the issue of lead contamination, which is not addressed in the draft update. The Department also received urging from Commission members to address lead contamination from hunting and target shooting.

Two members of the public gave testimony at a second hearing on July 30, 2020. One person spoke in opposition to the rule update, arguing that the public engagement survey was biased, the proposed rule update “does not go far enough,” and that all dispersed shooting should be banned from WDFW-managed lands. She expressed concerns about safety, litter, enforcement capacity and lead contamination. The second commenter spoke in support of the rule update.

Rationale-Agency Action Regarding Comments:

General Restrictions

Some public comments suggest that the rule is overly restrictive in general or in its specific elements. Commenters suggest it would cause less confusion and be less restrictive for WDFW to adopt WAC 332-52-145, the rule regulating recreational target shooting on lands managed by Washington Department of Natural Resources (DNR). Others suggest that target shooting on WDFW-managed lands does not need further regulation, but that instead WDFW should focus on educating shooters to be aware of existing rules and penalties (e.g. rules regarding litter).

WDFW based much of the content of the proposed rule on WAC 332-52-145. Like the DNR rule, the proposed rule defines recreational target shooting, outlines general target shooting restrictions, describes where and when shooting is allowed and prohibited and allowable targets, as well as the requirement to remove shell casings and other debris from target shooting. The proposed rule also defines a “backstop” as “an unobstructed earthen mound or bank at least 8 feet in height which must stop the progress of and contain all projectiles, ricochets, and fragments in a safe manner.”

WDFW agrees that communication and education about target shooting and the rule, once adopted, are important. Education efforts will include updating the WDFW website with information about the rule, creation of an educational pamphlet, and direct outreach to increase awareness of the rule. These programmatic recommendations are outside the scope of the rulemaking.

Some public comments state that target shooting should be unrestricted on public lands and any restriction of shooting is a violation of Amendment II of the US Constitution. Other commenters requested a ban of all dispersed target shooting and WDFW-managed lands.

Recurrent safety and habitat concerns indicate a need for regulation. Statutory Authority for this rule is as follows: RCW 77.04.012, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-500-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.210, 77.12.880. WSR 08-01-078 (Order 07-293), § 232-13-130, filed 12/17/07, effective 1/17/08.

Where Shooting is Allowed

Public comments respond to subsections 3(e)(i)(A, B, and E) that prohibit shooting “on, from, at, along, across, or down: (A) Any department-designated or department-developed water access site or boat launch, and associated parking area; (B) Any road; ... [and] (E) Any water body or stream” and Section 3(e)(ii), which prohibits shooting “ Within five hundred feet of the following (when not utilizing a department-designated recreational target shooting area): (A) Residences, businesses, and/or other buildings or structures, including port-a-potties, etc.; (B) Power stations, cell phone towers, utility poles, light posts, wind turbines, or other public utility structures; (C) Campgrounds; (D) Viewing platforms or structures.”

Some comments state that the originally proposed language restricting shooting by roads was overly vague. In response, the proposed rule was updated to reference the definition of roads under WAC 220.500.020 (21): “‘Road,’ pursuant to RCW 46.04.500 and 46.04.197, means that portion of an every way publicly maintained for the purposes of vehicular travel. For purposes of this chapter, ‘road’ means a road wholly or partly within or adjacent to and serving department-owned or controlled public lands, waters, or access areas under the jurisdiction of the department.”

Other comments suggest allowing shooting on, from, at, along, across, or down dry (e.g. seasonal) water bodies or streams. WDFW has determined that shooting over seasonal water bodies may increase habitat risks and is inadvisable. Some public comments suggest allowing shooting at steel targets during the summer west of the Cascade Mountains and on sites where there is limited vegetation. WDFW has determined that substantial wildfire risk exists across the state and recommends not allowing use of steel targets (outside of designated ranges) from June 1 to September 30.

Prohibited Ammunition

An early draft of the proposed rule included a ban on ammunition with a steel core to lower risk of wildfire. Commenters noted that solid copper bullets are more likely than steel core bullets to ignite vegetation and that fragments from lead core ammunition can also ignite vegetation. In the proposed rule update adopted by the Fish and Wildlife Commission, the language banning steel core bullets was struck from the rule.

Other comments recommend a ban on all lead ammunition due to its toxicity and potential for harming wildlife and habitat. Commenters noted particular risks to waterfowl and raptor species. The Fish and Wildlife Commission has recommended moving this rule forward to address the

safety and wildfire risks associated with recreational target shooting and addressing the risks associated with toxic ammunition in a separate process that will comprehensively address lead, including lead-based fishing tackle. Currently, lead ammunition is prohibited on some but not all WDFW-managed lands.

Allowable and Prohibited Targets

Section 4 of the proposed rule restricts allowable targets for recreational target shooting on WDFW-managed lands. Some comments recommend allowing steel targets year-round arguing that steel targets are reusable and less likely to contribute to litter from more ephemeral targets. To reduce wildfire risk, the rule restricts the use of steel targets between June 1 and September 30. Studies have found that all types of bullets are capable of starting fires in vegetation after being deflected by a steel plate. This risk is especially high during dry seasons. The rule does allow steel targets outside of the driest months of the year and year-round on designated ranges.

Section 4 of the proposed rule update restricts authorized targets “to items, other than exploding targets, that are commercially manufactured for the specific purpose of target shooting, or similar targets privately manufactured...” Some comments advocated for the use of alternative targets, including water-filled plastic bottles, stumps, aluminum cans and pumpkins. WDFW has determined the use of alternative targets to be a major contributor to litter issues currently associated with recreational target shooting on WDFW-managed lands. WDFW maintains that requiring use of commercially manufactured targets or similar privately manufactured targets does not put an undue burden on recreational target shooters.

Some comments recommend allowing binary explosive targets arguing that exploding targets offer a unique recreation experience for users. Due to the risk of wildfire, exploding targets are not allowed on most public lands in the United States and are not allowed on WDFW-managed lands under the existing version of WAC 220-500-140 Firearms and target practicing.

When Shooting is Allowed

The proposed update to WAC 220-500-140 restricts recreational target shooting on WDFW-managed lands to the hours between the half-hour before sunrise and the half-hour after sunset. Public comments recommend restricting shooting to the hours between sunrise and sunset. Allowing target shooting half an hour before sunrise and half an hour after sunset is consistent with hunting best practices and regulations and does not increase risk to public safety.

Litter

To reduce impacts on habitat and visitors, WDFW seeks to reduce litter associated with recreational target shooting on WDFW-managed lands. The proposed rule update restricts allowable targets and clarifies in Section 7 that “it is unlawful for persons recreationally target shooting to fail to remove and transport from department lands for proper disposal all shell casings, shotgun hulls, ammunition packaging, and targets or target debris.” Public comments recommend additional strategies for reducing litter, including providing receptacles for disposing waste from target shooting, increasing enforcement and penalties to punish littering, and organizing volunteers to assist the agency with clean up. These recommendations will be considered outside the scope of rulemaking.