



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 25, 2021

TIME: 12:55 PM

WSR 21-06-050

Agency: Washington Department of Fish and Wildlife: Order 21-16

Effective date of rule:

Permanent Rules

- 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: The Fish and Wildlife Commission approved amendatory language that increases the level of oversight and environmental protection required of grazing permits issued by the Department of Fish and Wildlife. This language 1) requires that permits be consistent with WDFW's mission and management objectives, 2) clarifies various requirements of Commission review of permits, 3) removes redundant language within the rule, 4) establishes the option of discontinuing permits upon expiration, and 5) adds other minor clarifications to procedure and/or definition.

Citation of rules affected by this order:

New:
 Repealed:
 Amended: WAC 220-500-200 Livestock grazing on department of fish and wildlife lands.
 Suspended:

Statutory authority for adoption:

RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.210

Other authority: None.

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-08-099 and WSR 20-18-060 on March 30, 2020, and August 31, 2020, respectively (date).

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

- 1) In section 1 of the rule proposed in WSR 20-18-060, previous language about "desired ecological condition" was removed. That language was retained in the adopted rule amendments.
- 2) In section 3 of the proposed rule, language requiring permits to be submitted to the Commission for review was replaced with language requiring the Commission to approve permits before the Department could issue them. The adopted amendments eliminated language about Commission approval and retained the previous language about Commission review.
- 3) Also in section 3 of the proposed rule, previous language authorizing the Department to issue permits unless the Commission had disapproved them within thirty days was removed. This removal was directly connected with the subject in change (2) above, wherein grazing permits would have needed Commission approval rather than Commission review. The adopted amendments eliminated the proposed requirement of Commission review and retained the language authorizing permit issuance unless the Commission disapproves within thirty days.
- 4) In section 4 of the proposed rule, a reference to Commission review and approval of certain permits was found. This reference was modified to refer only to Commission review in the adopted rule amendments.

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

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**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	___
-----	-----	---------	-----	----------	-----

The number of sections adopted on the agency's own initiative:


New	___	Amended	<u>1</u>	Repealed	___
-----	-----	---------	----------	----------	-----

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

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	___

Date Adopted: February 12, 2021	Signature: 
Name: Larry Carpenter	
Title: Chair, Washington Department of Fish and Wildlife Commission	

WAC 220-500-200 Livestock grazing on department of fish and wildlife lands. All persons wishing to apply for a grazing permit for acreage managed by the Washington department of fish and wildlife should contact the ((Washington Department of Fish and Wildlife, 600 North Capitol Way)) department at P.O. Box 43200, Olympia, Washington ((98501-1091)) 98504-3200.

(1) The director is authorized to ~~((enter into))~~ issue grazing permits when the director determines that ~~((a))~~ the grazing permits will be consistent with the desired ecological conditions for those lands ~~((or))~~ and with the department's mission, management objectives, and strategic plan. ~~((Except for temporary permits, or permits that are being renewed or renegotiated with existing permittees, grazing permits shall first be submitted to the commission, which may review the permit to ensure it conforms with commission policy. If, within thirty days, the commission has not disapproved the permit, the director shall be deemed authorized to enter into that permit.~~

~~(2) The director shall negotiate grazing permits with potential grazing operators to ensure the highest benefits to fish and wildlife. The director may advertise and sell a permit to use department lands for grazing at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so.~~

~~(3) The term of each grazing permit shall be no greater than five years. When an existing permit expires or is about to expire, the director may renew the permit for up to another five years, renegotiate the grazing permit with the existing permittee, negotiate a new permit with a new grazing operator, or sell the permit at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so. The director may grant a term longer than five years only with the prior approval of the commission.~~

~~(4) A temporary permit may be granted by the director to satisfy short-term needs where benefits to wildlife management programs and the public interest can be demonstrated. The term of a temporary permit shall not exceed one year and no fee need be charged.~~

~~(5) Except for temporary permits lasting less than two weeks, each grazing permit proposal shall be accompanied by a domestic livestock grazing management plan that includes a description of ecological impacts, desired ecological condition, fish and wildlife benefits, a monitoring plan, and an evaluation schedule for lands that will be grazed by livestock. The department shall inspect the site of a grazing permit no less than two times each year. The director shall retain the right to alter any provision of the plan as required to benefit fish or wildlife management, public hunting and fishing, or other recreational uses.~~

~~(6) The director may cancel a permit (a) for noncompliance with the terms and conditions of the permit, or (b) if the area described in the permit is included in a land use plan determined by the agency to be a higher and better use, or (c) if the property is sold or conveyed, or (d) if damage to wildlife or wildlife habitat occurs.~~

~~(7))~~ (2) A temporary permit may be granted by the director to satisfy short-term needs where benefits to wildlife management programs and the public interest can be demonstrated. The term of a tem-

porary permit shall not exceed one year and no fee need necessarily be charged.

(3) With the following three exceptions, grazing permits shall first be submitted to the commission, which may review the permits to ensure that they conform to commission policy:

(a) Temporary permits;

(b) Permits that are being renewed or renegotiated for acreage where the department has permitted nontemporary grazing during the previous ten years; and

(c) Permits that are being issued for acreage acquired by the department within the previous twelve months.

If, within thirty days, the commission has not disapproved a permit, the director shall be deemed authorized to issue that permit.

(4) A permit issued without commission review on acreage acquired by the department within the previous twelve months must not exceed an initial duration of three years, and may not be subsequently reissued before being submitted to the commission for review.

(5) The director shall negotiate grazing permits with potential grazing operators to ensure the highest benefits to fish and wildlife. When an existing permit expires or is about to expire, the director may renew the permit for up to another five years, renegotiate the grazing permit with the existing permittee or with a new grazing operator, decline to reissue the permit and provide notice of and rationale for nonrenewal by the end of the calendar year of the most recent permitted grazing season, or advertise and sell the permit at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so. No grazing permit shall have a term exceeding five years unless the commission grants prior approval for a longer term.

(6) Except for temporary permits where grazing on department managed lands is allowed for the equivalent of fewer than fourteen total days, each grazing permit proposal shall be accompanied by a domestic livestock grazing management plan that includes a description of ecological impacts, desired ecological conditions, fish and wildlife benefits, a monitoring plan, and an evaluation schedule for lands that will be grazed by livestock. Grazing management lands will address ecosystem standards referenced in RCW 77.12.204. The department shall inspect the site of a grazing permit no less than two times each year. The director shall retain the right to alter any provision of the plan as required to benefit fish or wildlife management, public hunting and fishing, or other recreational uses.

(7) The director may cancel a permit:

(a) For noncompliance with the terms and conditions of the permit;

(b) If the area described in the permit is included in a land use plan determined by the agency to be a higher and better use;

(c) If the property is sold or conveyed; or

(d) If damage to wildlife or wildlife habitat occurs.

Notice of and rationale for cancellation will be provided to the permittee as far in advance as possible.

(8) All lands covered by any grazing permit agreement shall at all times be open to public hunting, fishing and other wildlife recreational uses, consistent with applicable seasons and rules, unless such lands have been closed by action of the commission or emergency order ((ef)) by the director.