



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 31, 2023
TIME: 3:58 PM

WSR 23-22-118

Agency: Washington Department of Fish and Wildlife (WDFW) P2020-08

- Original Notice
- Supplemental Notice to WSR []
- Continuance of WSR []

- Preproposal Statement of Inquiry was filed as WSR 19-07-022 on March 12, 2019 ; or
- Expedited Rule Making--Proposed notice was filed as WSR [] ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW [] .

Title of rule and other identifying information: (describe subject) WAC 220-450-230 Beaver relocation permits – Requirements and restrictions. |

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 15-16, 2023	8:00 a.m.	Natural Resources Building (NRB) – Room 175 1111 Washington Street SE Olympia, WA 98504	Information on how to register to testify at the public hearing is available at: http://wdfw.wa.gov/about/commission.meetings , or contact the Commission office at (360)-902-2267.

Date of intended adoption: On or after January 26-27, 2024. (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Wildlife Program |
 Address: PO Box 43200, Olympia, WA 98504
 Email: beaver@publicinput.com
 Fax: (360) 902-2162
 Other: <http://publicinput.com/beaver>
 Comment by Phone: 855-925-2801 Project Code 2514
 SEPA Email: beaver_SEPA@publicinput.com
 By (date) December 18, 2023

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator |
 Phone: (360) 902-2349
 Fax: []
 TTY: 1-800-833-6388 or 711
 Email: Title6@dfw.wa.gov |
 Other: <http://wdfw.wa.gov/accessibility/requests-accommodation>
 By (date) December 18, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Washington Department of Fish and Wildlife proposes to create a new section in WAC Chapter 220-450, Wildlife in captivity and wildlife rehabilitation. The agency’s purpose for this rule, if adopted, is to create a permit program allowing citizens to offer relocation as an alternative to lethal removal of conflict beaver. This section will:

- Specify the requirements for permittees and subpermittees, including qualifications, training, husbandry facilities, and reporting.
- Identify which beavers are candidates for relocation, which must be conflict-causing and have exhausted all methods of coexistence.
- Specify the requirements for release sites, which must be assessed for a combination of abiotic and biotic factors to determine the suitability of the site in addition to the factors listed in RCW 77.32.585 and with the agreement of the landowner.
- Specify the conditions during temporary captivity, including duration, avoiding disease transmission, preventing habituation and imprinting, and outline the steps to take when a beaver shows illness, injury, or mortality.
- Identify the conditions under which a permit may be revoked, modified or suspended and the steps taken by the permittee, subpermittee, and the agency.

RCW 77.32.585 is a significant legislative rule permitting the agency to release wild beavers. This section will create the permitting program to oversee the citizens performing these relocations. |

Reasons supporting proposal: This new section will build from the existing Beaver Relocation Permit Pilot Program to a permanent program permitting the program to have enforceable rules. RCW 77.32.585 required that the department permit the release of wild beavers under certain conditions and introduced guidelines for allowing relocation. The proposed rule incorporates aspects of the pilot program to establish, if finalized as proposed, a permitting process for overseeing and regulating beaver relocation through enforceable rules.
Citizens relocating wildlife is an unlawful practice, but this section will allow the permit program which trains and supports Permittees to continue. The proposed rule would establish conditions and requirements related to the Beaver Relocation Permits, as well as processes for administering the program. This section will also outline the requirements for beaver release sites to encourage release site fidelity and prevent future conflict events with the beaver in question. The new rule will also identify penalties for not following the department's requirements on relocating beaver.]

Statutory authority for adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.15.005, 77.15.075 and 77.32.585.]

Statute being implemented: RCW 77.04.012, 77.04.055, 77.12.047, 77.15.005, 77.15.075 and 77.32.585.]

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: []

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.]

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Washington Department of Fish and Wildlife.]

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	[Eric Gardner]	[1111 Washington St. SE Olympia, WA. 98501]	[(360) 902-2515]
Implementation:	[Eric Gardner]	[1111 Washington St. SE Olympia, WA. 98501]	[(360) 902-2515]
Enforcement:	[Steve Bear]	[1111 Washington St. SE Olympia, WA. 98501]	[(360) 902-2373]

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:
]
The public may obtain a copy of the school district fiscal impact statement by contacting:
Name: []
Address: []
Phone: []
Fax: []
TTY: []
Email: []
Other: []

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: []
Address: []
Phone: []
Fax: []
TTY: []
Email: []
Other: []

No: Please explain: This proposal does not require a cost benefit analysis under RCW 34.05.328(5)(i).]

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description: []

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW []

Explanation of how the above exemption(s) applies to the proposed rule: []

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)): []
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. []
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:
[]

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: [Scott Bird, Agency Rules Coordinator]
 Address: [P.O. Box 43200-Olympia, WA. 98504-3200]
 Phone: [360-995-2442]
 Fax: []
 TTY: []
 Email: [rule.coordinator@dfw.wa.gov]
 Other: []

Date: [October 31, 2023]
Name: [Scott Bird]
Title: [WDFW Agency Rules Coordinator]

Signature:



NEW SECTION

WAC 220-450-230 Beaver relocation permits—Requirements and restrictions.

Purpose

(1) Wildlife is property of the state, and as such it is unlawful to keep wildlife captive, feed wildlife, or relocate wildlife without expressed permission from the Washington department of fish and wildlife. The purpose of the beaver relocation permit is to grant the permission for citizens to perform relocation of wild American beaver (*Castor canadensis*) while establishing criteria to:

- (a) Reduce lethal removal of beaver by allowing permittees to relocate conflict beaver;
- (b) Ensure humane care and treatment is provided to beaver during the process of trapping, temporary captivity, and relocation; and
- (c) Select release sites which maximize relocation success by providing suitable habitat for beaver with minimal likelihood for future human-beaver conflict as described in RCW 77.32.585.

Definitions

(2) For the purpose of this section, the following terms apply:

(a) "Beaver husbandry facility" means the authorized site(s), as shown on the beaver relocation permit, for the temporary holding of beaver involved in relocation.

(b) "Beaver relocation permit" means a permit issued by WDFW to allow the relocation of beaver.

(c) "Euthanasia" means compassionate killing with minimal pain and distress, in a timely manner, and safely to prevent disease transmission, public health or human safety risks, or prolonged or unrelenting animal suffering due to illness, injury, or unremitting pain as outlined in WAC 220-450-180.

(d) "Habitat suitability" means a combination of abiotic and biotic factors used to assess the likelihood of beavers occupying and thriving in a site.

(e) "Humane care" means providing care such as water, food, safe handling, clean facilities, medical treatment, and euthanasia if needed, and conditions including environments sensitive to species-typical biology and behavior, with the intent to minimize fear, pain, stress, and suffering.

(f) "Permittee" means the person listed on the beaver relocation permit who applies for and receives a beaver relocation permit and is responsible for monitoring and approving the relocation activities conducted under the permit.

(g) "Release site" means a location in a stream where beavers will be relocated to. The site is assessed by a permittee using the criteria and methods discussed in the required training, is not in proximity of ungulate grazing territory, is not in proximity to buildings or infrastructure which may impart damage from beaver activity, does not currently show beaver occupation, and is analyzed for the factors listed in RCW 77.32.585.

(h) "Subpermittee" means a person listed on the permittee's beaver relocation permit who may assist the permittee with specified aspects of beaver relocation activities limited by the criteria in this section.

Application requirements and general criteria

- (3) Applicants must meet all the following criteria to be issued a beaver relocation permit:
- (a) Must be at least 18 years of age;
 - (b) Must not have within the last three years:
 - (i) More than one finding of "paid" or "committed," as 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.
 - (c) Must complete and submit a beaver relocation application online to the department's beaver relocation manager any time after March 1st for a permit of the same year.
 - (d) Must operate or have access to a beaver husbandry facility that meets minimum requirements outlined in the Beaver Relocation Handbook.
 - (e) Must submit a beaver relocation plan that describes the intent of relocations, area of work, and methods for identifying source beaver, capture, handling, transport, release site selection, release, and monitoring following release site factors listed in RCW 77.32.585.
 - (f) Must submit a statement of qualifications and relevant experience.
 - (g) Must demonstrate willingness and ability to comply with all requirements of the permit.
 - (h) Must complete a comprehensive training on beaver relocation in Washington as identified by the department within the past three years.
- (4) The department may refuse a permit if the applicant submits an incomplete application or does not meet any of the requirements in this section.
- (5) Permits will be valid within the dates listed on the permit and no more than one year after the application is approved.
- (6) The permittee and subpermittees must provide all beavers with humane care during capture, transport, holding, and release.
- (7) The permit does not authorize the permittee or any subpermittees to practice veterinary medicine.
- (8) Permittees and subpermittees are responsible for abiding by all permit terms and conditions, reporting and record requirements, and compliance with state and federal regulations when conducting beaver relocation or actions associated with beaver relocation.
- (9) Beaver acquired and held by a permittee, including deceased animals and parts, remain the property of the state and will not be offered for sale, sold, traded, or bartered.
- (10) Beaver acquired and held by a permittee for the purposes of relocation must not be exported out of state or imported into Washington. A violation of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.
- (11) The permittee and any subpermittees must carry a digital or paper copy of the current year's beaver relocation permit while trapping, transporting, releasing, or holding beaver.
- (12) Only beaver which cause human-wildlife conflict including, but not limited to, damage to private or public property or infrastructure, may be relocated. The human-wildlife conflict must be verified by the permittee. Mitigation of such conflict must be discussed with the landowner before trapping for relocation.
- (13) Additional staff or volunteers may assist in the capture, transport, and relocation of beaver but only with the direct in-person supervision of the permittee.

(14) An annual report using the department's designated report form is required by the date listed on the permit so that information can be included on the department's website per RCW 77.36.160.

(15) Permittees assume all responsibility for the action of sub-permittees listed on their annual permit. Subpermittees must be supervised by permittees and the permittee may assign subpermittee duties under their current year's permit for the following activities: Transport of beaver to or from the husbandry facility, feeding of beaver while in captivity, observation of beaver while in captivity, intake or prerelease measurements of beaver, and/or completion and submission of required reports.

(16) Proposed subpermittees must meet the requirements of subsection (3)(a), (b), and (f) of this section.

(17) The following subpermittees are authorized to also conduct the following activities under a valid, current year's permit depending on their current, valid certifications and licenses:

(a) A wildlife control operator (WCO) listed as a subpermittee may capture and transport beaver to an approved beaver husbandry facility or to a release site unsupervised. They may only trap beaver within the regulations of their WCO certification and may charge a fee for capturing beaver pursuant to WAC 220-440-110. Wildlife control officers listed as subpermittees cannot release beaver or select release sites without the permittee being present.

(b) A WDFW trapping license holder listed as a subpermittee may capture and transport beaver to an approved beaver husbandry facility or to a release site unsupervised. WDFW trapping license holders cannot release beaver or select release sites without the permittee being present. Participation as subpermittee does not authorize licensed trappers to harvest beaver outside of the trapping license season.

(18) Permittees or subpermittees listed on a beaver relocation permit may not trap commercially or recreationally for beaver within two miles in any direction from any site where beaver were released under a permit for two years after the release date.

(19) The permittee is responsible for performing the habitat suitability assessment per the WDFW-approved site assessment form, selecting the site for release, and ensuring that post-release monitoring is conducted by appropriately trained personnel. A subpermittee may not select sites for beaver release or release beaver without supervision by the permittee.

Beaver capture

(20) Captured beaver must be checked for lactation at the trap site. Any lactating beaver should be brought to the beaver husbandry facility while an attempt is made to capture the kits so the family group may be relocated together. If a captured beaver is lactating, it must be noted in the annual report.

(21) The permit does not authorize the use of body-gripping traps (as defined in RCW 77.15.192). A special trapping permit is required for the use of body-gripping traps (WAC 220-417-040).

Beaver housing and caretaking - Generally applicable provisions

(22) A permittee must operate or have access to at least one beaver husbandry facility that meets the minimum requirements outlined in the permit. This facility is subject to inspection by WDFW staff each permit year.

(23) The permittee and subpermittees may not house beaver at a site different than the facility(ies) indicated on their permit except in an emergency situation requiring veterinary care. Documentation of

such events must be submitted to WDFW within seven days of the advent of the emergency.

(24) The normal interval for holding beaver captive before release will be less than 14 days, but permittees may hold beaver for longer if they notify the WDFW program coordinator by the 14-day mark and receive approval from the department's beaver relocation manager (or their designee).

(25) A permittee must keep beaver which are the same sex and from different family groups separate to prevent beaver-beaver conflict.

(26) The permittee will ensure that beaver held at a beaver husbandry facility prior to relocation shall have minimal contact with humans and domestic animals to prevent habituation and/or disease transmission. Domestic animals should not be allowed at the husbandry facility. If this is unavoidable, domestic animals should be fully vaccinated and should have no direct contact with, nor direct exposure to, wildlife.

(27) The permittee will ensure that beaver housed in a beaver husbandry facility are observed daily for disease or injury and will maintain a daily log of observations. This log will be submitted to WDFW with the annual report. If disease or injury of a captive beaver is suspected, the permittee must contact a WDFW wildlife veterinarian. No beaver may be relocated that appears sick or injured without approval from a WDFW wildlife veterinarian.

(28) In cases where a captive beaver is suffering and humane euthanasia is necessary, but the permittee is unable to reach a WDFW wildlife veterinarian, the permittee may contact a local veterinarian to perform humane euthanasia. Euthanasia must be provided in accordance with an animal's welfare, using humane techniques and at a reasonable time after admission to prevent unnecessary suffering of the animal. Permittees must follow the most current American Veterinary Medical Association Guidelines on Euthanasia.

(29) The permittee must report any beaver illness or death within 24 hours to a WDFW wildlife veterinarian and the WDFW permit program coordinator and abide by the following criteria:

(a) Any beaver which has expired from or is suspected of expiring from the zoonotic diseases such as tularemia, leptospirosis, yersiniosis, or giardia must be submitted for necropsy per a WDFW wildlife veterinarian's instructions.

(b) In the case of a beaver expiring from any cause besides disease, the permittee is encouraged to donate the carcass to a permitted museum, research institution, or tribal organization; a WDFW transfer authorization must accompany any transfer of a beaver carcass unless the institution is permitted to receive specimens. Otherwise, the permittee or subpermittee will dispose of deceased beaver through lawful burial, incineration, or a licensed rendering facility (WAC 220-440-090).

(30) The permit authorizes the use of commonly used ear tags and passive integrated transponder (PIT) tags. Nonpermanent, superficial marks such as nontoxic paint or tape may be used as appropriate for distinguishing individuals in temporary captivity. The permit does not authorize the application of other devices (such as VHF transmitters).

Beaver release

(31) Permittee is responsible for selecting the release site and is required to select sites which meet the following criteria:

(a) Show no current sign of beaver occupancy within 2,000 feet both up and downstream of the site;

(b) Show no culverts, buildings, or infrastructure which may be impacted by flooding or beaver structures within 2,000 feet both up and downstream of the site;

(c) Does not show sign of heavy livestock or native ungulate presence within 2,000 feet both up and downstream of the site;

(d) Have been assessed for habitat suitability criteria listed in RCW 77.32.585; and

(e) Does not violate movement of beavers across the division of Eastern and Western Washington as defined in WAC 220-450-150.

(32) The permit does not authorize trespass or the relocation of beaver to any site without the express permission of the property owner, land manager, or their designee.

(33) The permittee must conduct a site evaluation of the property to receive beaver(s) and assess habitat suitability following WDFW protocols prior to capture, handling, and holding of beaver. The permittee or subpermittee may not capture beaver before securing a release site for that animal.

(34) The permittee must receive a signed Landowner Attestation Form from the release site landowner, land manager, or their designee before any beaver may be captured for release on the property which includes an agreement to gain approval from neighboring property owners within one mile downstream of the release site. The permittee must submit a copy of each signed Landowner Attestation Form to WDFW as part of their annual report. A formal agreement with a government or tribal land management agency is acceptable in lieu of a Landowner Attestation Form for releases on public or tribal land.

(35) Permittees and subpermittees may not be held liable for property damage caused by beaver released using a beaver relocation permit per RCW 77.32.585.

(36) A violation of this section by a person who engages in wildlife relocation without a department permit is punishable under RCW 77.15.190, 77.15.430, or other applicable sections of the RCW and WAC, depending on the circumstances of the violation.

(37) A violation of this section by a person who has a beaver relocation permit is punishable under RCW 77.15.750(1).

Permit modification, suspension, or revocation

(38) The department may modify, suspend, or revoke a beaver relocation permit if the primary permittee or a subpermittee violates any department rule related to beaver relocation, wildlife possession, wildlife rehabilitation, wildlife trafficking, or permit conditions. Violations include, but are not limited to, mal-imprinting, which is the over-habituating to where animals lose fear of humans and predators, or taming wildlife in relation to humans or domestic animals at the beaver relocation facility. In addition, the department may modify, suspend, or revoke a beaver relocation permit if a permittee or a subpermittee, within the last 10 years, was convicted of any offense involving animal or child cruelty, neglect, abuse, or found guilty practicing veterinary medicine without an active license as determined by the veterinary board of governors.

(39) A primary permittee who is in violation of permit conditions or department beaver relocation rules, or whose subpermittee is in violation of permit conditions or department beaver relocation rules shall, in this order:

(a) Receive written warning(s) outlining remedies and a deadline of not less than seven days to come into compliance after which time the department may impose permit modification to remedy those viola-

tions such as restriction of permitted counties or increased frequency of beaver husbandry facility inspections.

(b) If the permittee is noncompliant after 14 days, the permit will be suspended. A permit will only be reinstated again if the permittee successfully implements a corrective action plan within the compliance deadline.

(c) A primary permittee will have the permit revoked if written warnings, permit modifications, compliance plan remedies, and permit suspension processes with concurrent inspections do not result in permittee compliance. Nothing in this section prevents the department from acting immediately to remove animals or suspend or revoke beaver relocation permits in case of documented animal cruelty or adverse animal welfare.

(40) The department's revocation, modification, or suspension of a beaver relocation permit under this section does not preclude the department from referring a matter for potential criminal prosecution against the primary permittee, subpermittee, or both.

(41) Permittees whose beaver relocation permit is revoked may re-apply for a new permit three years after the date of revocation. Upon application, the department will consider previous beaver relocation permit performance and the nature of the previous noncompliance or violations when determining whether to issue a new permit. The department will deny an application if the basis for revocation has not been or is not likely to be resolved.

(42) Any permittee whose beaver relocation permit is revoked, modified, or suspended under this section may request an administrative hearing to appeal the department's action. The department will administer such appeals in accordance with chapter 34.05 RCW.