Concise Explanatory Statement
2025 Season Setting CWD

Rules amended as part of this rulemaking:

WAC 220-400-040	Possession of dead wildlife.
WAC 220-413-030	Importation and retention of dead nonresident wildlife.
WAC 220-413-100	Mandatory report of hunting activity.
WAC 220-414-030	Baiting for the purpose of hunting deer or elk.

Rules repealed as part of this rulemaking:

N/A

Rules created as part of this rulemaking:

N/A

1. **Background/Summary of Project:**

WAC 220-400-040 Possession of dead wildlife. (Section 4, initial paragraph)

The department was requested (via petition) to consider expanding salvage of deer and elk in Clark, Cowlitz, and Wahkiakum counties. Under existing rule, salvage of deer and elk in these counties is prohibited due to concern regarding inadvertent or purposeful take and/or possession of the federally endangered Columbian white-tailed deer (CWTD) present in these counties (i.e., take or possession of this species is prohibited). The department evaluated existing data and information about roadkill of CWTD, including practices used in Oregon (where CWTD are also present), and determined the likelihood of inadvertent salvage/possession of this species is low.

WAC 220-400-040(4)(d) Possession of dead wildlife.
WAC 220-413-030 Importation and retention of dead nonresident wildlife.
WAC 220-413-100 Mandatory report of hunting activity.
WAC 220-414-030 Baiting for the purpose of hunting deer or elk.

Changes to the above WACs are in association with the detection of chronic wasting disease in Washington state in 2024. This disease affects cervids (deer, elk, or moose), is always fatal, and can cause population decline. The disease is spread by animal-to-animal contact, environmental contamination, or by human movement of infectious material. The amendments to the above WACs are intended to limit the spread and impacts of this disease on Washington state's cervid populations.

2. **Reasons for adopting the rule:**

WAC 220-400-040 Possession of dead wildlife.

The proposed change to salvage rules to require sample submission are associated with chronic wasting disease (CWD) management. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). Early detection of CWD in a population is critical, as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a pre-detection surveillance program that tested thousands of animals, and a prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al. 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al. 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington state (Williams et al. 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's pre-detection surveillance program since 2021. This program successfully identified the first case of CWD in Washington state in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

With recent emergency requirements for CWD testing in several game management units, the department observed nearly an eight-fold increase in sample sizes (over 900 samples collected in 2024 vs. 124 samples collected the previous surveillance year in the mandatory area) that allowed for more accurate determinations of disease prevalence and geographic distribution. Subsequently, these estimates of CWD prevalence and distribution improve the efficacy of disease management, such as harvest, disposal, and outreach.

For more information regarding the citations above, visit WDFW.wa.gov – Chronic Wasting Disease Management Plan (https://wdfw.wa.gov/publications/02292)

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). These prions persist in the animal's tissues after death and will contaminate the environment as the carcass decomposes.

Studies have demonstrated that infectious CWD prions from infected decomposed deer carcasses can persist in the environment for nearly two-years, presenting an exposure hazard to other cervids in the area (Miller et al. 2004). Prions that cause scrapie in domestic sheep, a disease very similar to CWD, may persist in the environment for up to 16 years (Georgsson et al. 2006). Due to the risk of importing CWD into Washington state via infected carcasses or carcass parts, the department updated WAC 220-413-030 (Importation and Retention of Dead Nonresident Wildlife) in [2021] to prohibit the importation of intact carcasses and certain carcass parts of cervids harvested outside of Washington state. Now that CWD is present in Washington state, similar restrictions are needed to prevent or slow the spread of the disease to other currently unaffected areas of the state. This WAC also requires hunters to notify the department within 24 hours if they are informed that a deer or elk they harvested in another state or province subsequently tested positive for CWD. According to the Association of Fish and Wildlife Agencies (AFWA), the best management practice for reducing the risk of CWD transmission and establishment via movement of hunter-harvested cervid carcasses and tissues is to prohibit the importation of intact cervid carcasses from all states and provinces (Gillin and Mawdsley, 2018). These same risk reduction management practices can be applied within state to reduce the risk of CWD transmission and establishment of CWD via movement of hunter-harvested and salvaged cervid carcasses and tissues to other disease-free areas of the state.

For more information regarding the citations above, visit WDFW.wa.gov – Chronic Wasting Disease Management Plan (https://wdfw.wa.gov/publications/02292)

WAC 220-413-100 Mandatory report of hunting activity.

CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). Early detection of CWD in a population is critical as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a pre-detection surveillance program that tested thousands of animals, and a prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al. 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al. 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington state (Williams et al. 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's pre-detection surveillance program since 2021. This program successfully

identified the first case of CWD in Washington state in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

With recent mandatory requirements for CWD testing in several game management units, the department observed nearly an 8-fold increase in sample sizes (over 900 samples collected in 2024 vs. 124 samples collected the previous surveillance year in the mandatory area) that allowed for more accurate determinations of disease prevalence and geographic distribution. Subsequently, these estimates of CWD prevalence and distribution improve the efficacy of disease management, such as harvest, disposal, and outreach.

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WAC 220-414-030 Baiting for the purpose of hunting deer or elk.

Baiting and recreational or supplemental feeding of any wildlife species has the potential to artificially concentrate animals (Janousek et al. 2021) and increase the transmission of infectious disease agents among them (Sorenson et al. 2014). Attraction of animals to artificial feed can also result in contamination of the feedstuffs and the environment by disease agents, such as prions, that are present in saliva, urine, and feces of CWD-infected cervids (Mathiason et al. 2009, Henderson et al. 2015, Plummer et al. 2017). For example, it has been demonstrated that white-tailed deer with CWD deposit prions at mineral licks, creating environmental reservoirs of CWD prions (Plummer et al. 2018). According to the Association of Fish and Wildlife Agencies (AFWA), the best management practice to reduce the risk of CWD transmission and establishment through unnatural concentrations of cervids, is for states and provinces to eliminate the baiting and feeding of all wild cervids using regulatory mechanisms, such as jurisdictional bans (Gillin and Mawdsley, 2018). CWD prions are shed in the urine of infected deer for months to years before they show signs of disease, and an infected deer may shed thousands of infectious doses during its lifetime (Henderson et al. 2015). There are currently no practical tests to detect the presence of CWD prions in urine. Hunters use commercial urine-based products to mask human scent and to attract deer, particularly males, within shooting range. These products are readily available for purchase at sporting goods stores and online. The urine used in these products is collected from deer in captive facilities, typically using a grate system that also collects feces and other excretions (Spitznagel 2012) and is frequently batched/combined from multiple captive cervid facilities (Nark 2017). Deer urine production and sales are not regulated by any agency, nor are there any testing or labeling requirements for urine products. The Archery Trade Association (ATA) offers a voluntary certification program for deer urine businesses which is designed to mitigate the risk of spreading CWD via commercial deer urine products. However, there are shortcomings with the ATA certification program (Gillin and Mawdsley, 2018), and the organization has no technical ability or regulatory authority to detect or prevent the distribution of contaminated urine products. According

to AFWA, the best management practice for reducing the risk of CWD transmission and establishment through use of natural cervid urine-based products is to "eliminate the sale and use of natural cervid urine-based products" (Gillin and Mawdsley, 2018).

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3. **Differences between the text of the proposed rule and the rule as adopted:**

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

None except word ordering or word choice changes to improve clarity and understanding of the rule's intent.

WAC 220-413-100 Mandatory report of hunting activity.

None except word ordering or word choice changes to improve clarity and understanding of the rule's intent.

4. **Public comments, response to comments, and consideration of comments**

WAC 220-400-040 Possession of dead wildlife.

Comment: General support for expanded salvage opportunity

Response: The department is supportive of ways to minimize wastage of deer and elk from roadkill and appreciative of the public petition submitted to make this change.

Comment: General support for mandatory testing of salvaged deer and elk

Response: The department appreciates public support for efforts to mitigate the impacts of this disease.

Comment: General opposition for mandatory testing of salvaged deer and elk

Response: The change to salvage rules to require sample submission are associated with chronic wasting disease management. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). Early detection of CWD in a population is critical, as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a pre-detection surveillance program that tested thousands of animals, and a

prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al. 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al. 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington state (Williams et al. 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's pre-detection surveillance program since 2021. This program successfully identified the first case of CWD in Washington state in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

With recent emergency requirements for CWD testing in several game management units, the department observed nearly an eight-fold increase in sample sizes (over 900 samples collected in 2024 vs. 124 samples collected the previous surveillance year in the mandatory area) that allowed for more accurate determinations of disease prevalence and geographic distribution. Subsequently, these estimates of CWD prevalence and distribution improve the efficacy of disease management, such as harvest, disposal, and outreach.

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Comment: Comments unrelated to the rule, e.g., on baiting restrictions

Response: The department's response to concerns about baiting restrictions are in that rule section. The department has no response to other comments unrelated to rule change proposals for this WAC.

WAC 220-413-030 Importation and retention of dead nonresident wildlife.

Comment: General support for efforts to mitigate CWD impacts

Response: The department appreciates public support for efforts to mitigate the impacts of this disease.

Comment: General opposition based on CWD being present in the state already (i.e., skepticism that the rule is ineffective at mitigating the disease's impacts).

Response: The department appreciates the public input on this rule proposal. The intent of this proposal is to minimize the emergence of CWD elsewhere in Washington state. Currently, the disease is only known in the far eastern region. Human movement of infectious material to other areas of the state is a significant source of risk that can be mitigated through limiting the transportation of specific cervid carcass parts.

Comment: General opposition based on scientific credibility or effectiveness of the proposal.

Response: The department appreciates the input and acknowledges the concern expressed in this rule's comments. However, the science behind this rule proposal is clear. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). These prions persist in the animal's tissues after death and will contaminate the environment as the carcass decomposes. Studies have demonstrated that infectious CWD prions from infected decomposed deer carcasses can persist in the environment for nearly two-years, presenting an exposure hazard to other cervids in the area (Miller et al. 2004). Prions that cause scrapie in domestic sheep, a disease very similar to CWD, may persist in the environment for up to 16 years (Georgsson et al. 2006). Due to the risk of importing CWD into Washington state via infected carcasses or carcass parts, the department updated WAC 220-413-030 (Importation and Retention of Dead Nonresident Wildlife) in [2021] to prohibit the importation of intact carcasses and certain carcass parts of cervids harvested outside of Washington. Now that CWD is present in Washington state, similar restrictions are needed to prevent or slow the spread of the disease to other currently unaffected areas of the state. This WAC also requires hunters to notify the department within 24 hours if they are informed that a deer or elk they harvested in another state or province subsequently tested positive for CWD. According to the Association of Fish and Wildlife Agencies (AFWA), the best management practice for reducing the risk of CWD transmission and establishment via movement of hunter-harvested cervid carcasses and tissues is to prohibit the importation of intact cervid carcasses from all states and provinces (Gillin and Mawdsley, 2018). These same risk reduction management practices can be applied within state to reduce the risk of CWD transmission and establishment of CWD via movement of hunter-harvested and salvaged cervid carcasses and tissues to other disease-free areas of the state.

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Comment: Comments unrelated to the rule, e.g., on baiting restrictions

Response: The Department's response to concerns about baiting restrictions are in that rule section. The department has no response to other comments unrelated to rule change proposals for this WAC.

WAC 220-413-100 Mandatory report of hunting activity.

Comment: General support for efforts to mitigate CWD impacts and mandatory testing in areas where CWD has been identified.

Response: The department appreciates public support for efforts to mitigate the impacts of this disease.

Comment: General opposition based on concern about sample collection difficulty and/or submission.

Response: The department acknowledges that this rule will place additional responsibility on hunters in CWD affected areas. To facilitate easier sample collection and submission, the department has produced several online videos and guides on how to collect CWD samples. Additionally, the department offers several submission methods and collection stations (e.g., drop boxes, check stations, mail-in) to lessen the burden placed on hunters. The department will continue to expand collection options as resources allow and as needs arise.

Comment: General opposition based on scientific credibility or effectiveness of the proposal.

Response: The department appreciates the input and acknowledges the concern expressed in this rule's comments. However, the science behind this rule proposal is clear. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al. 1999). Early detection of CWD in a population is critical as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a pre-detection surveillance program that tested thousands of animals, and a prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al. 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al. 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington state (Williams et al. 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's pre-detection surveillance program since 2021. This program successfully identified the first case of CWD in Washington state in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

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WAC 220-414-030 Baiting for the purpose of hunting deer or elk.

Comment: general support for regulations that limit the spread and impacts of CWD, specifically restrictions on baiting and the use of natural urine or glandular scents.

Response: The department appreciates public support for efforts to mitigate the impacts of this disease.

Comment: Opposition based on concern for hunter success, or impacts to local economies related to hunting activity.

Response: The department acknowledges that restrictions on baiting will impact the hunting behavior and practices of many hunters. Prior to this proposal, however, only two western states allowed the use of bait for the purpose of hunting deer, elk, or moose (i.e., Washington and Oregon). All other western states have maintained hunting opportunity and hunter participation, including underrepresented groups like youth or disabled hunters. While an adjustment period is expected, the department does not anticipate long-term depression of hunter participation or success due to this rule change.

Comment: Preference for a regional based restriction on baiting.

Response: The department acknowledges the support for a regional based baiting ban. However, the department's sampling and testing resources are currently allocated to its eastern region. Continuing baiting practices elsewhere in the state carries the risk of facilitating disease spread where the disease is present, but undetected. A statewide restriction is the simplest and most precautionary approach to minimize disease spread facilitated through baiting practices.

Comment: General opposition based on scientific credibility of the rule proposal.

Response: The department appreciates the input and acknowledges the concern expressed in this rule's comments. However, the science behind this rule proposal is clear. Baiting and recreational or supplemental feeding of any wildlife species has the potential to

artificially concentrate animals (Janousek et al. 2021) and increase the transmission of infectious disease agents among them (Sorenson et al. 2014). Attraction of animals to artificial feed can also result in contamination of the feedstuffs and the environment by disease agents, such as prions, that are present in saliva, urine, and feces of CWD-infected cervids (Mathiason et al. 2009, Henderson et al. 2015, Plummer et al. 2017). For example, it has been demonstrated that white-tailed deer with CWD deposit prions at mineral licks, creating environmental reservoirs of CWD prions (Plummer et al. 2018). According to the Association of Fish and Wildlife Agencies (AFWA), the best management practice to reduce the risk of CWD transmission and establishment through unnatural concentrations of cervids, is for states and provinces to eliminate the baiting and feeding of all wild cervids using regulatory mechanisms, such as jurisdictional bans (Gillin and Mawdsley, 2018). CWD prions are shed in the urine of infected deer for months to years before they show signs of disease, and an infected deer may shed thousands of infectious doses during its lifetime (Henderson et al. 2015). There are currently no practical tests to detect the presence of CWD prions in urine. Hunters use commercial urine-based products to mask human scent and to attract deer, particularly males, within shooting range. These products are readily available for purchase at sporting goods stores and online. The urine used in these products is collected from deer in captive facilities, typically using a grate system that also collects feces and other excretions (Spitznagel 2012) and is frequently batched/combined from multiple captive cervid facilities (Nark 2017). Deer urine production and sales are not regulated by any agency, nor are there any testing or labeling requirements for urine products. The Archery Trade Association (ATA) offers a voluntary certification program for deer urine businesses which is designed to mitigate the risk of spreading CWD via commercial deer urine products. However, there are shortcomings with the ATA certification program (Gillin and Mawdsley, 2018), and the organization has no technical ability or regulatory authority to detect or prevent the distribution of contaminated urine products. According to AFWA, the best management practice for reducing the risk of CWD transmission and establishment through use of natural cervid urine-based products is to “eliminate the sale and use of natural cervid urine-based products” (Gillin and Mawdsley, 2018).

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