

Cougar - Decision

WAC 220-415-100

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Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

Friday July 15, 2022

Agenda item:

Cougar Hunting Season and Regulations - Decision

Presenter(s):

Anis Aoude, Manager, Game Division, Wildlife Program

Background summary:

Department staff briefed the Commission on the proposed rule and amendments to WAC 220-415-100 Cougar Hunting Season and Regulations. The Department is seeking a decision.

The purpose of the proposed amendments to 220-415-100 Cougar hunting seasons and regulations is to primarily address an ungulate management concern by providing an additional recreational cougar hunting opportunity in specific geographic areas. The proposal is to use recreational hunting, through a second cougar harvest opportunity in identified cougar population management units (PMUs), to assist in increasing elk calf survival. If the proposed amendments are adopted, WDFW would expect an increase in cougar harvest in the GMUs that constitute PMUs 9, 10, and 11, where the Blue Mountain Elk herd is more susceptible to cougar caused mortality. WDFW also anticipates a corresponding increase in juvenile elk survival in PMUs 9, 10, and 11, where in recent years the agency has observed insufficient juvenile elk survival to achieve population growth or stability in the Blue Mountains elk population. This amendment would also add the cougar PMU number to each of the hunt areas. These amendments, if adopted, would provide an additional hunting opportunity to hunters who may elect to pursue a second cougar within the identified PMUs, and clearly identify the PMU numbers and the GMUs associated with each for those individuals. The proposal meets the Commission's mandate and the guidance under WDFW's 2015-2021 Game Management Plan.

A fundamental part of WDFW's legislative mandate is to preserve, protect, and manage wildlife while providing maximum, sustainable recreational hunting opportunities. Elk have been a part of Washington's wildlife for over 10,000 years, and the recent downward population trends of Blue Mountain elk are concerning to ungulate managers for maintaining a healthy and sustainable elk herd in the Blue Mountains over the long-term. WDFW strives to manage for viable and productive elk populations with desirable population characteristics, as explained in WDFW's 2015-2021 Game Management Plan. A recent risk-assessment conducted by WDFW has identified cougar predation as a leading cause of elk calf mortality. WDFW recognizes cougar management actions, which aim to reduce

cougar numbers in specific areas, as a viable management tool to minimize potential predation on ungulates and provide support to the ungulate herd. The increased opportunity to harvest cougars within the Blue Mountain Elk herd range would also assist in efforts to meet the cougar harvest guidelines for those PMUs where the cougar harvest has not met the guideline. The addition of the PMU numbers would clarify to hunters which GMUs are contained within each PMU and further state which PMUs are authorized for a second cougar transport tag.

The specific proposed changes include:

1) Under section (2) add a column to identify each hunt area with the associated population management unit number.

2) Under section (4)(b) add the following language (indicated by underlined and strike out text):

b) The statewide bag limit is one (~~(+1)~~) cougar per license year statewide and one additional cougar per license year may only be harvested from the following PMUs 9, 10, and 11; excluding removals authorized under WAC 220-440-030. One cougar transport tag is included with a big game hunting license that has cougar as a species option. A second cougar transport tag must be purchased to take a second cougar in PMUs 9, 10, and 11; which are comprised of the following GMUs: 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186. Hunters may only purchase the second transport tag after having purchased a license which includes cougar as a species option. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

Reasons supporting proposal:

1) The addition of the PMU numbers is intended to direct hunters to the specific hunt areas eligible for a second harvest opportunity.

2) The overall intent of allowing an individual hunter to harvest a second cougar per license year is to provide a limited opportunity in PMUs 9, 10, and 11 while also addressing a local ungulate management issue identified by WDFW wildlife staff. In these three PMUs, where the second cougar tag would be offered, elk calf survival is low and mortality caused by predation, specifically cougar predation, is high. WDFW staff determined that predation on elk calves must be addressed to improve elk calf survival and reducing cougar density within the affected PMUs of the Blue Mountains is warranted as a short-term management tool. The use of hunters is deemed the most immediate method feasible under current law. Continued monitoring of cougar harvest and elk calf survival is paramount to assess the efficacy of the proposed action if adopted.

Staff recommendation:

Recommended adoption of the rule as presented by Department staff.

Policy issue(s) and expected outcome:

No policy issues.

Fiscal impacts of agency implementation:

None.

Public involvement process used and what you learned:

WDFW filed a preproposal statement of inquire on November 30, 2021, WSR 21–24–084. This filing initiated public comment that will close at midnight on June 25, 2022. WDFW also issued a news release as well as posts to multiple media outlets, our website, and emails. Hard copies will be sent to those who request it. WDFW Staff will consider the public comment and return to the Fish and Wildlife Commission in July asking for a decision.

Action requested and/or proposed next steps:

Recommend adoption of the rule as presented by Department staff.

Motion: I move to adopt the recommended rule changes as presented by Department staff. Is there a “second”? If so, then motion maker discusses basis for the motion; other Commissioners discuss views on motion, amendments, if any, proposed and addressed.

Post decision communications plan:

Washington Department of Fish and Wildlife Website
New Release

AMENDATORY SECTION (Amending WSR 20-11-020, filed 5/12/20, effective 6/12/20)

WAC 220-415-100 Cougar hunting seasons and regulations. (1) As used in this section and in the context of general cougar hunting seasons, "harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline.

(2) Early general cougar season is September 1st to December 31st, late general cougar season is January 1st to April 30th of the following year. Hunters can use any legal weapon to hunt cougars.

Harvest guidelines:

(Implied density in parentheses)

| <u>Population Management Unit (PMU)</u> | Hunt Area | Harvest Guideline |
|--|--|--------------------------|
| <u>1</u> | GMU 101 | 7-11 (2.6) |
| <u>2</u> | GMU 105 | 4 (3.72) |
| <u>3</u> | GMUs 108, 111 | 9-11 (3.63) |
| <u>4</u> | GMU 113 | 4-5 (1.91) |
| <u>5</u> | GMU 117 | 11-13 (3.57) |
| <u>6</u> | GMU 121 | 9-11 (3.65)* |
| <u>7</u> | GMUs 124, 127, 130 | 7-9 (2.15) |
| <u>8</u> | GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381 | None |
| <u>9**</u> | GMUs 149, 154, 162, 163 | 7-9 (3.56)* |
| <u>10**</u> | GMUs 145, 166, 175, 178 | 6-7 (3.51) |

| <u>Population Management Unit (PMU)</u> | Hunt Area | Harvest Guideline |
|--|------------------------------|--------------------------|
| <u>11</u> ** | GMUs 169, 172, 181, 186 | 5-6 (3.68) |
| <u>12</u> | GMU 203 | 4-5 (1.91) |
| <u>13</u> | GMU 204 | 6-8 (2.17) |
| <u>14</u> | GMUs 209, 215 | 3-4 (1.91) |
| <u>15</u> | GMUs 218, 231 | 4-5 (1.91) |
| <u>16</u> | GMU 224 | 2 (1.91) |
| <u>17</u> | GMUs 233, 239 | 4-5 (2.42) |
| <u>18</u> | GMUs 242, 243 | 5-6 (2.28) |
| <u>19</u> | GMUs 244, 246, 247 | 4-6 (1.91) |
| <u>20</u> | GMUs 245, 250 | 4-6 (1.91) |
| <u>21</u> | GMUs 249, 251 | 4-6 (1.91) |
| <u>22</u> | GMUs 328, 329, 335 | 8-10 (2.79) |
| <u>23</u> | GMUs 336, 340, 342, 346 | 9-11 (3.61) |
| <u>24</u> | GMUs 352, 356, 360, 364, 368 | 7-9 (2.9) |
| <u>25</u> | GMUs 382, 388 | 3 (1.91) |
| <u>26</u> | GMU 407 | None |
| <u>27</u> | GMUs 418, 426, 437 | 10-13 (1.91) |
| <u>28</u> | GMUs 448, 450 | 8-11 (1.91) |
| <u>29</u> | GMU 454 | None |
| <u>30</u> | GMU 460 | 4-6 (1.91) |
| <u>31</u> | GMUs 466, 485, 490 | 2-3 (1.91) |
| <u>32</u> | GMUs 501, 504, 506, 530 | 6-9 (1.91) |
| <u>33</u> | GMUs 503, 505, 520, 550 | 5-7 (1.91) |
| <u>34</u> | GMUs 510, 513 | 3 (1.91) |
| <u>35</u> | GMU 516 | 3-4 (1.91) |
| <u>36</u> | GMUs 524, 554, 556 | 3 (1.91) |
| <u>37</u> | GMU 560 | 4-5 (1.91) |
| <u>38</u> | GMU 564 | 1 (1.91) |
| <u>39</u> | GMU 568 | 3 (2.74) |
| <u>40</u> | GMU 572 | 2-3 (1.91) |
| <u>41</u> | GMUs 574, 578 | 5-6 (2.82) |
| <u>42</u> | GMUs 601, 602, 603, 612 | 4-6 (1.91) |
| <u>43</u> | GMUs 607, 615 | 3-4 (1.91) |
| <u>44</u> | GMUs 618, 636, 638 | 3-5 (1.91) |
| <u>45</u> | GMUs 621, 624, 627, 633 | None |
| <u>46</u> | GMUs 642, 648, 651 | 6-8 (2.18) |

| <u>Population Management Unit (PMU)</u> | Hunt Area | Harvest Guideline |
|--|---|--------------------------|
| <u>47</u> | GMUs 652, 666 | None |
| <u>48</u> | GMUs 653, 654 | 4-5 (1.91) |
| <u>49</u> | GMUs 658, 660, 663, 672, 673, 681, 684, 699 | 8-11 (1.91) |
| <u>50</u> | GMU 667 | 6-7 (3.48) |

* Adjusted to stay within realistic density.

** A second cougar may be harvested in the hunt area with the purchase of a second cougar transport tag.

(a) In hunt areas with a harvest guideline, the cougar late hunting season may close on or after January 1st in one or more GMUs if cougar harvest meets or exceeds the guideline.

(b) In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been met, and the department has notified licensed cougar hunters by posting the hunt area closure on the department's website and on the toll-free cougar hunting hotline, or April 30th, whichever occurs first.

(3) Harvest guideline system:

(a) All cougar of the appropriate age class killed by licensed hunters during the early and late hunting seasons, shall be counted toward the harvest guideline.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, landowner kill permits, and WDFW depredation authority regardless of harvest guidelines.

(c) It is each cougar hunter's responsibility to verify if the cougar late hunting season is open or closed in hunt areas with a harvest guideline. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's website.

(4) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one (~~((+1))~~) cougar per license year statewide and one additional cougar per license year may only be harvested from the following PMUs 9, 10, and 11; excluding removals authorized under WAC 220-440-030. One cougar transport tag is included with a big game hunting license that has cougar as a species option. A second cougar transport tag must be purchased to take a second cougar in PMUs 9, 10, and 11; which are comprised of the following GMUs: 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186. Hunters may only purchase the second transport tag after having purchased a license which includes cougar as a species option. It is unlawful to

kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 220-440-030 and 220-412-130).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 220-400-050.

(e) A special cougar permit is required to hunt cougar in GMU 485.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055. WSR 20-11-020 (Order 20-67), § 220-415-100, filed 5/12/20, effective 6/12/20. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.040, 77.12.047, 77.12.150, 77.12.210, 77.12.240, 77.12.320, 77.12.570, 77.12.800, 77.15.245, 77.32.007, 77.32.050, 77.32.070, 77.32.090, 77.32.370, and 77.32.530. WSR 18-11-061 (Order 18-76), § 220-415-100, filed 5/11/18, effective 6/11/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-415-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, and 77.32.155. WSR 16-12-087, § 232-28-297, filed 5/31/16, effective 7/1/16. Statutory

Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.150, and 77.12.240. WSR 15-10-066 (Order 15-99), § 232-28-297, filed 5/1/15, effective 6/1/15. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.15.245. WSR 13-16-056 (Order 13-180), § 232-28-297, filed 8/1/13, effective 9/1/13. Statutory Authority: RCW 77.12.047. WSR 12-11-005 (Order 12-70), § 232-28-297, filed 5/2/12, effective 6/2/12.]

Summary of Public Comments Received During the Official Comment Period:

WAC 220-415-100 Cougar hunting seasons and regulations

Common Themes:

- Support the proposal as stated
- Suggest a longer season / increased guidelines
- Desire for use of hounds / raffle hunts / other tools: bait, electronic calls etc.
- Suggest WDFW staff & contractors implement removals
- Desire for increased bear & cougar hunt opportunities / more areas
- Oppose hunting, increasing cougar harvest or cougar hunting
- Oppose focus on predators
- Desire for review of elk herd objective, supplemental feeding of elk, and other factors effecting the elk population
- Desire for further evaluation of habitat and effects of climate change
- Suggest cougar harvest is already in excess of 12-16%

Additional Comments:

- WDFW needs to advise – they are the experts
- Desire more information to clearly explain the situation
- Concern the 2nd tag is not enough to assist the elk herd



PROPOSED RULE MAKING

CR-102 (December 2017) (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: May 18, 2022

TIME: 9:02 AM

WSR 22-11-089

Agency: Washington Department of Fish and Wildlife (WDFW) P2022-11

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-24-082 on November 30th, 2021 ; 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 220-415-100 Cougar hunting seasons and regulations.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|------------------|-----------|---|--|
| June 23-25, 2022 | 8:00 a.m. | Natural Resources Building (NRB) – Room 175 1111 Washington Street SE Olympia, Washington 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: July 15, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Wildlife Program

Address: PO Box 43200, Olympia WA. 98504

Email: 2022CougarSeasonCR102@PublicInput.com

Fax: 360-902-2162

Other: <https://publicinput.com/2022CougarSeasonCR102>

Comment by Phone: 855-925-2801 Project code 2297

By (date) June 25, 2022

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator

Phone: 360-902-2349, TTY (711)

Fax:

TTY:

Email: Title6@dfw.wa.gov

Other: <https://wdfw.wa.gov/accessibility/requests-accommodation>

By (date) June 25, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed amendments to 220-415-100 Cougar hunting seasons and regulations is to provide an additional recreational cougar hunting opportunity in specific geographic areas with the primary purpose of addressing a cougar and ungulate management concern by using recreational hunting through a second cougar harvest opportunity in identified game management units (GMUs). If the proposed amendments are adopted, WDFW would expect an increase in cougar harvest in the GMUs that constitute the population management units (PMU) 9, 10, and 11, where the Blue Mountain Elk herd is more susceptible to cougar caused mortality. WDFW also anticipates a corresponding increase in juvenile elk survival in PMUs 9, 10, and 11, where in recent years the agency has observed insufficient juvenile elk survival to achieve population growth or stability in the Blue Mountains elk population. This amendment would also add the cougar PMU number to each of the hunt

areas. These amendments, if adopted, would provide an additional hunting opportunity to hunters who may elect to pursue a second cougar within the identified GMUs, and clearly identify the PMU numbers and the GMUs associated with each.

Reasons supporting proposal: A fundamental part of WDFW's legislative mandate is to preserve, protect, and manage wildlife while providing maximum, sustainable recreational hunting opportunities. Elk have been a part of Washington's wildlife for over 10,000 years, and the recent downward population trends of Blue Mountain elk are concerning to ungulate managers. WDFW strives to manage for viable and productive elk populations with desirable population characteristics, as explained in WDFW's 2015-2021 Game Management Plan. A recent risk-assessment conducted by WDFW has identified cougar predation as a leading cause of elk calf mortality. WDFW recognizes cougar management actions, which aim to reduce cougar numbers in specific areas, as a viable management tool to minimize potential predation on ungulates and provide support to the ungulate herd. The increased opportunity to harvest cougars within the Blue Mountain Elk herd range would also assist in efforts to meet the harvest guidelines for those PMUs where the harvest has not met the guideline. The addition of the PMU numbers would clarify to hunters which GMUs are contained within each PMU and further state which PMUs are authorized for a second cougar transport tag.

Statutory authority for adoption:
RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030

Statute being implemented:
RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030

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: If adopted the proposed amendments would be implemented for the 2022-2023 cougar seasons and be effective by the season open date of September 1, 2022.

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

| |
|--|
| <input type="checkbox"/> Private |
| <input type="checkbox"/> Public |
| <input checked="" type="checkbox"/> Governmental |

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.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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).

Explanation of exemptions, if necessary: The proposed rule is for recreational hunting opportunity and does not affect small businesses.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES


If 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 analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

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

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

| |
|---|
| Date: May 18, 2022 |
| Name: Annie Szvetecz |
| Title: WDFW Agency Rules Coordinator |

| |
|--|
| Signature:  |
|--|