

WAC 220-440-210

Black Bear Timber Damage

Depredation Permits:

RULE MAKING DECISION

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WAC 220-440-210

Black Bear Timber Damage Depredation Permitting

Summary: Outlines the requirements related to *timber owner application* for a removal permit and the processes involved for application review and permit issuance.



Public comments:

Comments were heard by the commission at the October 27, 2023, public hearing

Two SEPA comments were received

- Both were in support of the draft DNS

A *FINAL* DNS was issued on October 30, 2023



Public comments continued:

Over 2,700 written comments received:

- Over 1,500 emails (several with attachments)
 - A majority were multiple “form” letters from one group
 - Majority in general support of proposal, many with suggested edits
 - Many people sent multiple letters in various “forms”
 - Numerous comments requested actions either outside of the scope or were outside commission rule making authority



Public comments continued:

- About 1,200 on-line portal comments were associated with specific sections of the proposal
- The portal process provides a way to comment by individual section within the proposed rule
 - This process helps identify specific issues for staff to consider within the text
- Many were from people who also sent emails
- Many comments were not substantive to any section of the rule
- Many comments were outside of the scope of draft rule, or outside commission authority to make rule



Public comments continued:

- About 200 comments combined from emails and portal, clearly in opposition to a rule
- Some of the most common:
 - *Don't kill bears to protect trees/property*
 - *Not enough science/data to justify/allow*
 - several variations of this comment
 - *Don't kill bears at all*
 - *Don't kill bears in the spring*
 - "Cubs will be orphaned"
 - *Bring back a spring bear hunt, but not this*
 - *Make it a lottery/drawing and open to all hunters*



Proposed Post-comment closing changes to rule proposal

Page 4:

(1) **Purpose.** The purpose of the black bear timber damage permit is to reduce damage to commercial timber caused by black bears peeling and consuming tree parts resulting in permanent damage or death to the tree. Only the owner of private commercial timber, or their designee may apply for a black bear timber damage depredation permit. A black bear timber damage permit allows a person to remove one or more black bears as conditioned on the permit. This section does not apply to federal employees and agents while acting in their official capacities for the purpose of protecting private property.



Summary of Proposed Changes continued:

Page 7:

(xii) A black bear timber damage permit is only valid when signed by the permittee, any designated hunter, and the department permitting representative. ~~Any designated hunter named in the permit must also sign the permit in order to hunt under the permit;~~



Summary of Proposed Changes continued:

Page 8:

(4) Applying for a black bear timber damage permit.

(a) ~~An~~ commercial timber owner, or their designee applicant must complete and submit an application using the current application form to the department's wildlife conflict section manager (or designee);

(b) A complete permit application package must contain the following:



Summary of Proposed Changes continued:

Page 9:

(viii) An attestation that public hunting access was allowed within the requested damage permit area boundaries during the general black bear hunting season within the hunting season immediately prior to the permit request; and

(~~viii~~ix) Any additional information that WDFW determines is necessary to make the required determinations in subsection (5) of



Summary of Proposed Changes continued:

Page 10:

(5) WDFW required determinations. Before the department issues a permit, the department's wildlife conflict section manager (or designee) must find:

(a) The ~~permittee~~ applicant has submitted a complete application and completed all steps in the application process;

(b) The applicant is at least 18 years of age and owns, is employed by, or leases commercial timber;



Summary of Proposed Changes continued:

Page 11:

(b) The application fails to meet any of the above application requirements for a permit; or

~~(c) The applicant did not allow public hunting access during the general black bear hunting season within the hunting season immediately prior to the permit request; or~~

(cd) The department determines the requested permit would create a safety risk and/or a conservation concern.



Summary of Proposed Changes continued:

Page 12:

(7) Permittee-requested permit amendments. A permit may not be changed, or altered without prior approval by the department. A permittee, or their designee may submit a request in writing for permit amendments. These changes, if approved by the department's

and in:

(8) Permittee-requested permit renewal. A permittee, or their designee may submit a request in writing to the department's wildlife conflict section manager (or designee) for permit renewal. The permittee must submit the following documentation at least five days



Staff recommendation

The department recommends the Commission
adopt the attached rule proposal,
with staff's recommended adjustments as shown



Policy issues and expected outcomes

- 1) Adopting the proposed rule will establish a species-specific defined process in rule for removal permits in response to black bear timber damage
- 2) Not adopting the proposal, the status quo will continue and department staff will consider all permit requests for black bear timber damage under existing Director's authority
(see RCW 77.12.240)



Timeline

- October 27, 2023: FWC Briefing and Public Hearing
- October 27, 2023: Public commenting closed
- November 17, 2023: FWC Decision- (postponed at request of staff reviewing comments)
- December 15, 2023: FWC Decision
- February 10, 2024: File CR-103P*
- March 10, 2024: Rule becomes permanent

*If CR-103P is not filed by March 11, 2024, rule is considered withdrawn.





Questions?



Supplemental materials (if needed):

**Underlying Existing Wildlife Conflict
RCW and WAC References**



Legislative Authority

RCW 77.12.240 Authority to Take Wildlife

- (1) The department may authorize the removal or killing of wildlife that is destroying or injuring property, or when it is necessary for wildlife management or research.
- (2) The department shall dispose of wildlife taken or possessed by them under this title in the manner determined by the director to be in the best interest of the state. Proceeds from sales shall be deposited in the state treasury to be credited to the fish, wildlife, and conservation account created in RCW 77.12.170(3).



Legislative Authority

RCW 77.36.030 Trapping or killing wildlife threatening human safety or causing property damage—Limitations and conditions—Rules.

- (1) Subject to limitations and conditions established by the commission, the owner, the owner's immediate family member, the owner's documented employee, or a tenant of real property may trap, consistent with RCW 77.15.194, or kill wildlife that is threatening human safety or causing property damage on that property, without the licenses required under RCW 77.32.010 or authorization from the director under RCW 77.12.240.
- (2) The commission shall establish the limitations and conditions of this section by rule.
The rules must include:
 - (a) Appropriate protection for threatened or endangered species;
 - (b) Instances when verbal or written permission is required to kill wildlife;
 - (c) Species that may be killed under this section; and
 - (d) Requirements for the disposal of wildlife trapped or killed under this section.
- (3) In establishing the limitations and conditions of this section, the commission shall take into consideration the recommendations of the Washington state wolf conservation and management plan.



“General” Damage Rule

WAC 220-440-060 Killing wildlife causing private property damage.

The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered species or protected wildlife, and/or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to **RCW 77.36.030**, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to **RCW 77.12.240** the killing of wildlife destroying or injuring property.

The conditions for killing wildlife vary, based primarily on the classification of the **wildlife species**, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. **Additional conditions defined by the department may also be important, depending on individual situations.** Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 220 WAC.

(1-7)...(Continues with conditions and limitations. **Black bears are not referenced.**)



Summary of Proposed Changes: WAC 220-440-210 Black Bear Timber Damage Permitting Regulations

➤ **Change:** Repeal the entire *text* of existing WAC that was invalidated

✓ Existing number remains

➤ **Change:** Create a new process to replace the repealed WAC text

✓ Restructuring of the former WAC format for ease of understanding and clearer application processing
(summary in the following slide)



WAC 220-440-090

Disposal of wildlife killed for personal safety or for causing private property damage.

The fish and wildlife commission is authorized pursuant to RCW **77.36.030**, to establish the limitations and conditions on disposal of wildlife killed or trapped because they were threatening human safety or causing property damage.

Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this title are subject to the laws and rules of the state including, but not limited to, those found in Titles **77** RCW and 220 WAC. Wildlife taken under this chapter remains the property of the state and may be disposed of in the manner and under the conditions that follow:

- (1) Wildlife killed subsequent to a permit provided by the department shall be possessed or disposed of in accordance with permit provisions and consistent with RCW **77.15.170**.



(2) Except as otherwise provided, all parts of wildlife killed in protection of private property without a permit authorized by the department must be lawfully disposed of as specified by the department or as otherwise provided in statute, rule, or local ordinance.

(3) Except as otherwise provided, big game animals or parts of big game animals killed in protection of private property without a permit must be reported to the department within twenty-four hours.

(4) Disposal methods: Unless otherwise specified in permits issued by the department:

(a) The person killing wildlife, or their designee, is responsible for disposal of killed wildlife and must dispose of the animal, within twenty-four hours or as soon as feasible, in a manner so as not to become a public or common nuisance or cause pollution of surface or groundwater.



- (b) The person responsible for disposal of dead wildlife must dispose of it by burial, landfilling, incineration, composting, rendering, or another method approved (such as natural decomposition) that is not otherwise prohibited by federal, state, or local law or regulation.
- (c) A person disposing of dead wildlife by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding; and not in a manner likely to contaminate groundwater.
- (d) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

