

SEPA #: 24-026

WAC Proposal: WAC 22-500-041 Construction, Creation and Maintenance of Roads, Trails, and Structures

Comment Period: July 3 – September 30, 2024

Comment Category	General Comments	WDFW Response
Support the draft rule	<p>There is an overwhelming amount of research findings noting the importance of keeping trails and recreational use out of critical areas for wildlife.</p> <p>Unsanctioned roads and trails can cause deleterious environmental impacts, including excessive sedimentation, fish passage barriers, further loss of biodiversity,</p> <p>There is too little unspoiled land left</p> <p>Can't believe there is not already a regulation/ordinance/statute in effect prohibiting this sort of activity.</p> <p>Undisturbed functional habitat is needed for survival and reproductive sustainability of flora and fauna.</p> <p>Careful planning is needed to ensure that the location of new routes minimizes negative impacts to wildlife and habitat. User created routes don't go through the rigorous process to evaluate their location and potential impacts.</p> <p>The WDFW road and trail evaluation process will bring together the best data and perspective and it's important that this process not be circumvented.</p>	<p>Response: The creation and presence of roads and trails on the landscape and the resulting habitat fragmentation can have significant negative impacts on habitat, fish, wildlife, and tribal resources. The appropriate location, density and character of road and trail systems needs to be thoughtfully planned, constructed, and maintained to minimize direct or indirect impacts. This rule will help to curtail the continued resource damage that unplanned construction, creation or maintenance of roads and trails can cause.</p>

Comment Category	General Comments	WDFW Response
	<p>The proposed rule is needed to protect the safety of the users, directing them to routes that are safe for their use.</p> <p>Motorized use of roads and trails is pushing out non-motorized use and exploiting these areas. This activity turns trails into wide vehicular routes and has ruined some historical routes.</p> <p>This will give enforcement a tool to take violators to task and get courts to fine perpetrators the cost of making repairs.</p>	
<p>WDFW should go beyond the scope of this rule</p>	<p>The rule should go further to address altering, defacing, removing, or otherwise damaging any place or structure administered by WDFW.</p> <p>All motorized use and livestock use should be banned off of any WDFW roads and trails.</p> <p>Fees for violations should be even higher, perpetrators should be liable for all the costs of repairing the damage.</p> <p>Bicycle use should be limited to motorized routes.</p> <p>Department should get adequate funding to support enforcement of this rule</p> <p>Violation should be more than misdemeanor</p>	<p>Response: This rule addresses the construction, creation and maintenance of roads, trails and structures without written permission. It is beyond the scope of the rule to specifically address certain uses or how the enforcement will be funded. The violation fees will not be determined by WDFW staff. Comments directed at banning current activities such as motorized bike use would require a separate rule making.</p>
<p>Oppose the rule</p>	<p>Users should be able to construct roads and trails if current routes aren't maintained by the agency.</p> <p>Existing roads provide important access for the sake of firefighting and public safety.</p>	<p>Response: WDFW has recognized that the continued creation of <i>both</i> roads and trails has had deleterious effects on natural, tribal and cultural resources. For this reason, this rule will apply to all routes.</p>

Comment Category	General Comments	WDFW Response
	<p>The public needs additional trails for emotional health.</p> <p>People trying to do the right thing in clearing a trail for safety will get punished.</p> <p>WDFW doesn't have funding for managing trails, so let those people that want to maintain them take care of them.</p> <p>Planning, design and evaluation of impacts from routes happens far away from the rural communities. Residents lack the knowledge and skills to appropriately build roads and trails, yet WDFW lands aren't accessible without them. They also do not know how to wade through the bureaucratic processes.</p> <p>This rule is being used as another way to restrict public access</p> <p>The public does not need more rules and laws.</p> <p>WDFW should keep the creation or maintenance of trails out of the rule.</p>	<p>The agency is in the process of developing policies and procedures through which all existing roads and trails can be evaluated for designation. Once routes are designated as open to the public and for which uses, "express written permission" in the form of volunteer agreements, grant contracts, etc. will allow for maintenance on routes that have been determined to be safe and appropriate.</p> <p>The department's Enforcement Program engages in proactive policing and first attempts to educate the public about fish and wildlife laws and regulations before citing individuals for rule or law violations.</p>
<p>Mixed (support some elements but not others, would support if some elements were changed)</p>	<p>WDFW should clarify the proposed rule and provide information to the public regarding how emergency situations would be handled so that the public is well informed.</p>	<p>Response: The inclusion of an emergency exception would make the rule difficult to enforce because there is no clear definition for what constitutes an emergency or emergencies that would trigger the exception. It also would be very difficult to determine what scale or scope of actions would be reasonable under specific emergency circumstances.</p>

Comment Category	General Comments	WDFW Response
	<p>WDFW should follow the DNR rule and have exemption provisions for emergency situations and for working under group volunteer agreements.</p>	<p>The department has identified several written documents that will satisfy the requirement of express written permission to modify an existing trail or road, including volunteer agreements.</p> <p>The department has changed the requirement from needing to have a copy of the written permission at the work site to requiring that it be made available upon request from department staff.</p> <p>WDFW Officers routinely encounter people from diverse cultures and backgrounds. They do not “target” or focus their law enforcement efforts on certain groups or populations. Rather, Officers treat all members of the public the same in the application of both Fish and Wildlife laws and rules. Officers have been successfully educating the public for decades about fish and wildlife regulations and laws regardless of each individual’s background. All law enforcement in Washington, including WDFW officers, receive regular cultural diversity and implicit and explicit bias training.</p>
	<p>Trimming back vegetation and clearing out fallen trees should be permissible on existing routes.</p>	
	<p>Users should be able to maintain existing authorized roads and trails without written permission.</p>	
	<p>Need for WDFW to ensure that enforcement is carried out in a manner that is thoughtful and conscious of the historic bias and tensions that some communities have faced when dealing with public lands and government agencies.</p>	