

Wildlife Interaction Regulations – Rule Briefing and Public Hearing

Damage to Agriculture and Timber	Killing Wildlife in Protection of Property	Compensation	Wildlife Control Operators
232-12-025	232-36-051	232-36-100	232-12-142
232-28-266	232-36-055	232-36-110	232-36-060
232-36-310	232-36-330	232-36-210	232-36-065
232-36-320	232-36-510		232-36-066
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Summary Sheet

Meeting: November 13-14, 2015

Agenda Item: Wildlife Interaction Regulations – **Rule Adoption**

Presented By: Stephanie Simek, Wildlife Conflict Section Manager, Wildlife Program

Background:

During 2013, several wildlife conflict responsibilities were transferred from WDFW Law Enforcement to WDFW Wildlife Program. Presently, non-public safety related conflict issues with deer, elk, turkey, bear (timber damage), and wolf are resolved through the Wildlife Program while Enforcement continues to resolve dangerous wildlife conflicts. As a result of this transfer, revisions are needed to the wildlife interaction rules to provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions are intended to clarify roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities to assist the Department with minimizing wildlife damage and conflict issues. These amendments will provide agency direction, address frequent questions, and lessen the likelihood for confusion regarding the various permits, licenses, tags, and reporting requirements associated with conflict mitigation.

Department staff will request the Commission to adopt proposed amendments to the following WACs:

Damage to agriculture and timber

- 232-12-025 Depredation hunts. (*propose delete rule*)
- 232-28-266 Damage prevention permit hunts. (*propose delete rule*)
- 232-36-310 Damage prevention permit hunts: deer, elk and turkey. (*proposed new rule*)
- 232-36-320 Black bear timber damage depredation permits. (*proposed new rule*)
- 232-36-300 Public hunting requirements. (*revision*)
- 232-36-090 Limitations to managing damage caused by big game on private property. (*proposed new rule*)

Killing wildlife in protection of property

- 232-36-051 Killing wildlife causing private property damage. (*revision*)
- 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage. (*revision*)
- 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss. (*proposed new rule*)
- 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports. (*revision*)

Compensation

- 232-36-100 Payment for commercial crop damage—Limitations. (*revision*)
- 232-36-110 Application for cash compensation for commercial crop damage—Procedure. (*revision*)
- 232-36-210 Application for cash compensation for livestock damage or other domestic animal— Procedure. (*revision*)

Wildlife Control Operators

- 232-12-142 Special trapping permit-Use of body gripping traps. (*revision*)
 - 232-36-060 Director or his/her designee is empowered to grant wildlife control operator
-

certifications. *(revision)*

232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions. *(revision)*

232-36-066 Report required of certified wildlife control operators. *(proposed new rule)*

232-36-054 Use of body-gripping traps and exceptions. *(proposed new rule)*

Policy Issue(s) you are bringing to the Commission for consideration:

- Update existing or provide new requirements for trappers, wildlife control operators, permit holders, hunters, landowners, and producers that participate in activities to assist with abating wildlife damage to commercial crops, livestock, and other personal property.
 - Provide a framework for producers to work with WDFW through cooperative agreements in efforts to prevent and mitigate wildlife-caused losses to crops or other personal property.
 - Update the existing wildlife control operator program and better align it with the trapping program.
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Public involvement process used and what you learned:

The Department conducted an extensive public involvement process to develop the 2015-2017 hunting season recommendations and game management plan recommendations. In 2014, two online issue scoping surveys were made available to the public. The first survey laid out major issues of concern. The second survey was a follow-up based on the public response received from the first survey. Through these surveys, the Department learned about significant confusion among stakeholders regarding existing wildlife interaction rules as well as specific inconsistencies between existing rules.

The Department posted draft proposed rules on the WDFW website for two 30-day review and comment periods. The first comment period was prior to the June Fish and Wildlife Commission meeting and the second period was offered during the month of August. The Department also collected public testimony at the June 12-13, 2015 Commission meeting and public hearing and the September 18-19 Commission meeting and hearing. In addition, the Department met with and/or received written input from key stakeholders including the Stillaguamish and Muckleshoot tribes, Washington Farm and Forestry Association, Washington Farm Bureau, Washington Forest Protection Association, Washington Cattlemen's Association, Washington Trapper's Association, Conservation Northwest, Defenders of Wildlife, The Center for Biological Diversity, and other key organizations.

Through these actions, the Department learned about concerns related to wise wildlife management, protection of property, understanding the resources available to landowners to protect their property or opportunities to be compensated for losses. Additionally, the department learned about significant concerns for landowner, producer, and agency accountability surrounding conflict mitigation measures, and concerns about ensuring wildlife conflict management does not negatively impact endangered species recovery and wildlife conservation in general.

Action requested (identify the specific Commission decisions you are seeking):

Adoption of wildlife interaction rules.

Draft motion language:

I move to adopt the repeal of WACs 232-12-025 and 232-28-266, adopt the new WAC sections listed in Appendix A and amend the WAC sections listed in Appendix B.

Justification for Commission action:

This proposal amends the wildlife interaction rules to align the rules with one another as well as clarify Department actions and provide guidance to the Department and the public.

Communications plan:

- News Release
 - Washington State Register
-

Wildlife Interactions Appendix A

New WAC Sections for Adoption:

- 232-36-054 Use of body-gripping traps and exceptions
- 232-36-066 Report required of certified wildlife control operators
- 232-36-090 Limitations to managing damage caused by big game on private property

- 232-36-320 Black bear timber damage depredation permits
- 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss

Wildlife Interactions Appendix B

Amendatory WAC Sections for Adoption:

- 232-12-142 Special trapping permit
- 232-36-051 Killing wildlife causing private property damage
- 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage
- 232-36-060 Certification of wildlife control operators
- 232-36-065 Use of wildlife control operator to address wildlife interactions.

- 232-36-110 Application for cash compensation for commercial crop damage—Procedure
- 232-36-210 Application for cash compensation for livestock damage or domestic animal—Procedure
- 232-36-300 Public hunting requirements
- 232-36-510 Failure to comply with the conditions of permits, provide completed forms, or osubmit required documents or reports for the purposes of this chapter

Damage to Agriculture and Timber

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-025 Depredation hunts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-266 Damage prevention permit hunts.

NEW SECTION

WAC 232-36-310 Damage prevention permit hunts—Deer, elk, and

turkey. (1) A landowner may enter into a damage prevention cooperative agreement (contract) with WDFW. The landowner may receive a damage prevention permit, if deemed necessary by the department. Hunts conducted pursuant to a damage prevention permit must adhere to the special seasons provided in this section. Nothing in this section prevents a landowner from protecting their property.

(a) The landowner agrees not to file a damage claim unless damage exceeds the threshold established by the department and conditioned in the damage prevention cooperative agreement, except for Elk Areas 3721 and 3722. Landowners will work with the department to allow access to hunters during the general hunting seasons as determined by the department.

(b) A damage prevention cooperative agreement may include:

(i) An approved checklist of the reasonable preventative and non-lethal means that must be employed prior to lethal removal;

(ii) A description of the properties where lethal removal is allowed;

(iii) Other conditions developed within department procedural documents.

(c) A damage prevention permit issued to a landowner by the department and provided to the hunter by the landowner authorizes the hunter to use a deer or elk damage license or tag to hunt and take a legal animal as prescribed on the permit.

(d) A damage prevention permit may include:

(i) A description of the properties where lethal removal is allowed;

(ii) The species and sex of the animal that may be taken; the terms of the permit; the dates when lethal removal is authorized; and

(iii) Other conditions developed within department procedural documents.

(2) General deer and elk removal criteria:

(a) Only persons with a damage prevention permit may hunt and take one deer or one elk as designated on the permit.

(b) Hunters must have a valid big game license, damage deer/elk license or tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their deer or elk damage tag are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt; this does not preclude a landowner from utilizing a kill permit or their right to protect their property under WAC 232-36-051.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal (e.g., antlerless, deer, elk) as indicated on the permit. If a deer or elk is wounded inside the damage hunt area, it may be pursued outside permit boundaries with adjacent landowner permission.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(3) **Deer:**

(a) Tag Required: Deer hunters must have a current valid big game license, damage deer hunting license or tag and a damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon (or as specified on the damage prevention permit)

(c) Location: Statewide

(i) Season Framework: July 1 - March 31

(ii) Legal Deer: Antlerless Only

(iii) Kill Quota: 300 per license year

(d) Location: Region One

(i) Season Framework: July 1 - March 31

(ii) Legal Deer: Antlerless Only

(iii) Kill Quota: 300 per license year

(e) Location: GMUs 105-124

(i) Legal Deer: Whitetail Antlerless Only

(ii) Kill Quota: 300 per license year

(4) **Elk:**

(a) Tag Required: Elk hunters must have a valid big game license, a damage elk hunting license or tag and damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon

(c) Location: Eastern Washington - GMUs 100, 200, and 300 series

(i) Season Framework: July 1 - March 31

(ii) Legal Elk: Antlerless Only

(iii) Kill Quota: 200 per license year

(d) Location: Western Washington - GMUs 400, 500, and 600 series

(i) Season Framework: July 1 - March 31

(ii) Legal Elk: Antlerless Only

(iii) Kill Quota: 100 per license year

(e) Location: Hanford Area - GMUs 372 and 379

(i) Legal Elk: Antlerless Only

(ii) Season Framework: July 1 - March 31

(iii) Kill Quota: 70 per license year

(f) Location: Elk Area 3721

(i) Legal Elk: Spike or antlerless July 1 - March 31; any bull

May 15 - June 30

(ii) Season Framework: May 15 - March 31; as described in (f) (i)

of this subsection

(iii) Kill Quota: 100 Spike or antlerless per license year; 60

bulls per license year

(g) Location: GMUs 501-578

(i) Legal Elk: Antlerless Only

(ii) Kill Quota: 100 per license year

(h) Access in Elk Area 3721 may not be sold as a condition of use of these permits. The director may consider damage claims from land-owners in Elk Areas 3721 and 3722 who accept these permits and do not charge for access.

(5) **General turkey removal criteria:**

(a) Only persons with a damage prevention permit may hunt and take one turkey as designated on the permit.

(b) Hunters must have a valid small game license and an unfilled turkey tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their turkey tag under a damage permit are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal as indicated on the permit.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

(6) **Turkey:**

(a) Tag Required: Turkey hunter must have an appropriate valid, unaltered, unnotched turkey tag or license on his/her person, along with the damage prevention permit.

(b) Hunting Method: Any legal turkey hunting method

(c) Season Framework: October 1 - March 1

(d) Location: Statewide

(e) Legal Turkey: Either sex

(f) Kill Quota: 300 per license year

(7) It is unlawful to violate the provisions of this section. Violation of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750(1) depending on the violation. Hunters who violate this section will be punished under RCW 77.15.400, 77.15.410, 77.15.430 depending on the species hunted and circumstances of the violation.

NEW SECTION

WAC 232-36-320 Black bear timber damage depredation permits. This section applies to any person participating in a director-authorized black bear timber depredation hunt pursuant to RCW 77.12.240 or 77.15.245.

(1) Definitions: As used in this section and in the context of bear depredation removals for damage to timberlands, the following definitions apply:

(a) "Damage to timberlands" means there is evidence that bears have damaged private commercial timber that is confirmed through criteria outlined by the department.

(b) "Removal" means the act of killing one or more bear.

(2) Black bear removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for black bear timber depredation action must have confirmed bear caused timber damage as defined in criteria developed by the department.

(c) The department will verify reported damage.

(d) The department will consider forest management objectives and shall ensure bear removals are consistent with population management objectives.

(3) Hunter selection:

(a) Landowners or the landowner's designee may only select hunters authorized by the department to participate in a black bear timber depredation removal effort on their property.

(b) The landowner or the landowner's designee and the hunters participating in the removal will be identified as permittees on permits issued for bear removal.

(4) Permit required for participation in bear removal:

(a) If approved for a bear removal action, the department will issue a permit for bear removal. The approved selected hunter(s) must be in possession of the bear timber depredation permit while conducting the removal.

(b) Only hunters whose names appear on the permit may participate in the black bear timber depredation removal.

(5) General requirements:

(a) Removals must be reported within twenty-four hours of take as prescribed in the black bear depredation permit.

(b) All harvested bears must be disposed of as conditioned on the permit.

(c) Within ~~five~~ seven days after harvest, the permittee must submit all animals, parts of animals and all permit materials as prescribed in the black bear timber depredation permit. If a bear is not harvested under the bear depredation permit and the permit expires, the permittees must return all permit materials to the department within ~~five~~ seven days of ~~permit~~ expiration. Failure to comply with

this subsection ~~renders~~ may render the permittee(s) ineligible for the next year's black bear depredation permit as determined by the department.

(d) The black bear timber depredation permit belongs to the state of Washington. A violation of any condition of the permit may result in revocation of the permit and ~~renders~~ may render the permittee(s) ineligible for future black bear timber depredation permits as determined by the department.

(e) A violation of subsection (4) or (5) of this section is punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-300 Public hunting requirements. "Public hunting" generally means that land is open for licensed hunters. The intent of ~~((the))~~ this provision ~~((in this chapter))~~ is to allow hunting at an appropriate time, manner, and level to help prevent property damage.

As specified in WAC 232-36-100, cash compensation for crop damage claims will only be paid when the property where the crop damage occurred is open to public hunting; unless the department determines that hunting is not practical. Public hunting is defined as:

(1) The landowner opens the property on which the damage or loss is claimed for general access to all licensed hunters during the season for the species causing damage, other species may be included to provide additional hazing, prior to the occurrence of damage; or

(2) The landowner has entered into and complied with any agreement with the department covering the land(s) on which the damage is claimed. ~~((Access))~~ Agreements shall require that:

(a) The land is open to general access to licensed hunters;
~~((or))~~

(b) The landowner allows the department to select a limited number of hunters who are authorized to access the land to minimize or prevent damage; or

(c) The landowner and the department determine (~~how hunters will be selected and authorized~~) the number of hunters, timing, weapon options and the required permission for access to hunt on the landowner's property (~~in order~~) to effectively (~~prevent~~) minimize damage.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-300, filed 6/23/10, effective 7/24/10.]

NEW SECTION

WAC 232-36-090 Limitations to managing damage caused by big game on private property. Pursuant to this section the department shall establish guidelines for assisting landowners with minimizing big game damage to private property. Nothing in this section shall be construed to require the department to seek landowners that may be experiencing

damage. It is incumbent upon the landowner to notify the department if they are experiencing damage.

(1) A landowner, lessee, or employee of and on behalf of the landowner may contact the department for assistance upon recognition of a damage or depredation event.

(2) Upon confirmation of damage or depredation, the department will offer assistance and work cooperatively with the landowner, lessee, or employee of the landowner on damage prevention measures.

(a) Damage prevention measures offered by the department shall be reasonable, fiscally responsible, and deemed effective in abating damage by the wildlife damage management profession. New techniques may be employed to determine feasibility.

(b) Practical long-term response for damage resolution shall be considered and written into agreements when feasible.

(3) The department will document when prevention measures are rejected by the landowner, lessee, or employee of the landowner.

(4) If the landowner, lessee, or employee of the landowner, rejects prevention measures offered by the department:

(a) The department is not required to take further action if at least three attempts to offer the prescribed prevention measures have been rejected.

(b) The landowner, lessee, or employee of the landowner may submit, within thirty days of offer of preventative measures, a written refusal statement documenting reasons supported by facts why they reject the prescribed measures and offer alternative solutions with justification. This written refusal statement must be submitted to the department and illustrate that the prevention measures prescribed by the department will not result in lessening the damage or depredation and/or would cause physical damage to persons or property.

(i) The department shall take no further action until a written refusal statement has been received by the department and approved by the director or director's designee for assistance to continue.

(ii) If the written refusal letter is approved by the director or director's designee, the department may continue working with the landowner to develop alternative measures.

(5) A landowner, lessee, or employee of the landowner, is ineligible for a compensation claim and the department shall take no further action unless agreed upon prevention measures have been employed.

(6) Nothing in this section prohibits a landowner, lessee, or employee of the landowner, from killing wildlife pursuant to WAC 232-36-051.

[]

Killing Wildlife in Protection of Property

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-051 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 (~~(species)~~) 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 232 WAC.

(1) It is unlawful to kill protected (~~(species (as defined in WAC 232-12-011))~~) wildlife or endangered species (as defined in (~~WAC 232-12-014~~)) RCW 77.08.010) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(a) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(b) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage to a commercial crop or to livestock.

It is permissible to kill unclassified wildlife, predatory birds, and game animals that are in the act of damaging commercial crops or attacking livestock or other domestic animals, under the following conditions:

(a) Predatory birds (defined in RCW 77.08.010~~(39)~~) and unclassified wildlife that are in the act of damaging commercial crops or attacking livestock or other domestic animals may be killed with the express permission of the crop, livestock, domestic animals, or property

owner at any time on private property, to protect domestic animals, livestock, or commercial crops.

(b) If an owner has attempted non-lethal damage control techniques and acquires verbal or written approval from the department, they~~An owner~~ ((with a valid, written damage prevention agreement with the department may kill an individual (one) game animal while it is in the act of damaging commercial crops; a permit will be provided if authorized in the agreement.

~~(c) An individual (one) game animal may be killed during the physical act of attacking livestock or domestic animals.~~

~~(d) Multiple game animals may be killed while they are in the act of damaging commercial crops or attacking livestock if the owner is issued a kill permit by the department.~~

~~(e) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.)~~ with verbal or written approval from the department may kill

an individual (one) deer, or elk, bear, or cougar during the physical act of damaging commercial crops, attacking livestock or domestic animals with or without an agreement or permit within a 12 month period. The owner must notify the department within 24 hours of kill. The department will document animals harvested under this subsection and will ensure harvest is consistent with herd management objectives developed cooperatively with co-managers where available.

(c) Multiple deer or elk may be killed if they are in the act of damaging commercial crops if the owner, owner's immediate family member, agent of the owner, or owner's documented employee is issued damage prevention or kill permits and the owner has a valid, written damage prevention cooperative agreement with the department.

(d) An owner may kill an individual (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit within a 12 month period. The owner must notify the department within 24 hours of kill.

(3) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) ~~((An individual (one) game animal may be killed during the physical act of attacking domestic animals.~~

~~(b)~~) Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed by the owner of private property, owner's immediate family, agent of the owner, or the owner's documented employee with the express permission of the private real property owner at any time, to prevent private property damage on private real property.

~~((e))~~) (b) Subject to subsection (7) of this section, the following list of wildlife species may be killed by the owner of the property, owner's immediate family member, agent of the owner, owner's documented employee, or licensed hunters/trappers in a lawful manner with the express permission of the private real property owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

~~((d))~~) (c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may ~~((include special hunting season))~~ authorize permits ~~((such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.~~

~~(e)~~) to remove animal(s) to abate private property damage.

(d) Landowners are encouraged to allow general season (~~hunters during established hunting seasons~~) hunting and trapping on their property to help minimize damage potential and concerns.

(4) Wildlife control operators may assist property owners under the conditions of their certification or permits (~~(, as established in WAC 232-36-060 and 232-36-065)~~) to remove animals causing damage. [WCOs may not kill big game animals.](#)

(5) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements, possession, and harvest restrictions.

(6) Hunting licenses and or associated tags are not required to kill wildlife under this section (~~(7)~~) unless the killing is pursuant to subsections (~~((3)(c) and (d))~~) (2)(c) and (3)(b) of this ~~section~~ rule. Hunters and trappers participating in harvesting wildlife under this ~~section~~ rule must comply with provisions of each permit.

Tribal members operating under subsection (5) of this section are required to meet tribal hunting license, tag, and permit requirements.

(7) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this

rule are subject to the laws and rules of the state (~~(including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC)~~).

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-051, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.36.120. WSR 13-05-003 (Order 13-19), § 232-36-051, filed 2/6/13, effective 3/9/13. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.36.030. WSR 10-23-026 (Order 10-291), § 232-36-051, filed 11/8/10, effective 12/9/10. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-051, filed 6/23/10, effective 7/24/10.]

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-055 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 and 232 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 taken under WAC 232-36-050 (1)(b) and 232-36-051 (1)(b), and 232-36-051 (1)(a)(iii) must be reported to the department within twenty-four hours, and the animal and all parts must be provided to the department or its designees.~~

~~(2) Wildlife taken under WAC 232-36-051 (1)(a)(i) and (ii) becomes the property of the private landowner and may be lawfully disposed consistent with state laws and rules including, but not limited to, Titles 77 RCW and 232 WAC.~~

~~(3) Wildlife taken under WAC 232-36-051 (1)(a)(iv) must be disposed of consistent with the conditions identified under the permit.~~

~~(4) Wildlife taken under WAC 232-36-051(2) may be lawfully possessed by the owner, licensee, and/or permit holder. Possession of legally taken wildlife by tribal members is subject to the laws of their tribe and must be consistent with their agreement with the state.))~~

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 ~~may not be retained and~~ 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.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-055, filed 6/23/10, effective 7/24/10.]

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

NEW SECTION

WAC 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss. This section applies to any person participating in a director-authorized bear or cougar depredation permit hunt for domestic animal or livestock loss pursuant to RCW 77.12.240 or 77.15.245:

- (1) Black bear and cougar removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for bear or cougar removal action must have confirmed bear or cougar caused property damage.

(c) The department ~~may~~will verify reported damage.

(d) The department shall ensure bear and cougar removals are consistent with population management objectives.

(2) Hunter selection:

(a) Landowner or landowner's designee may only select hunters authorized by the department to participate in a bear or cougar removal effort.

(b) The landowner or landowner's designee and the hunters participating in the removal will be identified as depredation permittees on depredation permits issued for bear or cougar removal.

(3) Permit required for participation in bear or cougar removal:

(a) If approved for bear or cougar removal action, the department will issue and condition the depredation permit and selected hunters participating in removals under this section must comply with provisions of the depredation permit.

(b) Selected hunter(s) must be in possession of the depredation permit while conducting the removal.

(c) Only hunters whose names appear on the depredation permit may take part in the hunt.

(4) General requirements:

(a) Removals must be reported within twenty-four hours of take. and ~~t~~Biological samples required on the permit must be submitted and the carcass must be disposed of within forty-eight hours as conditioned in the depredation permit.

(b) All harvested animals must be disposed of as designated on the permit.

(c) Failure to comply with this section ~~renders~~ may render the permittee ineligible for future bear or cougar depredation permits as determined by the department.

(d) The depredation permit belongs to the state of Washington. A violation of any condition of the depredation permit may result in revocation of the depredation permit and may render the permittee(s) ineligible for future bear or cougar damage depredation permits; until all issues pertaining to the revocation are resolved at the department's discretion.

(e) A violation of subsection (3) of this section or this subsection (4) are punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

[]

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-510 Failure to ((~~abide by~~)) comply with the conditions of permits, provide completed forms, or submit required documents or reports for the purposes of this chapter. (1) Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750.

(2) Failure to provide reports or ((~~abide by~~)) comply with the conditions of landowner agreements is an infraction pursuant to RCW 77.15.160.

(3) Failure to (~~abide by~~) comply with the conditions of wild-
life (~~conflict~~) control operator certification or permits is a mis-
demeanor pursuant to RCW 77.15.750.

(4) A person who provides false or misleading information re-
quired by this chapter may be in violation (~~of~~) subject to prosecu-
tion under RCW 9A.76.175 or 40.16.030.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-
13-182 (Order 10-156), § 232-36-510, filed 6/23/10, effective
7/24/10.]

Compensation

WAC 232-36-100 Payment for commercial crop damage—Limitations.

Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and (~~shall~~) will only be paid (~~only~~) to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage (~~shall~~) does not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The

department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

(1) The claim is for a noncommercial crop;

(2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4) (b) (i) through (iv);

(3) The loss estimate is less than one thousand dollars;

(4) ~~((No claim will be processed unless))~~ The owner does not have a valid damage prevention cooperative agreement signed by the owner and the department, or a waiver signed by the director, or does not and provides the department with an department approved checklist of the preventative and nonlethal means that have been employed to prevent damage, and

~~(5)†~~The owner has not complied with the terms and conditions of his or her agreement(s) with the department;

~~(5)†~~(6) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash consistent with conditions of the damage prevention cooperative agreement with the department. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop or

for the time period specified by the department in writing to the owner;

~~(6)~~ (7) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;

~~(7)~~ (8) The owner or lessee has denied prevention measures offered by the department. The prevention measures offered shall be applicable, legal, practical, and industry recognized;

~~(8)~~ (9) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others that exceeds one thousand dollars is eligible for compensation from the department;

~~((8))~~ (9) (10) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;

~~((9))~~ (10) (11) The crop is grown or stored on public property;

~~((10))~~ (11)(12) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;

~~((11))~~ (12)(13) The owner has not provided a completed written claim form and all other required information, or met required time-lines prescribed within WAC 232-36-110;

~~((12))~~ (13)(14) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

~~((13))~~ (14)(15) The owner or designee ~~has~~ harvested commercial crops without prior to providing 72 hour notice to the department an investigation completed under the direction of the department; ~~((or~~

~~(14))~~ (15) (16)The department has expended all funds appropriated for payment of such claims for the current fiscal year. The department will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order.

Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.36.120. WSR 13-05-003 (Order 13-19), § 232-36-100, filed 2/6/13, effective 3/9/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-100, filed 6/23/10, effective 7/24/10.]

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure. Pursuant to this section, the department may distribute ((~~money~~)) funds appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partner-

ships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

(1) (~~Owners~~) Claimants who have (~~worked~~) cooperated with the department and have a valid damage prevention cooperative agreement or a department approved checklist to prevent deer or elk damage, or a waiver for the director (~~(τ)~~) yet (~~who~~) still experience loss and meet eligibility requirements, may file a claim for cash compensation.

(2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.

(3) A complete (~~(τ)~~) written claim and completed crop assessment must be submitted to the department within sixty days of (~~when the damage stops~~) harvest.

(4) (~~Owners~~) Claimants may only file one claim per year. Multiple partners in a farming operation are considered one (~~owner~~) claimant. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.

(5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.

(6) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) A copy of ~~((applicant's))~~ claimant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service or other documentation indicating the ~~((applicant's))~~ claimant's gross sales or harvested value of commercial crops for the previous tax year.

(b) The assessment method used is consistent with WAC 232-36-120, valuation of property damage.

(c) ~~((Applicant must provide))~~ Proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.

(d) Written documentation of approved methodology used to assess and determine final crop loss and value.

(e) ~~((Applicant must provide))~~ Records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for

claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.

(f) A declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the (~~applicant~~) claimant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is true and accurate to the best knowledge of the claimant (~~(true and accurate)~~).

(g) A copy of the insurance policy and payment on the commercial crop where loss is claimed.

(h) (~~Copy~~) Copies of any applications for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

(7) Completion of a damage claim assessment (~~(of)~~) for the amount and value of commercial crop loss is the (~~(primary)~~) responsibility of the claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjustor in cooperation with the claimant:

(a) The (~~owner~~) claimant must submit a damage claim assessment prepared by a crop insurance adjustor licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors (~~(and written authorization to proceed with an assessment. The owner must)~~). The claimant may select an adjustor from the approved list and work with the department and the adjustor to arrange for the completion of a crop damage assessment (~~(. Adjustor fees will be the responsibility of the department.)~~) or select a state licensed adjustor of their own choosing.

(i) If the claimant selects an adjustor from the approved list, the department will provide the adjustor written authorization to proceed with an assessment and adjustor fees will be the shared responsibility of the owner and the department. The claimant portion of the assessment fees may not exceed one half or a maximum of six hundred dollars, whichever is smaller, and will be deducted from the final payment.

(ii) If the claimant selects a state licensed adjustor of their own choosing then the claimant accepts full responsibility for the assessment fees.

(c) The department or the ((owner)) claimant may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjuster of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjuster to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding pursuant to chapter 34.05 RCW.

Settlement of claims:

(9) ~~((The crop adjuster's fee is not subject to the ten thousand dollar payment limit per owner.~~

~~(10))~~ Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

~~((11))~~ (10) The ((owner)) claimant will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered ((satisfied)) accepted and not subject to appeal.

~~((12))~~ (11) The department ~~((shall))~~ will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim ~~((shall))~~ will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-110, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-110, filed 6/23/10, effective 7/24/10.]

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-210 Application for cash compensation for livestock damage or ((~~other~~)) domestic animal—Procedure. Pursuant to this section, the department may distribute money specifically appropriated by the legislature or other funding entity to pay livestock or guard dog losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130(2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of livestock or guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) ~~((Owners who have worked with the department to prevent livestock depredation, yet who still experience loss or losses that occur under emergent situations, may file a claim for cash compensation if they meet eligibility requirements.~~

~~(2))~~ Claimant must notify the department within twenty-four hours of discovery of livestock or other domestic animal attack or as soon as feasible.

~~((3))~~ (2) Damage claim assessment of amount and value of domestic animal loss is the primary responsibility of the claimant.

~~((4))~~ (3) Investigation of the loss and review and approval of the assessment will be conducted by the department:

(a) The ~~((owner))~~ claimant must provide access to department staff or designees to investigate the cause of death or injury to domestic animals and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

~~((5) Claimant must request a damage claim application within ten days of a loss.~~

~~(6))~~ (4) To be eligible a claimant must submit a written statement, within thirty days of discovery of a loss to indicate his or her intent to file a claim.

(5) A complete, written claim must be submitted to the department within ~~((sixty))~~ ninety days of a discovery of an attack on domestic animals or livestock to be eligible for compensation.

~~((7) The)~~ (6) A claim form declaration must be signed, affirming that the information provided is factual and truthful, per the certification set out in RCW 9A.72.085 before the department will process ~~((a))~~ the claim.

~~((8))~~ (7) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) ~~((Claimant must provide))~~ Proof of legal ownership or contractual lease of claimed livestock.

(b) ~~((Claimant must provide))~~ Records documenting the value of the domestic animal based on ~~((current))~~ either market price or value at the time of loss depending upon the determination for cause of loss.

(c) Declaration signed under penalty of perjury indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this chapter, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) A copy of any insurance policy covering loss claimed.

(e) (~~Copy~~) Copies of applications for other sources of loss compensation and any payment or denial documentation.

(f) The department approved checklist of preventative measures that have been deployed, or ~~affirm-documented~~ compliance with the terms and conditions of the claimant's agreement with the department, or the director approved waiver.

Settlement of claims:

(~~(9)~~) (8) Subject to (~~money~~) funds appropriated to pay for domestic animal losses, undisputed claims will be paid up to ten thousand dollars.

(~~(10)~~) (9) Valuation of the lost livestock;

(a) For losses caused by wolves, livestock value will be determined by the market at the time the animals would normally be sold. Livestock will be valued based on the average weight of herd mates at the time of sale multiplied by the cash market price received(~~(7)~~) and depredated cows or ewes will be replaced based on the value of a bred animal of the same age and type as the one lost(~~(7) and~~). Bulls will be replaced using actual purchase price prorated based on a four-year depreciation cycle minus salvage value.

(b) For losses caused by bear or cougar, livestock value will be determined by the market values at the time the animals are lost.

(c) The department may utilize the services of a certified livestock appraiser to assist in the evaluation of livestock claims.

~~((11))~~ (10) Claims for higher than normal livestock losses, reduced weight gains, or reduced pregnancy rates due to harassment of livestock caused by wolves must include:

(a) At least three years of records prior to the year of the claim. Claims will be assessed for losses in excess of the previous three-year running average;

(b) The losses must occur on large ~~((open))~~ pastures or range land used for grazing, lambing, or calving where regular monitoring of livestock is impractical (and therefore discovery of carcasses infeasible) as determined by the department;

(c) Verification by the department that wolves are occupying the area;

(d) The losses cannot be reasonably explained by other causes;

~~(e) ((Claims will be assessed for losses in excess of the previous three year running average; and~~

~~(f) Owners must be in compliance with the department's preventative measures checklist and/or damage prevention agreement.~~

~~(12))~~ Compliance with the department's preventative measures checklist, and/or damage prevention cooperative agreement, or a waiver signed by the director.

(11) Compensation paid by the department (~~(, in addition to any other compensation,)~~) combined with any other compensation may not exceed the total value of the assessed loss.

~~((13))~~ (12) Upon completion of ~~the~~ an evaluation, the department will notify the (~~owner~~) claimant of its decision to either deny the claim or make a settlement offer (order). The (~~owner~~) claimant has sixty days from the date received to accept the department's offer for settlement of the claim (~~(or to submit an appeal of the order)~~). If the claimant wishes to appeal the offer, they must request an informal resolution or adjudicative proceeding as described in WAC 232-36-400. The acceptance must be in writing and the signed originals must be mailed in to the department. The (~~response~~) appeal must be in writing and (~~the signed document~~) may be mailed or submitted by (~~fax or~~) e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

~~((14))~~ (13) If the claimant accepts the department's offer, the department will send payment to the (~~owner~~) claimant within thirty days from receipt of the written acceptance document.

~~((15))~~ (14) The department will prioritize payment for livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the current fiscal year, the claim shall be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-210, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-210, filed 6/23/10, effective 7/24/10.]

Wildlife Control Operators

AMENDATORY SECTION (Amending WSR 01-17-067, filed 8/15/01, effective 9/15/01)

WAC 232-12-142 Special trapping permit~~((—Use of body-gripping traps)).~~ For abating wildlife conflict, the applicant shall submit a special trapping permit application as provided by the department.

(1) As used in this section, unless the context clearly requires otherwise, the following definitions apply:

(a) ~~((“Animal” means any nonhuman vertebrate.~~

~~(b) “Animal problem” means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal.~~

~~(c))~~ “Body-gripping trap” as defined by RCW 77.15.192 means a trap that grips an animal's body or body part. Body-gripping trap includes, but is not limited to, unpadded foot-hold traps steel-jawed leghold traps, padded -jaw leghold or padded foot-hold traps, Conibear traps, neck snares, and nonstrangling foot snares. Cage and box traps, suitcase-type live beaver traps, noose traps used in falconry traps such as bal chatri traps for falconry, and common rat and mouse traps are not considered body-gripping traps.

~~((d))~~ (b) "Conibear or Conibear-type trap" means any trap of various manufacturers having design and operational characteristics essentially the same as or like that developed by Frank Conibear and designed and set to grip and hold an animal's body across its main axis.

~~((e))~~ (c) ~~"In water" means beneath the water surface so that the trap is completely submerged.~~ "Padded jaw leg-hold or padded foot-hold trap" means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.

~~((f))~~ (d) "Nonstrangling-type foot snare" means a cable or wire designed and set to encircle and hold an animal's foot or limb. Bal chatri traps for fNoose traps used in fFalconry traps, such as Bal chatri, are not considered nonstrangling-type foot snare traps because they are not designed to ultimately kill the bird but rather to ensure the bird's health and safety and cause no harm by bal chatri using slip nooses which are constructed of monofilament nylon.

~~((g))~~ ~~"Padded foot-hold trap" means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.~~

~~(h))~~ (e) "Special trapping permit" means a ~~((special trapping))~~ permit issued to a person under the authority of RCW 77.15.194 and the provisions of this section to use certain body-gripping traps to abate an animal problem for thirty days.

~~((i))~~ (f) "Permittee" means the person to whom a special trapping permit is granted.

~~((j) "Raw fur" means a pelt that has not been processed for purposes of retail sale.)~~

(2) It is unlawful to trap ~~((animals))~~ wildlife using body-gripping traps without a special trapping permit issued by the department.

(3) It is unlawful to fail to comply with any conditions of a special trapping permit to trap.

(4) ~~((It is unlawful for any))~~ Persons issued a special trapping permit ~~((to fail to complete and submit to the department))~~ must submit a report of ~~((animals))~~ wildlife taken ~~((under the permit. This report is due))~~ to the department within ten days ~~((of))~~ after the permit expiration date ~~((of))~~ as defined on the permit.

(5) It is unlawful to knowingly offer to sell, barter, or otherwise exchange the raw fur or carcass of a mammal that has been trapped pursuant to a special trapping permit.

(6) A person seeking a special trapping permit shall complete and submit a complete a department-provided application to the department.

~~((The applicant shall provide the following information:~~

~~(a) Applicant's name, address, and telephone number.~~

~~(b) Location(s) of animal problem (physical address or legal description including township, range, and section number).~~

~~(c) Description of the animal problem:~~

~~(i) Duration of the animal problem.~~

~~(ii) Description of the damage or potential damage being caused (i.e., crop, timber, property, livestock, or pet animals, etc.).~~

~~(iii) Any threat or potential threat to the health and/or safety of people.~~

~~(d) Species of animal causing the problem and, if known, the number of animals involved.~~

~~(e) Description of the measures taken to prevent or alleviate the problem or damage.~~

~~(f) Explanation of why the measures taken were ineffective to abate the problem or why such measures could not reasonably or effectively be used to abate the animal problem.~~

~~(g) Whether Conibear-type traps in water, padded foot-hold traps or nonstrangling type foot snares will be used.~~

~~(h) Species and number of animals to be removed.))~~

(7) ((~~For~~) To conduct wildlife research, the applicant shall

~~(provide the following information:~~

~~(a) Applicant's name, address, and telephone number.~~

~~(b) Location(s) where wildlife trapping will occur (physical address or legal description including township, range, and section number).~~

~~(c) Whether padded foot-hold traps or nonstrangling-type foot snares will be used.~~

~~(d) Species and number of animals to be captured.~~

~~(e) Research objective or proposal.~~

~~(f) A copy of a valid department scientific collection permit.~~

~~(8) A completed report of animals taken pursuant to a special trapping permit shall include the following information:~~

~~(b) The number of the permit for which the report is being submitted.~~

~~(c) The common name of the animal(s) taken, the number of animals taken, and the disposition.~~

~~(d) For any nontargeted animals taken, the common name of the animal, the number of animals, and the disposition.~~

~~(9) Successive permits for the same animal problem))~~ submit a scientific collection permit application as provided by the department.

(8) One permit renewal may be requested by completing the justification and applicant certification on the report of animals taken.

~~((10))~~ (9) The conditions of a special trapping permit shall ~~((include:~~

~~(a) The term of the permit is thirty days.~~

~~(b) Any body-gripping trap authorized under a permit shall be checked at least every twenty-four hours.~~

~~(c) Each body-gripping trap authorized under a permit shall have attached to its chain or to the trap a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.~~

~~(d) Nontargeted species shall be released unharmed if possible.~~

~~(e) Any mammal trapped pursuant to a permit must be lethally dispatched or released as soon as possible, unless taken for scientific research, in which case the animal may be retained alive if so provided in the permit.~~

~~(f)~~ ~~The carcass of any mammal~~) be determined by the department and be annotated on the permit.

(10) All parts of animals taken under a special trapping permit must be properly disposed of in a lawful manner. Raw fur may only be retained for personal use or education purposes which do not result in retail sale or commerce.

~~((g))~~ (11) Any retention of raw fur obtained through the use of a special trapping permit requires a valid Washington state trapper's license.

(12) A copy of the permit shall be in the immediate possession of the person authorized to trap pursuant to a permit.

~~((11))~~ (13) A special trapping permit may be denied when, in the judgment of the department:

(a) Other appropriate nonlethal methods to abate damage have not been utilized;

(b) The alleged animal problem either does not exist or the extent is insufficient to justify lethal removal;

(c) The use of the requested body-gripping trap(s) would result in direct or indirect harm to people or domestic animals;

(d) The use of the requested body-gripping trap(s) would conflict with federal or state law, local ordinance or department rule ~~((f-ox))~~.

(e) The application is ~~((not complete))~~ incomplete.

~~((12))~~ (14) A special trapping permit may be revoked ~~((when, in the judgment of))~~ if the department determines:

(a) Information contained in the application was inaccurate or false;

(b) The permittee or person trapping under the permit fails to comply with any of the permit conditions; or

(c) The permittee or person trapping under the permit exceeds the number of animals authorized.

~~((13))~~ (d) Information becomes available that otherwise would have led to the denial of the original application or the inclusion of additional conditions in the permit.

(15) If the department denies or revokes a special trapping permit ~~((is denied or revoked,))~~ the department ~~((shall))~~ will provide the applicant ~~((, in writing,))~~ a written notice including a statement of the specific reason(s) for the denial or revocation.

(a) The applicant may request an appeal ~~((in accordance with))~~ to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request ~~((s shall be filed))~~ in writing ~~((and returned))~~ within twenty days from the mailing date of the notice of denial ~~((and be addressed to))~~ or revocation. Address ap-

peals to WDFW Legal Services Office, ((600 Capitol Way North)) P.O. Box 43137, Olympia, Washington ((98501-1091)) 98504-3137.

(b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.

(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.

[Statutory Authority: RCW 77.12.047. WSR 01-17-067 (Order 01-165), § 232-12-142, filed 8/15/01, effective 9/15/01.]

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

WAC 232-36-060 (~~(Director or his/her designee is empowered to grant wildlife control operator certifications.)~~) Certification of wildlife control operators. For purposes of training individuals to assist landowners with employing nonlethal management techniques, or to harass, kill, trap, release, (~~(and dispatch animals)~~) wildlife that

~~((are))~~ is causing damage to private property, the director or his/her designee may ~~((issue))~~ certify wildlife control operators (WCOs) ~~((certifications))~~.

(1) To ~~((qualify))~~ be eligible to apply for WCO certification, applicants must:

(a) Be at least eighteen years of age;

(b) Must pass the Washington state trapper education exam and possess a minimum of two years experience that demonstrates the knowledge and ability to control wildlife species causing conflict or property damage. ~~Applicants may document the two-year experience requirement by~~ Methods of documenting experience include, but are not limited to possessing a trapper's license for two years, providing a letter of recommendation from a currently certified WCO or trapper, providing evidence being employed in the wildlife abatement field for two years, providing a written statement verifying they are currently working with a certified WCO, or other method as identified by the department;

(c) Take and ~~((complete))~~ pass the department's approved WCO basic certification ~~((s))~~ course(s);

~~((c) Be certified by the department and have the equipment, knowledge, and ability to control the wildlife species causing conflict or property damage;))~~

(d) Be legally eligible to possess a firearm and without a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW, unless firearm possession rights have been restored;

(e) Not have ~~((a gross))~~ any more than one infractions, or any misdemeanors or fish and wildlife convictions s within the last five three years; and

(f) Pay the enrollment fee for each certification training/education RCW 77.12.184. ~~((After July 1, 2010,))~~ This fee shall be fifty dollars ~~((RCW 77.12.184))~~ per certification.

(2) ~~((Once a person is granted))~~ The department may grant a WCO certification if the applicant meets the criteria for eligibility in subsection (1) of this section and passes the basic certification courses.

(3) If the department grants WCO certification, ((he or she)) the WCO must apply for a permit ((pursuant to WAC 232-36-065 in order to harass, kill, trap, release, or dispatch animals)) to lawfully engage

in ~~harassing,~~ killing, trapping, ~~releasing,~~ or dispatching wildlife
~~using a body gripping trap causing damage to private property.~~

(4) WCO certification is valid for three years.

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-060, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-060, filed 6/23/10, effective 7/24/10.]

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

WAC 232-36-065 (~~Director or his/her designee is empowered to issue~~) Use of wildlife control operators (~~permits~~) to address wildlife interactions. The director or director's designee may issue permits to persons that fulfill the requirements to become a certified wildlife control operator (WCO) for purposes of assisting property owners in managing animals causing damage to private property(~~the director or his/her designee may issue permits to wildlife control operators (WCOs). Only WCOs who are certified by the department~~). Only persons meeting the WCO certification requirements qualify for such a permit.

(1) ~~((If the certification for a WCO included training for the use of live traps, the WCO may use live traps))~~ Certified WCOs may use nonbody-gripping traps or body-gripping traps with a special trapping permit, outside of designated harvest season to capture ((any animal)) wildlife causing damage or creating an animal problem, as ((that term is)) defined in RCW 77.15.192.

(2) ~~((Depending on a WCO's certification training, he or she may use body gripping traps, but only if he or she complies with RCW 77.15.194.~~

~~(3))~~ WCOs with a valid trapping license may retain raw fur of wildlife taken using a special trapping permit, for personal use or educational purposes that does not result in retail sale or commerce. The carcass must be disposed of in a lawful manner according to WAC 232-36-055.

(3) WCOs who trap wildlife under the authority of a department permit may not release wildlife outside of the property boundary where they were captured without a permit from the department or dispose of such wildlife without the consent of the property owner where ~~((the))~~ wildlife is to be ~~((released or))~~ disposed.

(4) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee without a WCO certification.

(5) WCOs must submit a complete annual report of all control activity ~~((on the form supplied))~~ as directed by the department. ~~((The report must be received or postmarked on or before the twentieth day of April each year.))~~ Failure to submit a report may result in ~~((the department revoking))~~ revocation of the WCO's certification ~~((and))~~ or permits and ~~((suspending the person's right to))~~ denial of future certifications ~~((and))~~ or permits.

~~((5))~~ (6) The department may develop additional conditions and procedures to include training requirements for WCOs consistent with this rule.

(7) WCO certification and associated permits will be revoked and future certification and permits may be denied by the director or ~~((issuing authority when, in the judgment of))~~ director's designee if the department determines:

(a) Information contained in a WCO's application was inaccurate or false;

(b) The WCO fails to comply with department statutes or rules;
~~((or))~~

(c) The WCO violates a trapping or other fish and wildlife law~~((or~~

~~(6) A WCO who provides false or misleading information in his or her WCO certification application may be punished under RCW 9A.76.175~~

~~or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and permit may be punished under RCW 77.15.750. A WCO who violates trapping or other wildlife laws may be punished under the appropriate statute in Title 77 RCW for that crime.~~

~~(7))~~; or

(d) The WCO is no longer eligible to possess a firearm, has been convicted of a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW.

(8) Revocation of certifications and permits shall remain in effect until all issues pertaining to revocation are resolved.

(9) If the initial application ((for WCO certification is denied or revoked,)) or the application to renew a WCO's certification is denied or revoked, the department ((shall)) will provide the applicant, in writing, a notice containing a statement of the ((specifie)) reason(s) for the denial or revocation.

(a) The applicant may request an appeal ((in accordance with)) to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request((s shall be filed)) in writing ((and returned)) within twenty days from the mailing date of the notice of denial ((and be addressed)) or revocation. Address appeal

requests to WDFW Legal Services Office, ((600 Capitol Way North)) P.O. Box 43137, Olympia, Washington ((98501-1091)) 98504-3137.

~~((8))~~ (b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.

(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.

(10) WCO certification ((and permits are)) is valid for three years.

~~((9) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee or other consideration without a WCO certification and permit.~~

~~(10) The department may develop additional conditions and procedures, to include training requirements, for WCOs consistent with this rule.)~~ (11) A WCO who provides false or misleading information in his or her WCO certification application may be subject to prosecution under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and associated permit may be subject to prosecution under RCW 77.15.750. A

WCO who violates trapping or other fish and wildlife laws may be subject to prosecution under the appropriate statute in Title 77 RCW for that crime or infraction.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-065, filed 6/23/10, effective 7/24/10.]

NEW SECTION

WAC 232-36-066 Report required of certified wildlife control operators. All wildlife control operators (WCOs) must report all WCO related activity, regardless of trapping success or whether they trapped or not for the previous year on or before April 20th of each year.

(1) Reports must be made using the department's designated WCO annual report form or web-based WCO reporting system.

(2) If a WCO chooses to report using the WCO annual report form versus the web-based WCO reporting system, it is the responsibility of the certified WCO to obtain a form from the department and ensure the form is received by Washington department of fish and wildlife as conditioned on the form, prior to the reporting deadline.

(3) A WCO who fails to report his or her activity by April 20th will be in violation of reporting requirements.

(4) Knowingly ~~P~~roviding false or misleading information on reports is considered a gross misdemeanor per RCW 77.15.270.

(5) Failure to report trapping activity as required under this section is an infraction, punishable under RCW 77.15.160.

NEW SECTION

WAC 232-36-054 Use of body-gripping traps and exceptions. (1) It is unlawful to trap for wild animals with body-gripping traps without a special permit from the director.

(2) Body-gripping traps, including conibear-type traps in water, as defined in RCW 77.15.192 may be used for the following purposes with a special trapping permit issued by the director:

(a) To protect public health and safety, in consultation with the department of social and health services or the United States Department of Health and Human Services.

(b) To abate damages caused to private property, domestic animals, livestock or timber, which cannot be reasonably abated by nonlethal control tools. Any person requesting a special trapping permit must apply in writing, stating the threat or damages, the nonlethal control methods attempted or why they cannot be applied, and agree to use the above traps for no more than thirty days under the permit granted, pursuant to RCW 77.15.194 and WAC 232-12-142.

(c) To protect threatened or endangered species, if such traps are used by department employees or agents of the state.

(d) To conduct wildlife research, except that conibear-type traps are prohibited for this purpose.

(3) Traps must be checked every twenty-four hours and animals removed, pursuant to RCW 77.15.194.

(4) It is unlawful to trap within thirty feet of any exposed animal carcass, meat bait or nonedible game parts which are visible to flying raptors, except that nothing in this section prohibits department employees or agents of the state from trapping within thirty feet of exposed animal carcass, meat bait or nonedible game parts.

(5) Animals taken with the use of a body-gripping trap may not be retained and must be disposed as conditioned in the special trapping permit or as specified in WAC 232-36-055. [Raw fur may only be retained for personal use or educational purposes which do not result in retail sale or commerce.](#)

[]

RECOMMENDED ADJUSTMENTS

WAC 232-36-090 Limitation to managing damage caused by big game on private property

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 24

- Change: Add language under sub-section (4) (b) to identify that a written refusal statement must be submitted within 30 days of offer of preventative measures. This provides clarity around the 30 day requirement.

WAC 232-36-051 Killing wildlife causing private property damage

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Pages 28 and 29

Changes:

- In (2)(b), separate deer and elk damage to crops from black bear and cougar damage to livestock or domestic animals. Deer and elk will be addressed in (2)(b) and black bear and cougar will be addressed in (2)(d).
- Language added to (2)(b) to allow an owner to remove one individual deer or elk during the physical act of damaging crops with verbal or written approval from the department within a 12 month period. Language was also added to require notification of the department within 24 hours of the kill.
- Rationale: Language regarding verbal or written approval has been added to allow the department an opportunity to take steps to address the conflict issue and work with the owner to minimize wildlife caused damage. Prior approval and notification after kill allows the department to provide the appropriate level of customer service, accountability, and transparency to all interested parties and potentially avoid wastage. Limiting the action to once per calendar year minimizes potential of persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes which the department currently utilizes to mitigate wildlife caused damage.

Page 29

- Change: Create sub-section (2)(d) and move damage to livestock into the sub-section. Add the word “black” before bear to allow an owner to kill (one) black bear or cougar during the physical act of attacking livestock or domestic animals with or without an agreement or permit.
- Change: Add language to clarify that one animal could be taken within a 12 month period and that the owner must notify the department within 24 hours of killing an animal.
- Rationale: Specifically identify bear as black bear to provide clarity that the rule did not authorize shooting a grizzly bear. In addition, limiting the action to once per calendar year minimizes potential of persistent removal of animals outside of general harvest seasons, damage prevention practices, and other conflict avoidance processes that the department utilizes to mitigate wildlife caused damage. Notifying the department within 24 hours allows the department an opportunity to document the kill, address disposition of carcass to avoid wastage, and provide accurate information regarding the event when requested by interested parties.

Page 31

- Change: Subsection (4) - Remove sentence prohibiting Wildlife Control Operators (WCOs) from killing big game animals.
- Rationale: The sentence prior to the deleted sentence indicates that WCOs will be directed under their certifications and permits to assist with abating wildlife-caused damage. At the present time, the department is not permitting WCOs to remove big game animals and does not have a certification course for big game animals. Removing this exclusion will allow the department to regulate WCO participation through their certifications and the permit conditions.

WAC 232-36-100 Payment for commercial crop damage - Limitations

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 45

- Change: Add language in (4) to include a department approved checklist of preventative measures as a valid way to qualify for compensation.

- Rationale: Allowing a department approved checklist was inadvertently omitted in the previous version. There are occasions when an owner may be impacted but not have an active agreement with the department. The intent is to allow the claimant to utilize one of the three options (i.e. damage prevention agreement, directors waiver, and department approved checklist) and create consistency between 232-36-100, 232-36-110, and 232-36-210.
- Change: Utilizing the last sentence from subsection (4) to create a new subsection (5). This is not additional language but rather a stand alone bullet point created from existing language. This insertion resulted in subsequent subsections being shifted by one number.
- Rationale: This bullet needs to be separated as it references compliance with the agreement versus having an agreement or other form of documentation of preventative measures. Compliance with the damage prevention cooperative agreement conditions that were agreed upon by the owner and the department is important to illustrate the owner has been working with the department.

Page 47 and 48

- Change: Former sub-section (14), which is new sub-section (15) - Language added to ensure the department is notified at least 72 hours prior to harvest. Language requiring a WDFW directed adjustor was removed to clarify the owner can utilize any licensed adjustor.
- Rationale: This aligns WAC 232-36-100 with WAC 232-36-110 by allowing the owner to select either a department contracted adjustor or one of their own choosing and by allowing the owner to proceed with harvesting if they have notified WDFW within 72 hours prior to harvest. This change provides the department an opportunity to assign an adjustor to assess damage prior to crop harvest.
- Change: Strike former sub-section (15), which is new sub-section (16), regarding denying claims once funds were expended and replace it with language found in WAC 232-36-110 which outlines the process that allows the department to maintain a list of claims and pay those in chronologic order once additional funding becomes available.
- Rationale: Replacing language in this sub-section provides consistency with proposed WAC 232-36-110, which clarifies that claims will roll over, in chronological order, to the next fiscal year when funds are expended for the current fiscal year.

WAC 232-36-110 Application for cash compensation for commercial crop damage – Procedure.

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 50

- Change: In (1) language was added to include the department-approved checklist and a director’s waiver as a valid means of eligibility for compensation.
- Rationale: The intent is to provide consistency in rules associated with compensation for losses. Allowing the claimant to submit one of the three options (i.e. damage prevention agreement, directors waiver, and department approved checklist) creates consistency between 232-36-100, 232-36-110, and 232-36-210.

WAC 232-36-210 Application for cash compensation for livestock damage or domestic animal – Procedure.

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 61

- Change: Insert the Director’s waiver, in section (10) (e), as part of the acceptable documents, in addition to the department approved checklist or the damage prevention cooperative agreement, required for claims for higher than normal losses.
- Rationale: The Director’s waiver allows owners who do not have a damage prevention cooperative agreement or a department approved checklist but have a waiver, signed by the director, to be eligible to apply for cash compensation for livestock losses. This allows an owner who may not be able to comply with a damage prevention cooperative agreement or a department approved checklist to acquire approval through providing the justification on their waiver and having the director approve their justification.

WAC 232-12-142 Special trapping permits

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 64

- Change: Strike the introductory sentence directing applicants to submit a special trapping permit application.
- Rationale: The introductory statement is repetitive of sub-section (6); which directs a person to complete and submit a department –provided application.

- Change: The definition of body-gripping traps under (1)(a) has been modified to match the definition found in RCW 77.15.192 and language has been inserted to allow for use of falconry traps such as Bal chatri.
- Rationale: Changes align the rule’s definition of a body-gripping trap with the definition in RCW and they allow for the use of falconry traps (including but not limited to bal chatri traps) as these are slip noose traps which use monofilament to loosely grip toes of raptors and are intended to allow capture without harming the animal.

Page 65

- Change: Strike the “in water” definition as it is no longer referenced within the rule.
- Change: In sub-section (c), insert a revised definition of “padded jaw-leghold or padded foot-hold trap” for clarification of the terms.
- Change: Under (1)(d) language was inserted to allow for the exception to falconry traps, such as Bal chatri.
- Rationale: This distinction will clarify that these live-capture traps are not restricted and allow falconers to continue their activities. These traps are designed to use loose slip nooses, constructed of monofilament nylon, that are intended to allow for safe capture of raptors.

Page 70

- Change: Added text to clarify that retention of raw fur obtained through the use of a special trapping permit requires a Washington state trapper’s license.
- Rationale: This language is added to clarify that the retention rule is specific to special trapping permits.

WAC 232-36-054 Use of body-gripping traps and exceptions

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 86

- Change: Add language under sub-section (5) to allow for retention of raw fur for personal use and educational purposes.
- Rationale: This addition provides consistency between WAC 232-36-054 and WAC 232-12-142. Many trappers and WCOs utilize the fur of animals for their own personal use as

well as for educational opportunities. This change minimizes wastage and allows the trapper or WCO to utilize acquired furs in a non-commercial capacity.

General Note: Minor technical changes were made throughout the proposed rules to adjust grammar and formatting concerns.

FINAL RECOMMENDED ADJUSTMENTS

WAC 232-36-320 Black bear timber damage depredation permits

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 18

- **Change:** in section 5(c), replace language allowing animals (or their parts) and permit materials to be submitted five days after permit expiration with a seven day requirement.
- **Rationale:** Disposition of the carcass will continue to be designated on the permit and the extended time will allow for animal parts and/or permit materials to be collected and submitted with consideration for landowners and permittees who often need to coordinate their response and may be working on multiple properties across a large landscape.

Page 19

- **Change:** In sub-sections (5) (c) and (d), delete “renders” and add “may render” and authorize the department to make that determination.
- **Rationale:** This change makes 323-36-320 consistent with a similar sections in WAC 232-36-330. The level of violation may be minor (e.g., turned paperwork into the department in 8 days instead of 7) and if so, should not warrant making the permittee ineligible for future permits.

WAC 232-36-051 Killing wildlife causing private property damage

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 28

- **Change:** In (2)(b), add language requiring a landowner to have attempted non-lethal control techniques in addition to verbal or written approval from the department in order to remove a deer or elk causing damage to crops.
- **Rationale:** reflects the value that landowners should not resort to lethal removal without having first attempted non-lethal control techniques.

Page 29

- **Change:** In (2)(b), added the term “commercial” to provide consistency with other rules

- Change: In (2)(b), added language that directs the department to document animals harvested under this sub-section and to ensure that harvest is consistent with herd management objectives when available.
- Rationale: this change ensures that animals that are causing damage and are harvested are accounted for in the overall harvest and management of a particular area.

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 35

- Change: In section (1), add language to clarify that animals killed are disposed of according to RCW 77.15.170
- Rationale: This addition provides a direct reference to the law regulating waste of wildlife and highlights the Commission’s desire to ensure animals harvested using department permits are utilized whenever possible.
- Change: In section (2), removed the statement “may not be retained”
- Rationale: There are times when animals that are causing damage to private property are removed without a permit from the department (e.g., beaver removed by a trapper during trapping season and under a trapping license) and it would otherwise be legal for them to keep the animal. The rule still requires lawful disposal, which is described in section (4) of this rule.

WAC 232-36-330 Black bear and cougar depredation permit hunts for domestic animal or livestock loss

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 38

- Change: in section 1(c), replace “may” with “will” to clarify that department staff need to be in communication with property owners to verify damage before removing an animal.

Page 39

- Change: in section 4(a), add language to require biological samples to be submitted within 48 hours of take.

- Change: in section (c) replace “renders” with “may render” and authorize the department to make that determination.
- Rationale: This change makes 323-36-330 consistent with a similar sections in WAC 232-36-320 and other sections within 232-36-330. The level of violation may be minor, and if so, should not warrant making the permittee ineligible for future permits.

WAC 232-12-142 Special trapping permits

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 64

- Change: replace “bal chatri traps with a more general term “noose trap used in falconry” as it is a better way to define the equipment.

Page 65

- Change: replace “bal chatri traps with a more general term “noose trap used in falconry” as it is a better way to define the equipment.

WAC 232-36-060 Certification of Wildlife Control Operators

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 74

- Change: In section (1)(b), changed language so the rule provides examples of how WCO applicants can document the required 2 years of experience.
- Rationale: Provides clarity that the methods are not limited to the few that are listed in rule

Page 75

- Change: In section (1)(e), changed language to allow for one infraction during a three-year period instead of not allowing any infraction over a 5 year period.
- Rationale: Because many infractions are minor violations (e.g., illegally fishing with a barbed hook), not allowing a WCO to have even one was overly-punitive. The timeframe was changed to 3 years to match the timeframe for which a WCO license is valid.

- Change: In section (3), removed “harassing” and “releasing” from the list of actions and added language to clarify that the permit being referenced in this section is the special trapping permit needed for a body gripping trap (reference: RCW 77.15.194) .
- Rationale: Because this section refers to the body-gripping trap special permit, there was no need to include “harassing” or “releasing” as the traps are intended to kill the animal.

WAC 232-36-066 Report required of certified wildlife control operators.

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 84

- Change: Add “knowingly” to the beginning of section (4) to align the rule with the language provided in RCW 77.15.270



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 15-07-107 on 03/18/15; 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).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information:

See attachment A

Hearing location(s):

Natural Resource Building
1111 Washington Street Southeast
Olympia, Washington 98501

Date: June 12-13, 2015 Time: 8:00 AM

Submit written comments to:

Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North,
Olympia, WA 98501
e-mail wildthing@dfw.wa.gov
fax (360) 902-2162 by (date) 5/31/2015

Assistance for persons with disabilities: Contact

Tami Lininger by May 27, 2015

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: On or after August 7, 2015

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Revisions are being proposed to the wildlife interaction rules to provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions are intended to clarify roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities. to the proposed changes will assist the Department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the Department as well as lessen the likelihood for confusion regarding the tools used for mitigation.

Reasons supporting proposal:

During 2013, several wildlife conflict responsibilities were transferred from WDFW Law Enforcement to WDFW Wildlife Program. As a result the Department is advancing efforts to improve management of wildlife conflict issues. The proposed revisions will address frequent questions and concerns regarding the various components of wildlife conflict mitigation; including permits, licenses, tags, and reporting requirements for the variety of harvest opportunities afforded through assisting the Department with conflict abatement. These revisions will further facilitate the Department's ability to address wildlife conflict problems. The proposed changes are largely a result of the recent transition of conflict responsibilities from Enforcement to Wildlife, discussions with stakeholders, and the need for clear guidance to the Department and the public.

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

Statute being implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 06, 2015

TIME: 11:56 AM

WSR 15-10-107

DATE

May 6, 2015

NAME (type or print)

Joanna Eide

SIGNATURE

TITLE

Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

When filing the permanent rule-making order (CR-103P), the WAC sections containing rule amendments will be consolidated into two or three Order Typing Service (OTS) documents.

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Nate Pamplin	Natural Resource Building	(360) 902-2515
Implementation....Nate Pamplin	Natural Resource Building	(360) 902-2515
Enforcement..... Steven Crown	Natural Resource Building	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Wildlife Program Customer Service

Address: 600 Capitol Way North, Olympia, WA 98501

phone (360) 902-2515

fax (360) 902-2162

e-mail wildthing@dfw.wa.gov

No. Explain why no statement was prepared.

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 () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.

Attachment A - Title of rule and other identifying information:

Existing WACs to be amended:

- 232-12-142 Special trapping permit—Use of body-gripping traps.
- 232-36-051 Killing wildlife causing private property damage.
- 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.
- 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications.
- 232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions.
- 232-36-100 Payment for commercial crop damage—Limitations.
- 232-36-110 Application for cash compensation for commercial crop damage—Procedure.
- 232-36-210 Application for cash compensation for livestock damage or other domestic animal—Procedure.
- 232-36-300 Public hunting requirements.
- 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports.

New Sections:

- 232-36-054 Trapping restrictions with body-gripping traps.
- 232-36-066 Report required of licensed wildlife
- 232-36-090 Limitations to managing damage caused by big game on private property.
- 232-36-310 Damage prevention permit hunts.
- 232-36-320 Black bear timber damage.
- 232-36-330 Bear and cougar depredation hunts.
- 232-36-340 Deer and elk.

Repealer:

- 232-12-025 Depredation hunts.
- 232-28-266 Damage prevention permit hunts.

Small Business Economic Impact Statement

1. Description of the reporting, record keeping, and other compliance requirements of the proposed rule.

Revisions are being proposed to the wildlife interaction rules to provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions are intended to clarify roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities to assist the Department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the Department as well as lessen the likelihood for confusion regarding the tools used for mitigation.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements.

There are no additional anticipated professional services required to comply with these changes. Under the current rules, applicants for claims of livestock or agricultural losses are responsible for assessing the value of their losses; some small businesses may need to hire bookkeepers, accountants, or other professionals to assist with required paperwork for documenting losses and other impacts to their crop or livestock operation; wildlife control operators will still be required to pay their certification fee and dispose of animals in a lawful manner; and hunters will still need to comply with hunting license and tag requirements for damage permits. WDFW will continue to assist owners of crop or livestock if they chose to employ preventive nonlethal and lethal means to prevent losses. The proposed changes do not impact any of the above requirements already in place.

The proposed changes include extending the time period allotted for filing claims and thereby allow the crop/livestock owner ample time to file their claim. This will be a positive impact to owners.

The proposed change in season dates for deer, elk, and turkey may result in less damage to crops and thereby have a positive impact to crop owners.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules do not require any additional equipment, supplies, labor, or administrative costs as the rules are administrative in nature. Therefore, there are no expected additional costs to comply with the proposed rules. However, if a landowner does not want to engage in conflict prevention measures, even after several attempts by WDFW to provide technical assistance, then the owner may incur greater losses. If this occurs, this is

something that is the responsibility of the owner and falls outside the Department's control.

4. Will compliance with the rule cause businesses to lose sales or revenue?

No. The intent of the proposed rules is to assist businesses and avoid damage or losses from wildlife. If businesses follow the procedures in these rules, they should be able to minimize lost sales or revenue. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

5. Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules, using one or more of the following as a basis for comparing costs:

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

Now compare the largest businesses' cost of compliance with the cost of compliance for small businesses. Will this rule have a disproportionate impact on small businesses?

None - The proposed rule changes do not require any additional equipment, supplies, labor, or administrative costs above what the current rules already require. The costs/fees remain unchanged.

Larger agriculture or livestock operations will experience more costs than smaller operators for things like fence installation, hazing, and bookkeeping/accounting, but the reason for this is that they have a larger land mass or more livestock to protect. This is already present under the current rules and is not an issue within the Department's control. Their cost has little correlation to the costs of complying with these rules, especially since these rules are already in effect and are designed to help businesses avoid losses.

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so.

The Department works closely with landowners, livestock and crop producers, hunters and wildlife control operators to deter wildlife that causes damage so that there are less wildlife caused losses. Costs that owners and wildlife control operators incur as a result of these rules are reasonable, considering the benefits received by the program.

7. A description of how the agency will involve small businesses in the development of the rule.

The Department collaborates on an ongoing basis with commercial growers, livestock



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

Preproposal Statement of Inquiry was filed as WSR 15-07-107 filed 03/18/15; 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).

Original Notice

Supplemental Notice to WSR 15-10-107

Continuance of WSR _____

Title of rule and other identifying information:

Amendments to wildlife interaction, depredation and hazing rules. See attachment A for WAC numbers and additional rule information.

Hearing location(s):

Red Lion at the Park, Riverfront Ballroom A
303 W North River Drive
Spokane, WA 99201

Date: September 18-19, 2015 Time: 8:00 a.m.

For additional agenda information, see www.wdfw.gov/commission/

Submit written comments to:

Name: Wildlife Program Commission Meeting Public Comments

Address: 600 Capitol Way North,
Olympia, WA 98501

e-mail wildthing@dfw.wa.gov

fax (360) 902-2162 by (date) August 30, 2015

Assistance for persons with disabilities: Contact

Tami Lininger by September 4, 2015

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: On or after September 18, 2015

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Department is proposing revisions to the proposed changes to wildlife interaction rules to provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions clarify roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities. The proposed changes will assist the Department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the Department as well as lessen the likelihood for confusion regarding the tools used for mitigation. The changes proposed as part of this Supplemental CR-102 also incorporate feedback, suggestions, and concerns received by stakeholders and interest groups.

Reasons supporting proposal:

During 2013, several wildlife conflict responsibilities were transferred from WDFW Law Enforcement to the WDFW Wildlife Program. As a result, the Department is advancing efforts to improve management of wildlife conflict issues. The proposed revisions will address frequent questions and concerns regarding the various components of wildlife conflict mitigation; including permits, licenses, tags, and reporting requirements for the variety of harvest opportunities afforded through assisting the Department with conflict abatement. These revisions will further facilitate the Department's ability to address wildlife conflict problems. The proposed changes are largely a result of the recent transition of conflict responsibilities from Enforcement to Wildlife, discussions with stakeholders, and the need for clear guidance to the Department and the public.

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

Statute being implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 05, 2015

TIME: 11:28 AM

WSR 15-16-134

DATE

August 5, 2015

NAME (type or print)

Joanna Eide

SIGNATURE

TITLE

Rules Coordinator

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

When filing the permanent rule-making order (CR-103P), the WAC sections containing rule amendments will be consolidated into two or three Order Typing Service (OTS) documents.

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Nate Pamplin	Natural Resource Building	(360) 902-2515
Implementation....Nate Pamplin	Natural Resource Building	(360) 902-2515
Enforcement..... Steven Crown	Natural Resource Building	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

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 fax (360) 902-2162
 e-mail wildthing@dfw.wa.gov

No. Explain why no statement was prepared.

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 () _____
 e-mail _____

No: Please explain: This proposal relates to wildlife interaction rules and does not involve hydraulics.

WILD LIFE INTERACTION RULES - ATTACHMENT A

Title of rule and other identifying information:

Amendment to existing rules:

Damage to Agriculture and Timber

- 232-12-025 Depredation Hunts.
- 232-28-266 Damage prevention permit hunts.
- 232-36-300 Public hunting requirements.

Killing Wildlife in Protection of Property

- 232-36-051 Killing wildlife causing private property damage.
- 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.
- 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports.

Compensation

- 232-36-100 Payment for commercial crop damage—Limitations.
- 232-36-110 Application for cash compensation for commercial crop damage—Procedure.
- 232-36-210 Application for cash compensation for livestock damage or other domestic animal—Procedure.

Wildlife Control Operators

- 232-12-142 Special trapping permit—Use of body-gripping traps.
- 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications.
- 232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions.

Proposed new rules or rule which need to be added under 232-36:

Damage to Agriculture and Timber

- 232-36-310 Damage prevention permit hunts: deer, elk and turkey.
- 232-36-320 Black bear timber damage depredation permits.
- 232-36-090 Limitations to managing damage caused by big game on private property.

Killing Wildlife in Protection of Property

- 232-36-330 Bear and cougar depredation hunts for domestic animal or livestock loss.

Wildlife Control Operators

- 232-36-054 Use of body-gripping traps and exceptions.
- 232-36-066 Report required of certified wildlife control operators.

Damage to Agriculture and Timber

232-12-025 Depredation Hunts.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to remove this rule and create new rules under 232-36 Wildlife Interaction rules. The new rules will separate bear timber damage from deer, elk, and turkey damage permits and hunts. Additionally, the new rules will adjust the language to reflect items, such as disposition of carcasses, permit materials, damage tags, and reporting requirements.

Reasons supporting proposal: The current process for both bear and deer/elk/turkey depredation hunts has been streamlined to provide improved data collection and facilitate an expedited service for those who participate or need to utilize these tools.

232-28-266 Damage prevention permit hunts.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to remove this rule and capture the intent in rules under Wildlife Interaction Chapter 232-36. The proposed rules will include language within each rule to further clarify practices related to damage prevention cooperative agreements and damage hunts to reduce wildlife conflict damage. Also, this proposal increases the kill quota and alters the season dates for chronic damage areas where continual damage is occurring due to elk population in excess of management objectives and better aligns the Department's ability to address seasonal crop damage.

Reasons supporting proposal: The revisions align with the Department's objective to mitigate wildlife damage, to the extent possible, while managing sustainable populations of wildlife species. Currently, there are areas where under the existing kill quotas we are unable to effectively mitigate the damage because the elk population far exceeds manageable numbers; which results in paying higher damage claims. Increasing the quotas will help staff to be more efficient at addressing problems and alleviate pressure on local farmers. Additionally, there are areas where seasonal crop damage occurs prior to the season currently identified for damage hunts; thereby limiting Department staff ability to mitigate damage. The change in season dates will assist the Department in more effectively applying this tool to address damage and thereby may reduce the potential for paying higher claim values.

232-36-300 Public hunting requirements.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to include language within the rule to further illustrate that the public hunting requirement is intended to assist with mitigating wildlife damage.

Reasons supporting proposal: The Department's objective is to mitigate wildlife damage, to the extent possible, using non-lethal measures. However, it is understood that often non-lethal measures are not enough to abate the damage; therefore lethal options are then deployed. We recognize that often hunting pressure alone can deter further damage while providing additional recreational opportunities to hunters.

Proposed new rules

232-36-090 Limitations to managing damage caused by big game on private property.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal clarifies the roles and responsibilities of the Department and owners to work collaboratively to minimize wildlife damage. The proposal provides an opportunity for the owner to appeal if they choose not to comply with recommendations provided by the Department.

Reasons supporting proposal: The proposed language clearly articulates the responsibilities of both the Department and the owner to work cooperatively. The proposed rule provides the owner a process by which to reject actions recommended by the Department. The proposal provides the Department a process by which to cease with assistance when owners do not want to cooperate or comply.

232-36-310 Damage prevention permit hunts: deer, elk and turkey.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to remove WAC 232-28-266 and replace it with this proposed rule under Chapter 232-36 WAC, Wildlife Interaction rules. The language of the new rule improves efforts to address chronic damage areas by aligning the seasons with crop damage periods and increasing quotas. Also the proposal clearly identifies the use of damage prevention cooperative agreements, use of damage prevention permits, and damage tags. The proposal assists the Department in clarifying the differences among deer/elk and turkey damage.

Reasons supporting proposal: The current process for both bear and deer/elk depredation hunts has been streamlined to provide improved data collection and facilitate an expedited service for those who participate. These activities are specifically related to wildlife damage prevention and therefore should be under the 232-36 Wildlife Interaction rules. This rule is specific to deer, elk and turkey and serves to further the Department's ability to mitigate deer, elk, turkey damage during the appropriate time frames.

232-36-320 Black bear timber damage depredation permits.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal creates a separate rule that addresses restrictions and requirements related to black bear damage to commercial timber. In addition the proposed rule modifies the language to reflect the process for abating bear timber damage, as the program has been streamlined to provide improved data collection and facilitate an expedited service for those who are impacted and those who participate.

Reasons supporting proposal: The Department's objective is to mitigate the various types of wildlife damage, to the extent possible. This action will create a stand-alone rule for a primary damage issue the Department manages. The revisions align clarify the restrictions for bear removals in response to tree damage and assist in differentiating black bear timber damage from deer, elk and turkey damage.

Change from original CR-102: Removed text stating "unlawful to retain parts of harvested animals". The rule requires all harvested bears be disposed of as conditioned on the permit.

Killing Wildlife in Protection of Property

232-36-051 Killing wildlife causing private property damage.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to clarify when landowners may kill deer, elk, bear, and cougar in the act of causing damage and to clarify the use of damage prevention and kill permits.

Reasons supporting proposal: The damage prevention and kill permits are offered to provide additional opportunity for abating wildlife damage when other measures have failed. This revision will clearly identify current terms of use for these permits without limiting the rights of property owners to defend their property.

Change from original CR-102: Clarifies that landowners can kill one deer, elk, bear, cougar (but not all big game (e.g., big horn sheep)) without a permit if caught in the act of causing damage or multiple deer or elk (but not all big game) if the owner has permits to do so.

232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to include WAC 232-12-142 Special Trapping Permits; which often result in wildlife being killed to protect property or for personal safety reasons.

Reasons supporting proposal: The rule currently outlines proper disposal of wildlife taken for personal safety or for causing private property damage but fails to identify one of the primary permits specifically designed to address those issues. The inclusion here within helps to direct permit holders.

232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal modifies the language to reflect the correct title of the certifications and permits.

Reasons supporting proposal: The proposed language correctly identifies the parties responsible for reporting.

Proposed new rules

232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal creates a separate rule which outlines the restrictions and requirements related to bear and cougar removals in response to livestock losses and property damage other than timberland tree damage.

Reasons supporting proposal: This action will create a stand-alone rule, under the 232-36 Wildlife Interaction rules, for cougar and bear depredation removals. The stand-alone rule will assist in clarifying acceptable actions for responding to bear and cougar depredations. This rule is separate of WAC 232-12-243 which addresses chronic areas and public safety.

Compensation

232-36-100 Payment for commercial crop damage—Limitations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to modify the existing language to better articulate agreements utilized by the Department and limitations for compensation.

Reasons supporting proposal: The intent is to alleviate confusion for owners regarding the limitations for crop damage claims.

Change from original CR-102: Clarified that claims will be denied if there is no damage prevention cooperative agreement (DPCA), non-compliance with DPCA terms, or no waiver from DPCA from director. Clarified that prevention measures shall be applicable, legal, practical, and industry recognized.

232-36-110 Application for cash compensation for commercial crop damage—Procedure.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to reinstate the shared responsibility which was inadvertently deleted from the WAC during a previous review. Additionally, existing language is modified to clarify confusion on the claims process; including the use of claims adjustors.

Reasons supporting proposal: This serves to clarify confusion between landowner, claimant, and applicant. Also, the revisions serve to illustrate the claimant's role, continue the collaborative process with the claimant and the Department, provide quality assessments, and minimize or avoid frivolous assessments.

232-36-210 Application for cash compensation for livestock damage or other domestic animal—Procedure.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to provide the claimant with ample time to request and file the appropriate claim package paperwork. Allows the claimant to utilize the damage prevention agreement, a checklist, or a director approved waiver. Further this clarifies the options for appealing an offer of compensation.

Reasons supporting proposal: This serves to facilitate the claims process, continue positive collaboration with the claimant and the Department, provide an adequate period of time for claimants to request and submit claims. Explains that the landowner may use an informal resolution or adjudicative process for appeal per WAC 232-36-400.

Change from original CR-102: Requires inclusion of a DPCA-L or prevention measures checklist or director approved waiver to make claims. Explains that the landowner may use an informal resolution or adjudicative process for appeal pursuant to WAC 232-36-400.

Wildlife Control Operators (WCOs)

232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to clearly articulate the wildlife control operator certification process. This revision further explains methods for documenting experience.

Reasons supporting proposal: This serves to clarify the rules associated with WCOs and eliminate confusion between the wildlife control operator certification versus the permit.

Changes from original CR-102: Identifies ways a WCO applicant can meet the two-year experience requirement.

232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to clearly articulate the responsibilities and requirements of the wildlife control operator under their certification and permits and to articulate retention of fur from animals taken under WCO permits.

Reasons supporting proposal: This serves to streamline the rules associated with WCOs while making technical changes to clarify, correct, and update language. These revisions will further the Department's ability to utilize the WCO program and maximize benefits for landowners and other customers of the Department.

Changes from original CR-102: Clarifies possession of raw fur is only permissible for personal or educational use. Not for commerce.

232-12-142 Special trapping permit—Use of body-gripping traps.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to modify the existing language to clearly articulate the use of a Special trapping permit, and clarify questions regarding possession of carcasses and continual renewal of permits which are limited to 30 days. Limiting the 30 day permits to one permit renewal within a 12 month period will improve the Department's ability to ensure these permits are being utilized to address wildlife conflict events as they occur and lessen the likelihood that these permits would be used as a continuous year-long trapping effort. Further, language was added to exclude the consideration of bal chatri traps for falconry as body gripping traps. Additional language was added to clarify that raw fur may be retained for personal use or education purposes which do not result in retail sale or commerce.

Reasons supporting proposal: The amended language provides further clarification regarding use of special trapping permits and carcass retention. The revision also addresses the continual renewal requests for permits that were intended to resolve a conflict issue within 30 days not act as a continuous maintenance program.

Change from original CR-102: Excludes Bal Chatri traps from body gripping definition. Prohibits the sale of fur (raw or processed) when captured under a special trapping permit (i.e. use of body-gripping trap). Raw fur may be retained for personal or educational purposes only.

Proposed new rules

232-36-054 Use of body gripping traps and exceptions.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal purposefully identifies restrictions associated with the use of body gripping traps and separates these restrictions from the general trapping rule.

Reasons supporting proposal: This action serves to create a separate rule which clearly identifies the restrictions associated with the use of body gripping traps and for which purposes these traps may be used.

232-36-066 Report required of certified wildlife control operators.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal clearly articulates the reporting requirements of certified WCOs.

Reasons supporting proposal: The proposed language outlines the reporting responsibilities of WCOs; separate of those individuals participating in furbearer trapping. The proposed rule also assists in better aligning the wildlife control operator program with the trapping program.

Change from original CR-102: WCO failure to report follows a similar process and violation stipulations as trappers. However, false reports are considered a gross misdemeanor per RCW 77.15.270

Wildlife Interaction Rules
Small Business Economic Impact Statement

1. Description of the reporting, record keeping, and other compliance requirements of the proposed rule.

Revisions are being proposed to the wildlife interaction rules to provide the Department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions are intended to clarify roles, responsibilities, process and requirements for trappers, wildlife control operators, permit holders, hunters, and landowners that participate in activities to assist the Department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the Department as well as lessen the likelihood for confusion regarding the tools used for mitigation.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements.

There are no additional anticipated professional services required to comply with these changes. Under the current rules applicants for claims of livestock or agricultural losses are responsible for assessing the value of their losses; some small businesses may need to hire bookkeepers, accountants, or other professionals to assist with required paperwork for documenting losses and other impacts to their crop or livestock operation; wildlife control operators will still be required to pay their certification fee and dispose of animals in a lawful manner; and hunters will still need to comply with hunting license and tag requirements for damage permits. WDFW will continue to assist owners of crop or livestock if they chose to employ preventive nonlethal and lethal means to prevent losses.

The proposed changes include extending the time period allotted for filing claim and thereby allow the crop/livestock owner ample time to file their claim.

The proposed change in season dates for deer/elk and turkey may result in less damage to crops and thereby have a positive impact to crop owners.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules do not require any additional equipment, supplies, labor, or administrative costs as the rules are administrative in nature. Therefore, there are no expected additional costs to comply with the proposed rules. However, if a landowner does not want to engage in conflict prevention measures, even after several attempts by WDFW to provide technical assistance, then the owner may incur greater losses.

4. Will compliance with the rule cause businesses to lose sales or revenue?

No. The intent of the proposed rules is to assist businesses and avoid damage or losses from wildlife. If businesses follow the procedures in these rules, they should be able to minimize lost sales or revenue. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

- 5. Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules, using one or more of the following as a basis for comparing costs:**
- (a) Cost per employee;**
 - (b) Cost per hour of labor; or**
 - (c) Cost per one hundred dollars of sales.**

Now compare the largest businesses' cost of compliance with the cost of compliance for small businesses. Will this rule have a disproportionate impact on small businesses?

None - The proposed rules do not require any additional equipment, supplies, labor, or administrative costs as the current rules. The costs/fees remain unchanged.

Larger agriculture or livestock operations will experience more costs than smaller operators for things like fence installation, hazing, and bookkeeping/accounting, but the reason for this is that they have a larger land mass or more livestock to protect. Their cost has little correlation to the costs of complying with these rules, especially since these rules are already in effect and are designed to help businesses avoid losses.

- 6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so.**

The Department has stationed staff in all regions of the state to work closely with landowners, livestock and crop producers, hunters, and wildlife control operators to deter wildlife that causes damage. Increased staff involvement and increased preventative measures should result in improved response to conflict issues and potentially fewer losses caused by wildlife.

- 7. A description of how the agency will involve small businesses in the development of the rule.**

The Department has collaborated on an ongoing basis with commercial growers, livestock producers, wildlife control operators, and hunters to develop rules that are fair to everyone but that also help to deter abuses. WDFW will notify stakeholders of the opportunity to comment on these rules and to continue collaborating on changes.

- 8. A list of industries that will be required to comply with the rule.**

Growers of commercial crops, commercial timber, and livestock producers; and wildlife control operators.

- 9. An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule.**

These proposed rule changes are administrative in nature and detail the process WDFW will use to address wildlife conflict issues. No increase or decrease in jobs is anticipated.

producers, wildlife control operators, and hunters to develop rules that are equitable, but also help to deter abuses. WDFW will notify stakeholders of the opportunity to comment on these rule changes and will continue collaborating on any changes that may be needed.

8. A list of industries that will be required to comply with the rule.

Growers of commercial crops and livestock producers; and wildlife control operators.

9. An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule.

These proposed rule changes are administrative in nature and detail the process WDFW will use to address wildlife conflict issues.