

WSR 24-14-149
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-14—Filed July 3, 2024, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-092.

Title of Rule and Other Identifying Information: WAC 220-500-041 Construction, creation and maintenance of roads, trails, and structures.

Hearing Location(s): On August 15, 2024, at 10:00 a.m., via Zoom <https://us06web.zoom.us/j/88387520816>; or One-tap mobile +12532050468,,88387520816# US, +12532158782,,88387520816# US (Tacoma). The public can provide comments during webinars by phone or electronic device. Attendees that provide verbal comments are audio only. To testify, you must register by 8 a.m., August 14, 2024, <https://forms.office.com/pages/responsepage.aspx?id=F-LQEU4mCkCLoFfcwSfXLSrgNExZzOBBrIzn0zLRUFZURDBVT1ZIUUVWNk9NWURVN1pHODNYWjZTVy4u&web=1&wdLOR=cC663E017-9806-4FEB-8D43-2CACC029A5FA>. At the appropriate time to speak, you will be recognized by your partial phone number, or your Zoom user name and staff will unmute your connection. You will be asked to state your name and residence for the record, just as if you were attending the meeting in person. Please also state whether you are representing yourself, or a group or organization.

Date of Intended Adoption: On or after August 16, 2024.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email Constructionrule2024@publicinput.com, fax 360-902-2162, <https://publicinput.com/constructionrule2024>, comment by phone 855-925-2801, project code 8413, SEPA comments <https://publicinput.com/2024constructionsepa> or email 2024constructionsepa@publicinput.com, by August 15, 2024.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, <http://wdfw.wa.gov/accessibility/requests-accommodation>, by August 15, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule will help the Washington department of fish and wildlife (WDFW) better manage its wildlife areas and the public use that is occurring on them. It will give WDFW law enforcement remedies to discourage the construction, creation, and maintenance of roads, trails, and structures without WDFW approval, which can otherwise pose a threat to natural or cultural resources and create safety hazards for public users.

Reasons Supporting Proposal: The construction, creation, and maintenance of roads, trails, and structures that have been user-created without approval or authorization from WDFW staff are often in locations or conditions that are environmentally, culturally, or financially unsustainable. A proliferation of unauthorized roads and trails has appeared in recent years on lands managed by WDFW. These roads and trails often cut through sensitive habitat, interrupt habitat connectivity, and cause direct damage to vegetation, wildlife, and tribal resources. User-created roads and trails lack the deliberate planning, design and evaluation of impacts on the land that are necessary to place or build them appropriately. Currently, without the legal remedies or statutory authority to prevent or cite individuals for the creation of roads, trails, and structures without approval, there

is a risk that these activities will continue to proliferate and degrade sensitive resources.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.210, and 77.15.040.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.210, and 77.15.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. [No information supplied by agency.]

July 3, 2024

Scott Bird

Rules Coordinator

OTS-4951.6

NEW SECTION

WAC 220-500-041 Construction, creation and maintenance of roads, trails, and structures. (1) A person must obtain the express written permission of the department in order to construct, create, modify, repair, relocate, or maintain a new or existing road, trail, sign, structure, or other facility or improvement. A copy of the written permission must be kept on site during any work.

(2) Violating this section is a misdemeanor pursuant to RCW 77.15.230.

(3) This section does not apply to erecting and using temporary camp and blind structures pursuant to WAC 220-500-130.