

WSR 25-04-102
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-16C—Filed February 4, 2025, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-21-094 on October 17, 2024.

Title of Rule and Other Identifying Information: WAC 220-400-040 Possession of dead wildlife, 220-413-030 Importation and retention of dead nonresident wildlife, 220-413-100 Mandatory report of hunting activity, and 220-414-030 Baiting for the purposes of hunting deer or elk.

Hearing Location(s): On March 18, 2025, at 10:30 a.m., via Zoom at <https://us06web.zoom.us/j/84881506498>. Register to testify at the public hearing [contact agency for link], or contact Heather Bonagofski, 360-902-2512, to sign up.

Date of Intended Adoption: On or after March 24, 2025.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email cwdcrl02@publicinput.com, fax 360-902-2162, <https://publicinput.com/cwdcrl02>, phone 855-925-2801, project code 10595, beginning February 5, 2025, by March 21, 2025.

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, CivilRightsTeam@dfw.wa.gov, by March 21, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-400-040 Possession of dead wildlife. The purpose of this proposal is to:

Adjust the rule text to allow the salvage of deer and elk in Clark, Cowlitz, and Wahkiakum counties. The anticipated effect of this proposal is an expanded salvage opportunity in the counties listed above.

Require deer and elk salvagers to "submit to the department for chronic wasting disease sampling within five days of receiving a salvage permit:

(a) The whole head with at least 3 inches of the neck attached
or;

(b) Extracted lymph nodes to the department for chronic wasting disease sampling within five days of receiving a salvage permit." (The underlined text above is the specific proposed change.)

These requirements apply to any Washington department of fish and wildlife (department) management region where chronic wasting disease (CWD) has been detected. The anticipated effect of this change is increased CWD sampling within management regions where CWD has been detected and an improved understanding of CWD distribution and prevalence.

WAC 220-413-030 Importation and retention of dead nonresident wildlife. The purpose of this proposal, if adopted, is to:

Modify the text in subsection (1)(c) as follows: "To import, transport, or possess deer, elk, moose, or caribou, or parts thereof, harvested outside Washington state; from within a WDFW management region where chronic wasting disease has been detected by the Department to other management regions of the state" unless the meat has been deboned in the "[...] WDFW management region where chronic wasting disease has been detected by the Department and is transported to other re-

gions of the state" in addition to other existing exceptions for the transport and retention of dead deer, elk, or moose. (The underlined text above is the specific proposed change.)

Add the species moose and caribou and the terms "tribe" and "laboratory" to subsection (3) of the rule: "It is unlawful for an importer or receiver of deer, elk, moose, or caribou to fail to notify the department within 24 hours if a state, province, tribe, or laboratory alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease." (The underlined text above is the specific proposed change.)

The anticipated effect of this change if adopted, will be reduced movement of potentially CWD-infected carcasses or animal parts entering areas of the state where the disease is not present.

WAC 220-413-100 Mandatory report of hunting activity. The purpose of this proposal, if adopted, is to:

Require successful deer, elk, or moose hunters to "present to the department for chronic wasting disease sampling within five days of harvesting:

(a) The whole head with at least 3 inches of the neck attached or;

(b) Extracted lymph nodes." (The underlined text above is the specific proposed change.)

These requirements apply to any department management region where CWD has been detected. The anticipated effect of this change is increased CWD sampling within management regions where CWD has been detected and an improved understanding of CWD distribution and prevalence.

WAC 220-414-030 Baiting for the purposes of hunting deer or elk. The purpose of this proposal, if adopted, is to:

In subsection (1), add "moose" to the list of species and expand the definition of "bait" to "any substance that could serve as a lure, food, or attraction for deer, elk, or moose, including natural or synthetic scents that contain or are derived from cervid urine and glandular extracts." (The underlined text above is the specific proposed change.)

Prohibit the use of bait for the purpose of attracting deer, elk, or moose with the intent to hunt them. The anticipated effect of this change is the prohibition of the use of bait for the purpose of hunting statewide.

Adjust the exception for the use of scents to specify that only scents that "do not contain or are derived from cervid urine and glandular extracts" are permissible for the purpose of hunting deer, elk, or moose.

The anticipated effect of these changes, if adopted, is a clarification of what defines bait for the purpose of hunting and a restriction on permissible use of products that aid hunters in their pursuit of deer, elk or moose; a restriction on the type of scent used for the purpose of hunting; and an overall reduction of the risk of introducing CWD into the state by reducing unnatural concentration of deer, elk, or moose, and from scent products (i.e., urine, glandular products) potentially contaminated with CWD.

Reasons Supporting Proposal: WAC 220-400-040 Possession of dead wildlife: The department was requested (via petition) to consider expanding salvage of deer and elk in Clark, Cowlitz, and Wahkiakum counties. Under existing rule, salvage of deer and elk in these counties is prohibited due to concern regarding inadvertent or purposeful take and/or possession of the federally endangered Columbian white-tailed

deer (CWTD) present in these counties (i.e., take or possession of this species is prohibited). The department evaluated existing data and information about roadkill of CWTD, including practices used in Oregon (where CWTD are also present), and determined the likelihood of inadvertent salvage/possession of this species is low. If this change is approved, the department will use its salvage permit form to provide important information to salvagers in these counties about CWTD, including species identification (i.e., compared to black-tailed deer), what to do if a CWTD roadkill is found, and state or federal regulations relevant to CWTD.

The proposed changes to salvage rules to require sample submission are associated with CWD management. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al., 1999). Early detection of CWD in a population is critical, as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller, 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a predetection surveillance program that tested thousands of animals, and a prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al., 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al., 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington (Williams et al., 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's predetection surveillance program since 2021. This program successfully identified the first case of CWD in Washington in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

With recent mandatory requirements for CWD testing in several game management units, the department observed nearly an eight-fold increase in sample sizes (over 900 samples collected in 2024 vs. 124 samples collected the previous surveillance year in the mandatory area) that allowed for more accurate determinations of disease prevalence and geographic distribution. Subsequently, these estimates of CWD prevalence and distribution improve the efficacy of disease management, such as harvest, disposal, and outreach.

For more information regarding the citations above, visit [WDFW.wa.gov](https://wdfw.wa.gov) - CWD Management Plan (<https://wdfw.wa.gov/publications/02292>).

WAC 220-413-030 Importation and retention of dead nonresident wildlife: The proposed changes to this rule are associated with CWD management. CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al., 1999). These prions persist in the animal's tissues after death and will contaminate the environment as the carcass decomposes. Studies have demonstrated that infectious CWD prions from infected decom-

posed deer carcasses can persist in the environment for nearly two years, presenting an exposure hazard to other cervids in the area (Miller et al., 2004). Prions that cause scrapie in domestic sheep, a disease very similar to CWD, may persist in the environment for up to 16 years (Georgsson et al., 2006). Due to the risk of importing CWD into Washington via infected carcasses or carcass parts, the department updated WAC 220-413-030 Importation and retention of dead nonresident wildlife, in 2021 to prohibit the importation of intact carcasses and certain carcass parts of cervids harvested outside of Washington. Now that CWD is present in Washington, similar restrictions are needed to prevent or slow the spread of the disease to other currently unaffected areas of the state. This WAC also requires hunters to notify the department within 24 hours if they are informed that a deer or elk they harvested in another state or province subsequently tested positive for CWD. According to the Association of Fish and Wildlife Agencies (AFWA), the best management practice for reducing the risk of CWD transmission and establishment via movement of hunter-harvested cervid carcasses and tissues is to prohibit the importation of intact cervid carcasses from all states and provinces (Gillin and Mawdsley, 2018). These same risk reduction management practices can be applied within the state to reduce the risk of CWD transmission and establishment of CWD via movement of hunter-harvested and salvaged cervid carcasses and tissues to other disease-free areas of the state.

For more information regarding the citations above, visit [WDFW.wa.gov - CWD Management Plan \(https://wdfw.wa.gov/publications/02292\)](https://wdfw.wa.gov/publications/02292).

WAC 220-413-100 Mandatory report of hunting activity: (Same as WAC 220-400-040 Possession of dead wildlife) CWD prions accumulate in the tissues of infected cervids, even before the animal begins to show signs of disease (Sigurdson et al., 1999). Early detection of CWD in a population is critical as successful management of the disease is more likely when prevalence is low and environmental contamination by prions is minimal (Gross and Miller, 2001). There has only been one instance where CWD is believed to have been successfully eradicated from wild cervids. This was in New York, where a predetection surveillance program that tested thousands of animals, and a prompt and aggressive response once the first case was detected, were credited with preventing CWD from becoming established in the wild white-tailed deer population (Evans et al., 2014). The department currently tests adult cervids throughout the state that are reported with clinical signs commonly associated with CWD, and under the current management plan continues to do so. Targeted surveillance of symptomatic animals is helpful, but alone is unlikely to detect CWD early enough for effective management intervention since infected animals can survive months to years without showing signs of the disease (Miller et al., 2000). Similarly, testing of healthy hunter-harvested or vehicle-killed cervids alone is not likely to result in early detection of CWD in new areas of Washington (Williams et al., 2002). To maximize the chances of early detection of CWD, sampling of both symptomatic and apparently healthy hunter-harvested or vehicle-killed cervids has been conducted as part of the department's predetection surveillance program since 2021. This program successfully identified the first case of CWD in Washington in 2024. However, voluntary submission from hunters and salvagers has not met sample size goals to identify early detections of CWD in other areas of the state.

With recent mandatory requirements for CWD testing in several game management units, the department observed nearly an eight-fold

increase in sample sizes (over 900 samples collected in 2024 vs. 124 samples collected the previous surveillance year in the mandatory area) that allowed for more accurate determinations of disease prevalence and geographic distribution. Subsequently, these estimates of CWD prevalence and distribution improve the efficacy of disease management, such as harvest, disposal, and outreach.

For more information regarding the citations above, visit [WDFW.wa.gov](https://wdfw.wa.gov) - CWD Management Plan (<https://wdfw.wa.gov/publications/02292>).

WAC 220-414-030 Baiting for the purposes of hunting deer or elk: The proposed changes to this rule are associated with CWD management. Baiting and recreational or supplemental feeding of any wildlife species has the potential to artificially concentrate animals (Janousek et al., 2021) and increase the transmission of infectious disease agents among them (Sorenson et al., 2014). Attraction of animals to artificial feed can also result in contamination of the feedstuffs and the environment by disease agents, such as prions, that are present in saliva, urine, and feces of CWD-infected cervids (Mathiason et al., 2009, Henderson et al., 2015, Plummer et al., 2017). For example, it has been demonstrated that white-tailed deer with CWD deposit prions at mineral licks, creating environmental reservoirs of CWD prions (Plummer et al., 2018). According to AFWA, the best management practice to reduce the risk of CWD transmission and establishment through unnatural concentrations of cervids is for states and provinces to eliminate the baiting and feeding of all wild cervids using regulatory mechanisms, such as jurisdictional bans (Gillin and Mawdsley, 2018). CWD prions are shed in the urine of infected deer for months to years before they show signs of disease, and an infected deer may shed thousands of infectious doses during its lifetime (Henderson et al., 2015). There are currently no practical tests to detect the presence of CWD prions in urine. Hunters use commercial urine-based products to mask human scent and to attract deer, particularly males, within shooting range. These products are readily available for purchase at sporting goods stores and online. The urine used in these products is collected from deer in captive facilities, typically using a grate system that also collects feces and other excretions (Spitznagel, 2012) and is frequently batched/combined from multiple captive cervid facilities (Nark, 2017). Deer urine production and sales are not regulated by any agency, nor are there any testing or labeling requirements for urine products. The Archery Trade Association (ATA) offers a voluntary certification program for deer urine businesses which is designed to mitigate the risk of spreading CWD via commercial deer urine products. However, there are shortcomings with the ATA certification program (Gillin and Mawdsley, 2018), and the organization has no technical ability or regulatory authority to detect or prevent the distribution of contaminated urine products. According to AFWA, the best management practice for reducing the risk of CWD transmission and establishment through use of natural cervid urine-based products is to "eliminate the sale and use of natural cervid urine-based products" (Gillin and Mawdsley, 2018).

For more information regarding the citations above, visit [WDFW.wa.gov](https://wdfw.wa.gov) - CWD Plan (<https://wdfw.wa.gov/publications/02292>).

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030, 77.12.610, 77.12.071, 77.145.010, and 77.145.020.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, 77.08.030, 77.12.610, 77.12.071, 77.145.010, and 77.145.020.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Mick Cope, 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.

February 4, 2025
Scott Bird
Rules Coordinator

OTS-6088.2

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-400-040 Possession of dead wildlife. (1) Except as authorized by permit of the director or as otherwise provided by this section, it is unlawful to possess wildlife found dead. This rule does not prohibit the possession of naturally shed antlers of deer, elk, or moose.

(2) Except as provided in subsection (4) of this section, an individual may remove and dispose of wildlife found dead on his or her property or an adjoining public roadway. Before removing the wildlife, the individual shall, by telephone, notify the department or the Washington state patrol communications office, and shall provide his or her name, address, telephone number, and the description and location of the wildlife. The individual may remove the wildlife for disposal only, and may not retain the wildlife for personal use or consumption. Other laws and rules may apply to the disposal, including rules of the department of health (WAC 246-203-121). Wildlife removed under this subsection remain the property of the state.

(3) Possession of wildlife in violation of subsections (1) and (2) is punishable under RCW 77.15.130, 77.15.400, 77.15.410, and 77.15.430 depending on the species involved in the violation.

(4) It is permissible to salvage and transport a deer or elk that is accidentally killed by a motor vehicle collision (~~except for any deer killed by a motor vehicle collision in Clark, Cowlitz, and Wahkiakum counties~~).

(a) Big game licenses and tags cannot be used for the purpose of salvaging motor vehicle-killed deer or elk.

(b) A salvage permit must be obtained from the department within 24 hours of taking possession of the animal. Permits may be obtained on the department's website or at department regional offices.

(c) The entire carcass, including entrails, of the animal must be removed from the road right of way.

(d) In any WDFW management region where the department has detected chronic wasting disease, salvagers must submit to the department for chronic wasting disease sampling within five days of receiving a salvage permit:

(i) The whole head with at least three inches of the neck attached; or

(ii) Extracted lymph nodes to the department for chronic wasting disease sampling within five days of receiving a salvage permit.

(e) Any meat an individual deems unfit for human consumption or unusable animal parts must be disposed of pursuant to WAC 246-203-121. Individuals salvaging and consuming this meat do so at their own risk. The department makes no guarantee as to the fitness for consumption of deer or elk collected under a salvage permit.

~~((e))~~ (f) An individual may not kill an injured or wounded animal that they encounter for the purpose of salvage. Only a law enforcement officer or individuals or entities authorized by the department may euthanize an animal injured in a motor vehicle collision and that deer or elk may be taken for salvage.

(5) Possession of wildlife in violation of subsection (4) of this section is punishable under RCW 77.15.750.

OTS-6089.2

AMENDATORY SECTION (Amending WSR 22-13-108, filed 6/15/22, effective 7/16/22)

WAC 220-413-030 Importation ~~((and))~~, retention, and transportation of dead ~~((nonresident))~~ wildlife. (1) It is unlawful:

(a) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(b) For a person who imports a dead bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within 10 days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.

(c) To import, transport, or possess deer, elk, moose, or caribou, or parts thereof, harvested outside Washington state; or from within a WDFW management region where chronic wasting disease has been detected by the department to other management regions of the state, with the following exceptions:

(i) Meat that has been deboned in the state ~~((or))~~, province ~~((where it was harvested))~~, or WDFW management region where chronic wasting disease has been detected by the department and is transported to other regions of the state and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

(2) Violation of subsection (1) of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.

(3) It is unlawful for an importer or receiver of deer (~~(or)~~), elk, moose, or caribou to fail to notify the department within 24 hours if a state (~~(or)~~), province, tribe, or laboratory alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160 Infractions.

OTS-6090.2

AMENDATORY SECTION (Amending WSR 24-11-029, filed 5/7/24, effective 6/7/24)

WAC 220-413-100 Mandatory report of hunting activity. (1) All hunters purchasing a hunting license must report their hunting activity for deer, elk, bear, or turkey.

(a) Hunters must report hunting activity, for each tag and permit acquired, by January 31st or within 10 days after the close of an eligible hunt, whichever date is later.

(b) Reports must be made using the department's authorized internet hunter reporting system, department-authorized mobile application, or by telephone.

(c) A hunter who fails to report hunting activity, for each tag and permit acquired, by the reporting deadline is in violation of reporting requirements.

(d) Compliance will be credited for each transport tag and permit acquired.

(2) As an incentive for prompt reporting, all hunters who report by midnight January 10th or within 10 days after the last day of their permit hunt will be entered into a drawing for special deer and elk incentive permits. To be eligible for the drawing, hunters must report their hunting activity for each transport tag and permit acquired.

(3) A hunter who fails to report hunting activity by the reporting deadline for deer, elk, bear, or turkey tags and permits acquired the previous year will be required to pay a \$10 administrative fee at the time a new license that includes deer, elk, bear, or turkey tags is issued.

(4) All hunters who purchase a paper or electronic migratory bird authorization must report their hunting activity for each paper or electronic harvest record card issued.

(a) Hunters must report harvest information from band-tailed pigeon harvest record cards by September 30th following the season for which the harvest card was issued. Hunters must report harvest infor-

mation from brant, sea duck, and harlequin duck permit harvest record cards by February 15th following the season for which the harvest card was issued. Hunters must report harvest information from snow goose (Goose Management Area 1), and SW Canada goose (Goose Management Area 2 Coast and Inland) harvest record cards by March 20th following the season for which the harvest card was issued.

(b) Hunters must report migratory bird hunting activity at the department's authorized internet hunter reporting system internet site listed on the harvest record card or on the department-authorized mobile application.

(c) Any hunter who fails to report, for each harvest record card acquired, by the reporting deadlines is in violation of reporting requirements.

(d) Compliance will be credited for each harvest record card acquired.

(5) A hunter who fails to report hunting activity by the reporting deadlines for band-tailed pigeon, brant, harlequin duck permit, sea duck, snow goose, or SW Canada goose harvest record card acquired in the previous hunting season must pay a \$10 administrative fee at the time a new migratory bird authorization and harvest record card is issued.

(6) A hunter may only be required to pay a maximum of one \$10 administrative fee for all game species reporting violations during a license year.

(7) In any WDFW management region where the department has detected chronic wasting disease, successful deer, elk, or moose hunters must present to the department for chronic wasting disease sampling within five days of harvesting:

(a) The whole head with at least three inches of the neck attached; or

(b) Extracted lymph nodes.

RDS-6091.2

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-414-030 Baiting for the purposes of hunting deer ((~~or~~)), elk, or moose. (1) For the purposes of this section: "Bait" is any substance that could serve as a lure, food, or attraction for deer ((~~or~~)), elk, or moose, including natural or synthetic scents that contain or are derived from cervid urine and glandular extracts.

(2) Except as otherwise provided in this section, it is unlawful to hunt for deer ((~~and~~)), elk, or moose using any type of bait placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting deer ((~~or~~)), elk, or moose with the intent to hunt them ((, if the volume of bait accessible to wildlife exceeds 10 gallons.

~~(3) Bait sites of an individual license holder cannot be placed within 200 yards from another known bait site or another bait site of the same license holder).~~

~~((4))~~ (3) Exceptions: Hunting on or over the following is not considered an unlawful use of bait while hunting deer ~~((or))~~, elk, or moose:

(a) Locally common agricultural and ranching practices including salt or mineral distribution, and feeding;

(b) Food that is available from undisturbed wild, volunteer, or planted vegetation; including fruit trees, orchards, vineyards, and food plots;

(c) Scents ~~((used for cover and attractant that are not consumed by animals))~~ that do not contain or are derived from cervid urine and glandular extracts;

(d) Naturally occurring mineral deposits;

(e) As authorized by a department permit issued to address a management objective; or

(f) Exceptions do not include accidental or intentional spills, dumping, or storage of agricultural produce, feed, or bait.

~~((5) A violation of this section is punishable as an infraction under RCW 77.15.160 if no animal has been shot or killed and RCW 77.15.410 Unlawful hunting of big game Penalty, if an animal has been shot or killed.))~~