

**WSR 21-06-050
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 21-16—Filed February 25, 2021, 12:55 p.m., effective March 28, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The fish and wildlife commission approved amendatory language that increases the level of oversight and environmental protection required of grazing permits issued by the department of fish and wildlife. This language (1) requires that permits be consistent with WDFW's mission and management objectives, (2) clarifies various requirements of commission review of permits, (3) removes redundant language within the rule, (4) establishes the option of discontinuing permits upon expiration, and (5) adds other minor clarifications to procedure and/or definition.

Citation of Rules Affected by this Order: Amending WAC 220-500-200 Livestock grazing on department of fish and wildlife lands.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.210.

Adopted under notice filed as WSR 20-08-099 and 20-18-060 on March 30, 2020, and August 31, 2020, respectively.

Changes Other than Editing from Proposed to Adopted Version: (1) In subsection (1) of the rule proposed in WSR 20-18-060, previous language about "desired ecological condition" was removed. That language was retained in the adopted rule amendments. (2) In subsection (3) of the proposed rule, language requiring permits to be submitted to the commission for review was replaced with language requiring the commission to approve permits before the department could issue them. The adopted amendments eliminated language about commission approval and retained the previous language about commission review. (3) Also in subsection (3) of the proposed rule, previous language authorizing the department to issue permits unless the commission had disapproved them within thirty days was removed. This removal was directly connected with the subject in change (2) above, wherein grazing permits would have needed commission approval rather than commission review. The adopted amendments eliminated the proposed requirement of commission review and retained the language authorizing permit issuance unless the commission disapproves within thirty days. (4) In subsection (4) of the proposed rule, a reference to commission review and approval of certain permits was found. This reference was modified to refer only to commission review in the adopted rule amendments.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 12, 2021.

Larry M. Carpenter, Chair
Fish and Wildlife Commission

OTS-2505.2

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

WAC 220-500-200 Livestock grazing on department of fish and wildlife lands. All persons wishing to apply for a grazing permit for acreage managed by the Washington department of fish and wildlife should contact the ~~((Washington Department of Fish and Wildlife, 600 North Capitol Way))~~ department at P.O. Box 43200, Olympia, Washington ((98501-1091)) 98504-3200.

(1) The director is authorized to ~~((enter into))~~ issue grazing permits when the director determines that ~~((a))~~ the grazing permits will be consistent with the desired ecological conditions for those lands ~~((or))~~ and with the department's mission, management objectives, and strategic plan. ~~((Except for temporary permits, or permits that are being renewed or renegotiated with existing permittees, grazing permits shall first be submitted to the commission, which may review the permit to ensure it conforms with commission policy. If, within thirty days, the commission has not disapproved the permit, the director shall be deemed authorized to enter into that permit.~~

~~(2) The director shall negotiate grazing permits with potential grazing operators to ensure the highest benefits to fish and wildlife. The director may advertise and sell a permit to use department lands for grazing at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so.~~

~~(3) The term of each grazing permit shall be no greater than five years. When an existing permit expires or is about to expire, the director may renew the permit for up to another five years, renegotiate the grazing permit with the existing permittee, negotiate a new permit with a new grazing operator, or sell the permit at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so. The director may grant a term longer than five years only with the prior approval of the commission.~~

~~(4) A temporary permit may be granted by the director to satisfy short-term needs where benefits to wildlife management programs and the public interest can be demonstrated. The term of a temporary permit shall not exceed one year and no fee need be charged.~~

~~(5) Except for temporary permits lasting less than two weeks, each grazing permit proposal shall be accompanied by a domestic livestock grazing management plan that includes a description of ecological impacts, desired ecological condition, fish and wildlife benefits, a monitoring plan, and an evaluation schedule for lands that will be grazed by livestock. The department shall inspect the site of a grazing permit no less than two times each year. The director shall retain the right to alter any provision of the plan as required to benefit~~

~~fish or wildlife management, public hunting and fishing, or other recreational uses.~~

~~(6) The director may cancel a permit (a) for noncompliance with the terms and conditions of the permit, or (b) if the area described in the permit is included in a land use plan determined by the agency to be a higher and better use, or (c) if the property is sold or conveyed, or (d) if damage to wildlife or wildlife habitat occurs.~~

~~(7)) (2) A temporary permit may be granted by the director to satisfy short-term needs where benefits to wildlife management programs and the public interest can be demonstrated. The term of a temporary permit shall not exceed one year and no fee need necessarily be charged.~~

~~(3) With the following three exceptions, grazing permits shall first be submitted to the commission, which may review the permits to ensure that they conform to commission policy:~~

~~(a) Temporary permits;~~

~~(b) Permits that are being renewed or renegotiated for acreage where the department has permitted nontemporary grazing during the previous ten years; and~~

~~(c) Permits that are being issued for acreage acquired by the department within the previous twelve months.~~

~~If, within thirty days, the commission has not disapproved a permit, the director shall be deemed authorized to issue that permit.~~

~~(4) A permit issued without commission review on acreage acquired by the department within the previous twelve months must not exceed an initial duration of three years, and may not be subsequently reissued before being submitted to the commission for review.~~

~~(5) The director shall negotiate grazing permits with potential grazing operators to ensure the highest benefits to fish and wildlife. When an existing permit expires or is about to expire, the director may renew the permit for up to another five years, renegotiate the grazing permit with the existing permittee or with a new grazing operator, decline to reissue the permit and provide notice of and rationale for nonrenewal by the end of the calendar year of the most recent permitted grazing season, or advertise and sell the permit at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the fish and wildlife to do so. No grazing permit shall have a term exceeding five years unless the commission grants prior approval for a longer term.~~

~~(6) Except for temporary permits where grazing on department managed lands is allowed for the equivalent of fewer than fourteen total days, each grazing permit proposal shall be accompanied by a domestic livestock grazing management plan that includes a description of ecological impacts, desired ecological conditions, fish and wildlife benefits, a monitoring plan, and an evaluation schedule for lands that will be grazed by livestock. Grazing management lands will address ecosystem standards referenced in RCW 77.12.204. The department shall inspect the site of a grazing permit no less than two times each year. The director shall retain the right to alter any provision of the plan as required to benefit fish or wildlife management, public hunting and fishing, or other recreational uses.~~

~~(7) The director may cancel a permit:~~

~~(a) For noncompliance with the terms and conditions of the permit;~~

~~(b) If the area described in the permit is included in a land use plan determined by the agency to be a higher and better use;~~

(c) If the property is sold or conveyed; or

(d) If damage to wildlife or wildlife habitat occurs.

Notice of and rationale for cancellation will be provided to the permittee as far in advance as possible.

(8) All lands covered by any grazing permit agreement shall at all times be open to public hunting, fishing and other wildlife recreational uses, consistent with applicable seasons and rules, unless such lands have been closed by action of the commission or emergency order ((e)) by the director.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-500-200, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210. WSR 07-11-017 (Order 07-62), § 232-12-181, filed 5/3/07, effective 6/3/07. Statutory Authority: RCW 77.12.047. WSR 03-03-016 (Order 03-03), § 232-12-181, filed 1/7/03, effective 2/7/03. Statutory Authority: RCW 77.12.210. WSR 88-23-109 (Order 323), § 232-12-181, filed 11/22/88. Statutory Authority: RCW 77.12.040. WSR 82-04-034 (Order 177), § 232-12-181, filed 1/28/82; WSR 81-12-029 (Order 165), § 232-12-181, filed 6/1/81. Formerly WAC 232-12-405.]