



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Brad Thomesen

Name of Organization [REDACTED]

Mailing Address [REDACTED]

City [REDACTED] State WA Zip Code 98020

Telephone [REDACTED] Email [REDACTED]

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: _____

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: _____

The rule is needed because: _____

The new rule would affect the following people or groups: _____

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: Please See Attached

I am requesting the following change: Please See Attached

This change is needed because: Please See Attached

The effect of this rule change will be: Please See Attached

The rule is not clearly or simply stated: Please See Attached

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

- It does not do what it was intended to do.
- It is no longer needed because: _____
- It imposes unreasonable costs: _____
- The agency has no authority to make this rule: _____
- It is applied differently to public and private parties: _____
- It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____
- It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____
- Other (please explain): _____

To Whom It May Concern:

Re: Petition for Black Bear Timber Damage Depredation Permits

Re: Re: 'Black Bear Timber Damage Depredation Permits CR-101 filed as WSR 19-06-030 on February 28,2019.

<https://wdfw.wa.gov> / Commission Meetings / Rule Making / Current rule-making activity / Preproposals / Black bear timber damage depredation permits / Rule Making Reference# P2020-19 / Documents / CR-101 – filed as WSR 19-06-030 on February 28, 2019

(a copy of the above referenced document is included in this petition)

Currently WDFW does not have the timber bear damage on the calendar for rulemaking.

WDFW filed the CR-101, as a preproposal for when they feel they may have rulemaking to do and a preproposal never expires.

WDFW Commission is not currently working on this, however, if they do decide to move forward with that topic, they will be transparent and put out a news release and possibly file a new CR-101 for awareness.

Included in this Petition is the WDFW document: "Bear Timber Damage 2022 – FAQ"

Included in this Petition from the 'WDFW Excerpt from the Game Management Plan July 2015 – June 2021' Section "Wildlife Conflict / Black Bear Tree Depredation on Commercial Timberlands" pages 43 and 44.

I request the Commission to immediately begin / resume **possible rule making / rule making / amendments to** for Black Bear Timber Damage Depredation Permits.

It is of concern that Spring Bear Hunting Season issues are being confused with the Bear Timber Damage Program issues when discussing Spring Bear Management.

Spring Bear Hunting Season issues should not be confused with issues of the Bear Timber Damage Program.

Each is its own issue and should be treated as such.

This Petition can serve to correct issues regarding:

- The WDFW Commission cancellation of the Spring Bear Hunt while there is still Spring Timber Bear Damage and a Bear Timber Damage Program in place and should be examined.

- Section “Wildlife Conflict / Black Bear Tree Depredation on Commercial Timberlands / Objective 23: / Strategies: / e. on page 44 – “Improve opportunities for recreational bear harvest to minimize potential timber damage”.
- The WDFW Commission’s lack of action on the Black Bear Timber Damage Depredation Permit Preproposal / Bear Timber Damage Program since 2019.
- Address WDFW’s ability within current laws to address bear caused timber damage.
- Black Bear Timber Damage is of sufficient magnitude to be a significant factor regarding black bear management.
- Limit any confusion between the Spring Bear Hunting Seasons with the Bear Timber Damage Program.
- Move forward issues that are more appropriately addressed by use of the Preproposal Statement of Inquiry Cr-101 (Oct 2017) (Implements RCW 34.05.310) Filed as WSR 19-06-030 on February 28, 2019.

Thank-you



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 28, 2019

TIME: 1:02 PM

WSR 19-06-030

Agency: Washington Department of Fish and Wildlife

Subject of possible rule making: Amendments to WAC Chapter 220-440 Wildlife management and wildlife interaction. Changes to black bear timber damage depredation permits.

Statutes authorizing the agency to adopt rules on this subject: RCWs 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.12.240, and 77.15.245

Reasons why rules on this subject may be needed and what they might accomplish: The department is seeking to amend WAC 220-440-210 regarding Black Bear timber damage depredation permits, adding and/or changing criteria under which a depredation permit may be issued

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The department will coordinate with United States Department of Agriculture Wildlife Services as needed.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Eric Gardner	(If necessary) Name:
Address: Washington Department of Fish and Wildlife 1111 Washington St SE Olympia, WA 98501	Address:
Phone: 360-902-2512	Phone:
Fax: 360-902-2162	Fax:
TTY: 800-833-6388	TTY:
Email: wildthing@dfw.wa.gov	Email:
Web site:	Web site:
Other:	Other:

Additional comments:

Date: February 28, 2019

Signature:

Name: Scott Bird

A handwritten signature in black ink that reads "Scott Bird". The signature is written in a cursive style with a large initial 'S' and 'B'.

Title: Rules Coordinator



Bear Timber Damage 2022 - FAQ

Why did the original Bear Timber Damage Program stop?

The validity of a Washington Administrative Code (WAC) rule providing for the issuance and use of the black bear timber damage depredation permits found in [WAC 220-440-210](#) was challenged in an appeal to the Washington State Court of Appeals. The court invalidated the rule and thus the Department has limited ability within current laws in order to address bear caused timber damage.

What is currently happening with the litigation?

A portion of the court case was resolved when Washington State Court of Appeals invalidated the rule. There are portions of the litigation that were remanded to Thurston County Superior Court, and the Department cannot comment on active litigation.

What is Washington Department of Fish and Wildlife (WDFW) able to provide in response to timber damage this season?

Under [RCW 77.12.240](#), WDFW may authorize the lethal removal of black bears causing damage to private property subject to the limitations in RCW 77.15.245. WDFW is considering requests for authorization to kill timber-damaging black bears with firearms ("boot hunting") on a case-by-case basis. Under very limited circumstances, the local WDFW conflict specialist may be able to deploy a culvert trap in an effort to trap and remove a timber-damaging bear, but only if a trap is available and the conflict specialist has the time and ability.

How do I request WDFW assistance responding to timber damage?

Each timber company will need to work with their local Wildlife Conflict Specialist (WCS) to address bears causing timber damage. The WCS will need to retrieve the following information:

- Location of damage.
- Verification of the fresh damage either by a site visit, a photograph, or any other means as requested by the WCS.
- What non-lethal methods have been employed in attempt to prevent the damage.
- Whether supplemental feeding is currently occurring on the property or not.
- Any additional information the timber company or WCS feels is important for consideration.

The WCS will evaluate whether a kill permit is appropriate for each specific case, or alternatively, may consider if culvert trapping is an option. If the timber company would like to request a kill permit, the company should coordinate with the WCS to submit the above information along with a request for issuance of a kill permit.

Who approves each kill permit?

Every permit will need to be reviewed, approved, and signed by the Wildlife Conflict Section Manager, Jim Brown, or whomever he designates as acting in his absence.

How long will it take to receive a kill permit?

Each permit request will be evaluated on a case-by-case basis considering the information provided by a permit applicant and potentially additional information gathered by WDFW in a field visit or desk review. Normally, if a timber company has provided the WCS with needed information, WDFW staff will have kill permits issued within three business days of receiving a request. Promptly responding to requests for any additional information needed for approval will assist with the speed of processing.

How long will the kill permit be valid for?

The duration of each kill permit will be considered on a case-by-case basis.

How many bears are allowed to be taken under each permit?

Each permit will state the number of bear(s) approved to be killed, which will depend on the specific damage situation. If a timber company would like to request a permit to kill more than one bear in a location, the request should include information explaining why the removal of two or more bear is necessary to address the timber-damage occurring at that location.

Can I receive more than one kill permit if I have multiple locations of damage?

Yes. However, each location of damage will require a separate kill permit and will need to be reviewed for approval independent of other damage locations on the property.

Can I receive a kill permit for bear timber damage if I am in a grizzly bear recovery zone?

Yes, but hunters will need to comply with the bear identification test. If this situation occurs, WDFW will outline any additional requirements upon issuance of the permit, and those requirements must be met before the permit may be used.

For more information on where the grizzly bear recovery zones are and the bear identification program, please visit our website at this link: <https://wdfw.wa.gov/hunting/requirements/bear-identification-testing>

Will there be requirements associated with the take of a bear under a kill permit?

Yes. Each permit will include conditions and requirements based on a case-by-case analysis of the specific timber damage situation. This will include time, place, and manner restrictions, as well as harvest reporting requirements (e.g., bear tooth envelope to be returned to WDFW). Each permit will also address the disposition/possession of any carcasses. Barring unusual circumstances, the gall

bladder will need to be turned over to the WCS while the hunter would be able to retain the remainder of the carcass.

Is a license or tag required for the take under a kill permit issued in response to bear timber damage?

No, there is no WDFW license, tag, or fee required.

When can I apply for a bear timber damage kill permit?

Bear timber damage kill permits are generally issued beginning around April 15th and are not usually issued after June 30th of each year. If a timber owner has a problem with timber damage outside of this time frame, s/he may contact the WCS to assess the situation and to discuss options for addressing the cause of the damage.

- b. Promote the use of WDFW agreements for livestock to commercial livestock producers, and encourage the use of a non-lethal prevention measures checklist.
- c. Promote the use of non-lethal conflict prevention measures and a prevention measures checklist to non-commercial producers.
- d. Develop response protocols for carnivore depredation on livestock.
- e. Use hazing and other non-lethal prevention measures to minimize potential loss or injury.
- f. Encourage recreational harvest (black bear and cougar), where feasible, in areas with chronic depredation events.
- g. Review and improve the techniques used for lethal removal of offending animal(s).
- h. Utilize agency kill authority and depredation permits, when feasible, for carnivore depredations on livestock, consistent with state and federal law.

Urban Wildlife Conflict

Issue Statement

Urban wildlife is a valuable natural resource; providing the public with opportunities to observe and experience wildlife. However, sometimes wildlife can damage property or threaten human safety. Rather than immediately resorting to removal of a species, deploying proactive prevention methods can deter human-wildlife conflict issues within urban areas. Public tolerance and appreciation of wildlife species is an important component of human-wildlife conflict management (Conover 2001). While it is impossible to eliminate human-wildlife conflict, many human-wildlife conflict situations in urban areas can be avoided through the use of exclusion techniques, removal of unnatural food resources, and education about of wild animals and their living requirements.

Objective 22:

Decrease or minimize the number of urban human-wildlife conflict calls requiring WDFW response so that the number of calls is constant or declining over the period 2015-2021.

Strategies:

- a. Develop a program to track the number of calls requiring WDFW response.
- b. Distribute informational materials to increase public awareness about ways citizens can better coexist, through use of preemptive actions, and respond to wildlife in urban areas.
- c. Develop and promote activities and programs (e.g., volunteer hazing to scare animals away) that reduce the likelihood of human-wildlife conflict in urban areas.
- d. Promote the development of local ordinances, rules, and regulations (e.g., fines, prohibiting feeding, etc.) which local governments can utilize to minimize human-wildlife conflict.
- e. Promote collaboration with local governments to co-manage conflict issues with select species in urban areas.
- f. Identify priority areas where changes to wildlife conflict management response may be necessary.

Black Bear Tree Depredation on Commercial Timberlands

Issue Statement

During the spring, when black bears are emerging from dens, high nutritional value food resources are limited. Bears will often seek sapwood as a preferred food resource because of its high sugar content. Trees with high growth rates, typically found on commercial timberlands, contain the

highest sugar content and therefore are the most vulnerable to depredation. Damage to commercial timberlands can, at times, exceed one-third of the trees in a given stand; resulting in economic losses for landowners (Washington Department of Fish and Wildlife 2008).

Objective 23:

Improve and expand WDFW's black bear tree damage program, by incorporating alternate strategies beyond existing techniques, which will result in an overall 10% reduction in the number of permits requested to lethally remove black bears for timber damage while maintaining or decreasing the amount of bear caused timber damage over the period 2015-2021.

Strategies:

- a. Conduct a review of existing data and current processes to understand the current level of complaints and response; and identify and prioritize areas that may need management improvements.
- b. Develop a black bear timber depredation program that includes proactive non-lethal prevention measures, methods to validate damage, options for lethal removal prevention (during and post damage seasons), collaboration with other entities for testing and evaluating damage and prevention techniques, and methods to evaluate the efficacy of the program.
- c. Provide information to landowners on damage prevention tools and promote the use of non-lethal measures; where feasible.
- d. Develop protocols to assist landowners in assessing bear damage over time.
- e. Improve opportunities for recreational bear harvest to minimize potential timber damage.
- f. Facilitate the black bear timber depredation program (including applications, permits, and actions) to improve WDFW's response to landowners experiencing timber damage.
- g. Evaluate the potential to use a variety of methods for lethally removing black bears to address timber damage.
- h. Provide Department-coordinated lethal removal to mitigate timber damage by bears.

Communication and Outreach

Issue Statement

Communication between the Department and constituents on human-wildlife conflict prevention and resolution is paramount to increasing the public's ability to resolve problems with wildlife and to maintain support for wildlife in Washington.

Objective 24:

Reproduce and/or update existing conflict prevention outreach materials and create two (2) new conflict prevention publications by 2021.

Strategies:

- a. Use the top five consumer rated media (e.g., direct mail, internet, newspaper, television, and email) to disseminate information.
- b. Develop printed conflict resolution information for distribution to landowners.
- c. Improve the WDFW web page to include a "communication matrix" that directs the public to the appropriate point of contact (i.e., WDFW staff, Wildlife Control Operator, other resources) to resolve the wildlife conflict problem.
- d. Develop fact pages to clarify rules and regulations related to human-wildlife conflict resolution.