

Wildlife Rehabilitation

WAC 220-450-060 through WAC 220-450-220

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Summary Sheet

Meeting dates: January 11-12, 2019

Agenda item: Wildlife Rehabilitation Rules – Briefing and Public Hearings

WAC 220-450-060 through WAC 220-450-220 Wildlife Rehabilitation structural improvements, additions, and updates

Presenter(s): Patricia Thompson, State Wildlife Rehabilitation Manager, Mick Cope, Wildlife Program Deputy Assistant Director

Background summary:

Department staff will brief the Commission on proposed amendments to WAC 220-450-060 through WAC 220-450-220 and the history, reasoning, and process behind those amendments.

The department has long supported wildlife rehabilitation in Washington State. There are currently 53 licensed wildlife rehabilitators caring for wildlife in facilities ranging from in-home care to large centers. Approximately 18,000 sick, injured, and orphaned wild animals were brought to these facilities by the public in 2017 alone. This large number indicates the public's interest in caring for and rehabilitating wild animals and the need to adopt rules to ensure permit compliance and optimal animal husbandry and welfare at the facilities.

The state recognizes the critical role of wildlife rehabilitators in protecting the public through their efforts to capture animals, remove diseased wildlife, and test for disease, in addition to caring for sick, injured, and orphaned wildlife. Well over a half million grant dollars has been awarded to Washington State wildlife rehabilitators through RCW 77.12.467. These grant funds have allowed our permitted wildlife rehabilitators to expand their facilities, improve their wildlife treatment practices, and serve the public more completely.

As directed in 2007 by RCW 77.12.469 to develop a process for renewing wildlife rehabilitation licenses, clarify rehabilitation standards, and better communicate with Washington licensed wildlife rehabilitators, thereby improving wildlife rehabilitation services throughout the state, the department developed a comprehensive wildlife rehabilitator evaluation and permit renewal procedure. As a result, all wildlife rehabilitators must complete a permit renewal process every three years, including facility inspections which can also occur outside of the renewal procedure. All new wildlife rehabilitators must complete a rigorous permitting process that includes at least 1000 hours of direct experience, an exam, formal relationship with a veterinarian, detailed facility inspection, and letters of recommendation. The initiation of the new permitting process and closer association with the wildlife rehabilitation community exposed the necessity for greater rule clarity.

In 2012 the department recognized the need for more specificity in the wildlife rehabilitation rules and expanded the wildlife rehabilitation WACs from one to 15. Since the adoption of those wildlife rehabilitation WACs in 2013, the wildlife rehabilitation manager has continued working and communicating with wildlife rehabilitators, keeping records of the topic areas which lacked clarity and direction. We identified areas where rehabilitators had the most difficulty in meeting department expectations for the treatment and welfare of wildlife as well as observing permit rules and conditions.

The department discussion for amending the 2013 wildlife rehabilitation WACs began in summer 2017 and by February 2018 recruitment began for the Wildlife Rehabilitation Advisory Committee (the WRAC) and a 12-member team was selected by the Director. The WRAC consisted of four members from the Washington wildlife rehabilitators' professional organization, the Washington Wildlife Rehabilitators Association (WWRA), four permitted non-

WWRA wildlife rehabilitators, and four members of the public, plus WDFW personnel. The WRAC met seven times over the course of six months where they expressed their ideas and suggestions for the new rules, and where they could safely express concerns and disagreements of the rules. All opinions and ideas were respected and meticulously recorded. WRAC suggestions were recorded directly into the WACs.

This rule project is again the result several years of communication with wildlife rehabilitators and the product of a partnership that includes significant feedback and input from that community. The rule changes will provide even more detail and direction for wildlife rehabilitators and make the rules more navigable and easier to understand. The proposed changes will increase clarity, reduce confusion and increase rehabilitators' ability to provide best animal welfare and service to the public.

Staff recommendation:

Consider public comment and adoption of the proposed amendments to the wildlife rehabilitation WACs.

Policy issue(s) and expected outcome:

- These rules are primarily technical in nature and do not contain significant policy changes. The proposed changes reflect suggestions proposed by permitted wildlife rehabilitators and serve to detail the wildlife rehabilitation rules more clearly.
- The proposed changes to the rules will benefit wildlife rehabilitators, WDFW staff, WDFW enforcement, and the public as the changes provide WDFW staff and wildlife rehabilitators with more understandable rules and direction.
- Proposed changes will assist WDFW enforcement in ensuring compliance with the rules.

Fiscal impacts of agency implementation:

No fiscal impacts beyond the status quo.

Public involvement process used and what you learned:

WDFW met with the twelve member Wildlife Rehabilitation Advisory Committee and heard their suggestions, comments, and critique regarding the existing rules. This committee participated in shaping and drafting the proposed rules. Amendments to the rules by the WRAC were reached by sufficient consensus and the committee agreed that they were satisfied with changes as indicated. Wildlife rehabilitators on the WRAC were very supportive of the department and eager and willing to participate so extensively in the amendment process. Despite some of the major differences in facility operations, participants all agreed on the need for rules and permit conditions in order to provide for the best animal welfare and public service, as well as respect the department's need for compliance.

Action requested and/or proposed next steps:

Amend WACs 220-450-060 through 220-450-220 as presented.

Draft motion language:

N/A – Briefing and public hearing only.

Post decision communications plan:

If the amended WACs are adopted, all permitted wildlife rehabilitators and sub-permittees will be sent the newly adopted WACs. The WACs will be accompanied by a document summarizing the amended WACs and highlighting the rules that have changed significantly and particularly affecting their daily operations. Wildlife rehabilitators will be given a grace period to “catch up” with the rules and come into compliance. They will be notified of this grace period in two places:

- The initial summary of the WACs
- Permit renewal letters

The Wildlife Rehabilitation Manager will continue communicating closely with wildlife rehabilitators to guide them through compliance with the new rules, and welcome feedback as to how the rules are working.

If the rules are not adopted or not adopted as presented the WRAC and WWRA will be notified of the decision and changes.

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

WAC 220-450-060 Definitions—(~~Oiled wildlife and~~) Wildlife rehabilitation permits. For the purposes of WAC 220-450-070 through 220-450-220, the following definitions apply:

(1) (~~("Bird" means any wild animal of the class Aves.~~

~~(2) "Dedicated workspace" means the minimum amount of floor space necessary to maintain access to oiled bird rehabilitation pens.))~~

"Alcid" means a bird of the family Alcidae. The alcid family includes murre, guillemots, auklets, puffins, and murrelets.

(2) "Daily ledger" means a record, kept current daily and available for inspection, documenting all wildlife admissions, transfers, releases, and deaths; reason for admission; case number, date of admission; date of release, transfer, euthanasia, or other type of disposition; any tag or band numbers.

(3) "Director" means the director of the department of fish and wildlife or his or her designee.

(4) (~~"Drying resources" mean the floor space and pen requirements associated with the removal of water from the skin and feathers of a bird.~~

~~(5))~~ "Education animal" means a permanently injured or otherwise nonreleasable wild animal permitted to be kept in permanent confinement on public static display or used in educational programs.

(5) "Euthanasia" means compassionate killing with a minimum of pain and distress, in a timely manner, safely to prevent disease transmission, public health or human safety risks, or prolonged or unrelenting animal suffering due to illness, injury, unremitting pain, or inability to be rehabilitated to release.

(6) "Habituate" means an animal stops responding to frequently occurring stimuli (like noises, sights or smells) because no negative consequences occur; it may be temporary and reversible or behavior may become ingrained (i.e., taming) and prevent return to the wild. See "Tame."

(7) "Hacking" means ~~the release, sometimes temporary, of a raptor to the wild so that it may survive on its own~~ to transition a young raptor using temporary release to the wild and allowing it to return for food and shelter while learning to hunt and survive on its own.

~~((6))~~ (8) "Humane" means providing care such as water, food, safe handling, clean facilities, medical treatment, and euthanasia if needed, and conditions including environments sensitive to species-typical biology and behavior, with the intent to minimize fear, pain, stress, and suffering.

(9) "Imping" means a method of replacing a broken feather with an undamaged feather ~~((by cutting the shaft of the broken feather on the bird, trimming the replacement feather to the correct length, and gluing the shaft of the replacement feather to the shaft of the broken feather))~~.

~~((7))~~ (10) "Imprinting" means a period of rapid learning occurring during a brief critical period typically soon after birth or hatching that establishes a strong and long-lasting attachment to a specific individual or object, such as to a parent ~~when a very young animal fixes its attention on and follows the first object or creature it sees, hears, or touches, and~~ where the animal becomes socially, and later sexually, bonded to that object or creature, identifying itself ~~((as whatever))~~ irreversibly as the species it imprints upon.

~~((8))~~ "Indoor area" means the space within an oiled bird rehabilitation facility in which the air temperature and exchange of air can be controlled and maintained. Indoor areas can include oiled

~~bird rehabilitation pools, morgues, freezers, isolation/intensive care units, medical laboratories, laundry and storage facilities, and electrical and mechanical equipment. These areas may consist of space for conducting intake, prewash holding, washing and rinsing, drying, necropsy, and preparing bird food.~~

~~(9) "Intake space" means the minimum amount of floor space necessary to admit live or dead birds into an oiled bird rehabilitation facility.~~

~~(10) "Mesh size" means the measured distance between one vertical side of a mesh unit and the opposite vertical side of the same mesh unit when the netting is pulled taut.))~~

(11) "Mal-imprinting" means imprinting on a species not its own, preventing the animal's return to the wild.

(12) "Nonreleasable" means a wild animal that cannot be released with a reasonable potential for survival in the wild due to physical or psychological impairment, such as the inability to express species-specific appropriate behavior, including the ability to hunt or forage, recognize threats; or is tamed or mal-imprinted.

(13) "Oil" means oil of any kind and any form, such as petroleum and nonpetroleum oils including, but not limited to, crude oil and

refined petroleum products, animal fats and vegetable oil, other oils of animal or vegetable origin, and other nonpetroleum oils.

~~((12)) "Oiled bird" means a bird that has come in contact with oil.~~

~~(13) "Oiled bird rehabilitation pen" means an enclosure used to hold birds during oiled bird rehabilitation.~~

~~(14) "Oiled bird rehabilitation pool" means a container filled with fresh water used during the rehabilitation of oiled birds.~~

~~(15))~~ (14) "Oiled (~~(bird)~~) wildlife rehabilitation" is a specialized form of wildlife rehabilitation and means the process of caring for oiled (~~(birds)~~) wildlife during intake, (~~(prewash holding)~~) stabilization, washing and rinsing, and drying, to allow the (~~(birds)~~) wildlife to return to their natural habitat(~~(. This form of rehabilitation includes keeping the birds in pools and providing semi-static and static areas with steady air temperatures and air exchanges while the birds are in the rehabilitation facility))~~).

~~((16))~~ (15) "Oiled (~~(bird)~~) wildlife rehabilitation facility" is a specifically permitted type or portion of a wildlife rehabilitation facility (~~(and means the indoor and outdoor areas)~~) used for the rehabilitation of oiled (~~(birds)~~) wildlife.

~~((17) "Outdoor area" means an area within an oiled bird rehabilitation facility that does not fit the definition of an indoor area.~~

~~(18))~~ (16) "Orphan-imprinting" means to use conspecific wildlife for the purpose of feeding, socializing, and teaching appropriate wild behavior to young wildlife.

~~((19) "Permit" means a wildlife rehabilitation permit without any additional endorsements.~~

~~(20) "Prewash holding resources" mean the floor space and oiled bird rehabilitation pen capabilities of an oiled bird rehabilitation facility to hold birds after intake and prior to washing.~~

~~(21))~~ (17) "Patient record" means a record, kept current daily and available for inspection, documenting each animal's species, age and sex; daily care including feeding, watering, and cleaning; medical care; and veterinary notes regarding treatment and health of wildlife in the permittee's care.

(18) "Primary permittee" means the person listed on the wildlife rehabilitation permit who ~~((originally applied))~~ applies for and ~~((received the permit and is licensed to practice))~~ receives a wildlife rehabilitation(~~(-~~

~~(22))~~ permit and is responsible for monitoring and approving any subpermittee's conduct and practices; also, "wildlife rehabilitator."

(19) "Principal veterinarian" means a licensed veterinarian who agrees, in writing, to ~~((assist, direct, and oversee a wildlife rehabilitator in conducting))~~ provide and direct, timely, appropriate veterinary medicine in conjunction with wildlife rehabilitation services and activities.

~~((23))~~ (20) "Public display" means to place or locate wildlife so that they may be viewed by the public.

~~((24) "Semi-static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space will vary relative to the number of birds to be rehabilitated. These include areas for preparing bird food, conducting necropsies, and storing and freezing items.~~

~~(25) "Static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space does not vary, regardless of the number of birds to be rehabilitated. These areas include isolation/intensive care units, medical laboratories, laundry facilities, and electrical and mechanical equipment.~~

~~(26))~~ (21) "Record" means the wildlife rehabilitation permit(s) associated with a particular facility and permittee(s); daily ledger; patient records; and annual wildlife rehabilitation reports.

(22) "Stabilize for transport" means life-threatening injuries are addressed including patient airway is clear, patient is hydrated, hemorrhage is controlled, shock is treated, and broken bones are immobilized.

(23) "Subpermittee" means person or persons listed on the primary permittee's (~~((also "wildlife rehabilitator"))~~) wildlife rehabilitation permit who care for wildlife either at the facility as the primary caretaker in the primary permittee's temporary absence or at an off-site facility (~~((away from the rehabilitation facility))~~) with the permission and under the direction of the primary (~~((licensed wildlife rehabilitation permittee ("primary permittee"))~~). ~~The primary permittee is responsible for monitoring and approving the subpermittee's conduct, practices, and facilities.~~

~~(27))~~ permittee at the facility.

(24) "Tame" means an animal purposefully seeks out human company and social interaction, care, or attention, does not reject human handling, and learns to not fear humans, all of which prevents the animal's return to the wild.

(25) "Veterinarian" means a licensed veterinarian.

~~((28)) "Wash/rinse resources" mean the water, cleaning agent, and space requirements necessary to remove oil from the skin and feathers of a bird.~~

(ADD) "Veterinary summaries" means those findings, treatments, and directives written by a veterinarian in summary form and submitted to the wildlife rehabilitation facility.

~~(29))~~ (26) "Wildlife rehabilitation" means the care and treatment of injured, diseased, oiled, or ~~((abandoned))~~ orphaned wildlife ~~((7))~~ including, but not limited to, capturing, transporting, treating, feeding, housing, and conditioning animals so they can be released back to the wild.

~~((30))~~ (27) "Wildlife rehabilitation facility," or "facility," means the authorized site(s), as shown on the wildlife rehabilitation permit, where treatment and rehabilitation of wildlife takes place.

~~((31))~~ (28) "Wildlife rehabilitation permit" means a permit issued by the director that authorizes a person to practice wildlife rehabilitation.

~~((32))~~ (29) "Wildlife rehabilitator" means a person who conducts wildlife rehabilitation and possesses a current wildlife ~~((rehabilitator))~~ rehabilitation permit from the department.

[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), amended and recodified as § 220-450-060, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-275, filed 8/30/13, effective 9/30/13. Statutory Authority: RCW 77.12.047 and 90.56.110. WSR 09-01-123, § 232-12-275, filed 12/19/08, effective 1/19/09. Statutory Authority: RCW 77.12.047. WSR 06-09-021 (Order 06-67), § 232-12-275, filed 4/11/06, effective 5/12/06. Statutory Authority: RCW 77.12.047 and 90.56.110. WSR 04-20-020 (Order 04-250), § 232-12-275, filed 9/27/04, effective 10/28/04. Statutory Authority: RCW 77.12.040. WSR 98-01-210 (Order 97-251), § 232-12-275, filed 12/23/97, effective 1/23/98. Statutory Authority: RCW 77.12.040, 77.12.700 and 77.12.010. WSR 96-12-045, § 232-12-275, filed 5/31/96, effective 7/1/96. Statutory Authority: RCW 77.12.030 and 77.12.040. WSR 88-09-036 (Order 308), § 232-12-275, filed 4/15/88.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 2

- Change: In section (4) added the words wild and static to the sentence.

Rationale: “Wild” was suggested by a reviewer to reinforce the nature of the animal, such as opposed to captive-bred. “Static” was added to conform to the term “static display” in the associated WAC and make the distinction that these animals are not used in programs.

- Change: In section (7) refined the sentence structure.

Rationale: The sentence did not thoroughly define the term “hacking” omitting any suggestion of the provision of food. The placement of the word “temporary” was especially problematic implying that the birds may eventually be permanently possessed.

Page 3

- Change: In section (10) added a description to clarify imprinting.

Rationale: Imprinting is a difficult word to define in the context of wildlife rehabilitation and subject to dispute, therefore any additional detail to the definition is essential.

Page 8

- Change: In section (23) added clarification language.

Rationale: There are two categories of subpermittees needing description in order to correspond to the associated WACs.

- Change: In section (23) removed unnecessary language.

Rationale: “At the facility” was made redundant with language in the new definition.

Page 9

- Change: In section (25) added a description to clarify veterinary summaries.

Rationale: The term is in corresponding WACs but was not defined, therefore, wildlife rehabilitators could not know exactly what they needed to submit for compliance.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-060 Wildlife Rehabilitation - Definitions.

Supporting Comments:

Eight (8) supporting comments.

One (1) added the word “wild;” two (2) suggested “hacking” definition clarification.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments.

Other Comments: One suggested defining “Veterinary summaries.” Three (3) suggested refining definitions.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes suggested through the recommended adjustments process in order to clarify and improve definitions.

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

WAC 220-450-070 Wildlife rehabilitation permits—Requirements and restrictions. (1) (~~All wildlife held under a wildlife rehabilitation permit remains the property of the state and is subject to control by the state.~~) Purpose. The purpose of the wildlife rehabilitation permit is to ensure that humane care and treatment is provided for wildlife in rehabilitation including all aspects of animal welfare as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation with the goal of relieving suffering and release back to the wild.

(a) All wildlife held under a wildlife rehabilitation permit remains the property of the state held in trust for Washingtonians and is controlled and regulated by the state.

(b) A wildlife rehabilitation permit is required to take, temporarily possess, and transport wildlife for the purpose of rehabilitation, with the following exceptions:

(i) Public transport. Members of the public may capture and transport injured and orphaned wildlife if it is safe to do so to a wildlife rehabilitation facility; the public must transport injured wildlife to a permitted wildlife rehabilitator within twenty-four hours.

(ii) Veterinary care. Veterinarians [without a wildlife rehabilitation permit](#) may provide stabilization for transport or euthanize wildlife for humane reasons; veterinarians [without a wildlife rehabilitation permit](#) must arrange transport for orphaned or injured wildlife within forty-eight hours to a permitted wildlife rehabilitator.

(2) Wildlife rehabilitation permits.

(a) The department may issue a wildlife rehabilitation permit if the applicant:

(i) Is at least eighteen years of age;

(ii) Completes and submits a current application form to the department's wildlife rehabilitation manager;

~~((ii))~~ (iii) Demonstrates completion of at least six months, or one thousand hours, of experience in wildlife rehabilitation under the direct supervision of a wildlife rehabilitator. At least three months, or five hundred hours, of this experience must occur during the spring

or summer. This training and experience must be completed within a three year period. The department, at its discretion, may consider education in wildlife rehabilitation to suffice as a partial substitute for experience. †

~~((iii))~~ (iv) Submits to the department a written letter of recommendation from a ~~((wildlife rehabilitator))~~ current primary permittee in good standing who has not had a modified, suspended, or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in wildlife rehabilitation ~~((and who agrees to advise the applicant in performing wildlife rehabilitation))~~;

~~((iv))~~ (v) Submits to the department a ~~((written agreement))~~ signed Principal Veterinarian Agreement form from a veterinarian who is willing to serve as the principal veterinarian for the applicant;

~~((v))~~ (vi) Successfully completes the Washington state general wildlife rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam; and

~~((vi))~~ (vii) Possesses, is employed by, or volunteers at ~~((suitable))~~ facilities that ~~((are inspected and approved by the~~

department)) have been inspected and approved by the department and meet department standards, and meet current minimum standards for wildlife rehabilitation as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation. New wildlife rehabilitation permits must be signed and returned to the department by the permittee no later than fourteen days from the date of receipt.

A new wildlife rehabilitation permit is only valid when signed by the permittee and the department permitting representative.

(b) Veterinarians are exempt from the requirements in (a)~~((iii) through))~~ (iv) and (v) of this subsection; veterinarians may be partially exempt from the requirements in (a)(iii) of this subsection if their formal education or practical training is in wildlife medicine.

Applicants^[TP(1)] living in states with boundaries contiguous with Washington state whose wildlife rehabilitation activities occur in Washington, for Washington wildlife, and/or has or works for a facility in Washington may apply for a Washington wildlife rehabilitation permit.

(c) The department will determine which species the wildlife rehabilitator is qualified to care for and may (~~tailor~~) condition the permit according to the applicant's training, experience, capabilities, and facilities.

Inactive permit applications. Permit applications greater than three years old from the date of signature will be classified as inactive. Applicant must submit a new complete and current application to be considered. If exam was taken greater than three years from the date of the new application, the applicant must retake the exam.

(d) Wildlife rehabilitators must display the wildlife rehabilitation permit or a copy of the permit in a location at the facility that is visible to the public.

(e) Wildlife rehabilitation permits are valid for up to three years, as long as the information on the permit remains valid and current and the permittee adheres to permit conditions and department rules.

(f) Wildlife rehabilitators must report any permit information changes to the department within ten business days of the change.

These changes include:

(i) Permitted rehabilitator leaving the facility;

(ii) Subpermittees leaving the facility;

(iii) Major changes or additions in animal housing and enclosures that would affect number of individuals and/or permitted species;

(iv) Change in principle veterinarian;

(v) Facility address;

(vi) Adding facilities.

(g) The department may refuse to issue a wildlife rehabilitation permit to an applicant if within the last ten years of the date of the application the applicant:

(i) Was convicted of a fish or wildlife offense; or

(ii) Was convicted of any offense involving animal or child cruelty (~~or neglect, or child abuse or neglect.~~

~~(3))~~ neglect, or abuse.

(iii) Found guilty of practicing veterinary medicine without an active license, as determined by the veterinary board of governors.

(iv) Fails to meet any of the above requirements.

(3) Cervid endorsement.

(a) A person must possess a cervid rehabilitation endorsement to house rehabilitative cervids;

(b) Must have completed hands-on training hours for one complete season March through October focused on cervid wildlife rehabilitation

with a current primary permittee endorsed for cervid rehabilitation, and submit to the department a written letter of recommendation from that primary permittee;

(c) Must attend the cervid training provided by the department, which may include updated training at time of permit renewal; and

(d) Possess department inspected approval facilities suitable for cervid species listed on the permit and as required by department rules and the current standards as stated in the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation.

(4) Large-carnivore rehabilitation endorsement.

(a) A person must possess a large-carnivore rehabilitation endorsement to rehabilitate large carnivores. Large carnivores are brown bear, black bear, cougar, wolf, bobcat, and lynx. The department may issue large-carnivore endorsements to wildlife rehabilitators who:

(i) Have at least ~~((three months, or))~~ five hundred documented hours, of direct safety, handling, and medical care in a current wildlife rehabilitation practice with ~~((and handling of))~~ large carnivores;

(ii) Have received and documented training in large-animal restraint techniques, including ~~((knowledge))~~ demonstration of proper catchpole use and immobilization-drug administration;

(iii) ~~Submit to the department a written recommendation from a currently licensed wildlife rehabilitator~~ Submits to the department a written letter of recommendation from a current primary permittee in good standing who has not had a modified, suspended, or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in large-carnivore rehabilitation ~~((and who agrees to advise the applicant in performing large carnivore rehabilitation))~~);

(iv) Successfully completes the written large-carnivore rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam; and

(v) Possess department-inspected and -approved facilities suitable for large carnivores as required by department rule and the current standards ~~((set by the International Wildlife Rehabilitation Council (IWRC) and the National Wildlife Rehabilitators Association (NWRA)).~~

~~(b) Applicants are exempt from the requirements in (a)(i) and (iii) of this subsection if they are or were employed for at least three months or five hundred hours as a zookeeper or wildlife biologist with direct practice handling and housing large carnivores.~~

(4)) as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation.

(5) Raptor rehabilitation endorsement. A person must possess a raptor rehabilitation endorsement to rehabilitate raptors. The department may issue raptor rehabilitation endorsements to wildlife rehabilitators who:

(a) Demonstrate ~~((one))~~ five hundred hours direct practice with and handling of raptors;

(b) Successfully complete the written raptor rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the exam may retake it beginning fourteen days from the date of the failed exam;

(c) Possess department-inspected and department-approved facilities suitable for raptor housing and rehabilitation as required by department rule and ~~((the standards set by the IWRC and the NWRA))~~

as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation; and

(d) ~~Submit to the department a written recommendation from a currently licensed wildlife rehabilitator~~ Submits to the department a written letter of recommendation from a current primary permittee in good standing who has not had a modified, suspended, or revoked wildlife rehabilitation permit within the last three years and who has two or more years of experience in raptor rehabilitation ~~and who agrees to advise the applicant in performing raptor rehabilitation.~~

~~((5))~~ (6) Raptors-only rehabilitation permits. ~~((a) The department may issue raptors-only rehabilitation permits that allow a person to rehabilitate only raptors and no other wildlife. To qualify for these permits, an applicant must:~~

~~(i) Demonstrate one hundred hours direct practice with and handling of raptors;~~

~~(ii) Successfully complete the raptor rehabilitation examination by correctly answering eighty percent or more of the questions. An applicant who fails the raptor rehabilitation examination may retake it beginning fourteen days from the date of the failed exam;~~

~~(iii) Submit to the department a written recommendation from a wildlife rehabilitator who has two or more years of experience in raptor rehabilitation and who agrees to advise the applicant in performing raptor rehabilitation; and~~

~~(iv) Possess department inspected and department approved facilities suitable for raptor housing and rehabilitation as required by department rule and IWRC/NWRA.~~

~~(b) General falconers licensed for three years or more and master falconers are exempt from the requirements in (a)(i) and (iii) of this subsection.~~

~~(6) **Oiled wildlife rehabilitation endorsement.** An oiled wildlife rehabilitation endorsement is required to rehabilitate oiled wildlife. The department may issue oiled wildlife rehabilitation endorsements to wildlife rehabilitators who possess or have permission to access or use department inspected and department approved facilities for oiled wildlife.~~

~~(7)) The department may issue raptor-only rehabilitation permits that allow a person to rehabilitate only raptors and no other wildlife. To qualify for these permits, an applicant must:~~

~~(a) Demonstrate five hundred hours direct practice with and handling of raptors;~~

(b) Successfully complete the raptor rehabilitation reexamination by correctly answering eighty percent or more of the questions. An applicant who fails the examination may retake it beginning fourteen days from the date of the failed exam.

(c) Submit to the department a written recommendation from a currently permitted wildlife rehabilitator who has two or more years of experience in raptor rehabilitation and who agrees to advise the applicant in performing raptor rehabilitation; and

(d) Posses department inspected and approved facilities suitable for raptor housing and rehabilitation as required by department rule and as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation.

(7) Oiled-wildlife rehabilitation endorsement.

(a) A person must have an oiled-wildlife endorsement or written department approval to retain oiled wildlife. If the primary permittee does not possess an oiled-wildlife endorsement, the permittee must transfer the oiled wildlife to a primary permittee who has an oiled-wildlife endorsement, or obtain department approval to retain the oiled wildlife.

(b) The department may issue an oiled-wildlife endorsement to permitted rehabilitators who possess or have permission to use department-approved facilities suitable for oiled ~~alcid~~ wildlife rehabilitation as required by department rule. For minimum housing/pen and pool requirements for oiled species other than alcids, refer to the most current edition of the National Wildlife Rehabilitators Associations and International Wildlife Rehabilitation Council's minimum standards for wildlife rehabilitation.

(8) **Permittee-requested permit amendments.** A wildlife rehabilitator may ask for permit amendments for:

(a) Changes to permitted species and capacity by submitting a revised species information page from the department-provided application;

(b) Changes to subpermittees by submitting the wildlife rehabilitation subpermittee application; and

(c) Addition of an education or foster animal by submitting the live animal retention application.

(9) **Wildlife rehabilitation permit renewal.** To renew a wildlife rehabilitation permit, the permittee must submit the following ~~((information))~~ documentation at least thirty days prior to ~~((his or her permit expiring))~~ the permit date of expiration:

(a) A (~~new~~) current, completed wildlife rehabilitation permit application form; and

(b) Documentation demonstrating (~~ten hours or more~~) at least thirty hours of continuing education during the previous three-year permit period. Continuing education includes:

(i) Documented attendance at state wildlife rehabilitator meetings(~~(, NWRA annual meetings, or IWRC)~~) or at Washington Wildlife Rehabilitation Association conference, or National Wildlife Rehabilitators Association annual symposium(~~(s)~~);

(ii) A certificate of completion of an (~~IWRC~~) International Wildlife Rehabilitation Council online or in-person class or workshop;

(iii) Completion and documented attendance of privately offered wildlife rehabilitation training;

(iv) Completion and documented attendance of wildlife rehabilitation classes at a college or university;

(v) Documented department preapproved training with a currently licensed wildlife rehabilitator; or

(vi) Other continuing education activities as (~~approved~~) preapproved by the department.

~~((+8))~~ (vii) Renewed wildlife rehabilitation permits must be signed and returned to the department by the permittee no later than fourteen days from the date of receipt.

(viii) A renewed wildlife rehabilitation permit is valid only when signed by the permittee and the department permitting representative.

(10) Reinstatement of expired permits.

(a) A permit expired for less than three years may be reinstated for the facility and species listed on the expired permit ~~((so long as the facilities have not changed within that three-year period. If the facilities change after the permit expires, the department must inspect and approve the facilities before the permit is reinstated))~~ as long as the permittee meets the conditions for permit renewal.

(b) Permits expired for three years or more may be reinstated if:

(i) The applicant ~~((possesses facilities that meet the standards set by the department, the NWRA, and the IWRC's minimum standards for wildlife rehabilitation for treating and housing wildlife for rehabilitation;~~

~~(ii) The facilities are inspected and approved by the department;~~ and) submits a current and complete department provided wildlife rehabilitation permit application;

(ii) Possesses, is employed by, or volunteers at facilities that have been inspected and approved by the department and meet department standards for treating and housing wildlife for rehabilitation; meet current minimum standards for wildlife rehabilitation as stated in, but not limited to, the most current edition of the National Wildlife Rehabilitators Association and International Rehabilitation Council's minimum standards for wildlife rehabilitation.

(iii) The applicant takes and successfully completes the Washington general wildlife rehabilitation examination, the raptor rehabilitation examination, or large carnivore rehabilitation examination, whichever examination is applicable, by correctly answering eighty percent or more of the questions. An applicant who fails the examination may retake it beginning fourteen days from the date of the failed exam.

~~((9))~~ (11) **Out-of-state wildlife rehabilitators.** Wildlife rehabilitators who have a current wildlife rehabilitation permit or a comparable permit issued by another state, and who move to Washington state for the purpose of residency and wish to practice wildlife rehabilitation in Washington, must follow the same procedures and requirements as a new applicant for a Washington state wildlife rehabilitation permit ~~((. However, out-of-state wildlife rehabilitators~~

~~are exempt from the requirement of providing a letter of recommendation from another wildlife rehabilitator)).~~

~~((10))~~ (12) A violation of this section by a person who engages in wildlife rehabilitation without a department permit is punishable under the appropriate statute for the species being rehabilitated, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; and RCW 77.15.430 for wild animals not classified as big game.

~~((11))~~ (13) A violation of this section by a person who has a wildlife rehabilitation permit is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

[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 § 220-450-070, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-841, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 2

- Change: In subsection (ii) added clarification language to the sentence.

Rationale: The addition makes it clearer that 48 hours applies only to veterinarians who do not have a wildlife rehabilitation permit and not those with permits who may keep wildlife longer.

Page 3

- Change: In subsection (iii) added a sentence.

Rationale: The Wildlife Rehabilitation Advisory Committee felt that training could not be spread out over a long period of time and be effective. This was unintentionally omitted in the previous version.

- Change: In subsection (iv) added clarification language to the sentence.

Rationale: Wildlife Rehabilitation Advisory Committee reviewers requested clarification of “good standing.”

Page 4

- Change: In section (b) added clarification to veterinarian exemptions.

Rationale: Veterinarians felt the requirements would prohibit most veterinarians from becoming wildlife rehabilitators because of constraints on their time practice, and that their medical education augmented by wildlife courses substituted for some of the experience needed.

Page 6

- Change: In section (f) (iii) language was added to better clarify the sentence.

Rationale: These details were added to answer questions presented by wildlife rehabilitators about how they would know when to notify the department about changes and remain in compliance.

Page 8

- Change: In (4) large-carnivore rehabilitation endorsement, (iii) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in (2) (iv) and assure that the letter was coming from a qualified wildlife rehabilitator.

Page 10

- Change: In (5) raptor rehabilitation endorsement, (d) the sentence was modified for clarification.

Rationale: This was added to be consistent with the general wildlife rehabilitation permit requirement in (2) (iv) and large carnivore endorsement in (4)(iii) and assure that the letter was coming from a qualified wildlife rehabilitator.

Page 13

- Change: In (7) Oiled-wildlife rehabilitation endorsement, (b) the word alcid was replaced with wildlife.

Rationale: Word change to correct an error and include all wildlife.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-070 Wildlife Rehabilitation permits – Requirements and restrictions.

Supporting Comments:

Nine (9) supporting comments.

One (1) comment suggested clarifying terms and time frames. One (1) suggested clarify reporting requirements.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments.

Other Comments: One (1) corrected an omission and one (1) corrected a typographic error

Direction and Rationale:

The department will move forward with proposed amendments to the rule including most changes suggested through the recommended adjustments process in order to clarify and strengthen requirements of permitting and improving objectivity in vetting candidates.

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

WAC 220-450-080 Wildlife rehabilitation—Responsibilities of

primary permittees and subpermittees. (1) (~~A primary permittee on a wildlife rehabilitation permit is the person who applies for and receives the permit. A primary permittee may include other persons on his or her permit. These other people, known as "subpermittees," operate with the permission and under the direction of the primary permittee.~~) Primary permittees and subpermittees are responsible for abiding by all permit terms and conditions, reporting and record requirements, and compliance with state and federal regulations when conducting wildlife rehabilitation or actions associated with wildlife rehabilitation and in accordance with the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's ~~minimum~~ Minimum standards ~~Standards~~ for Wildlife rehabilitation ~~Rehabilitation~~.

(2) A primary permittee (~~has the following responsibilities for his or her subpermittees:~~

~~(a) Ensuring that subpermittees listed on the permit abide by the permit's conditions and state and federal laws and regulations, when conducting wildlife rehabilitation practices or actions associated with wildlife rehabilitation on or off the facility premises; and~~

~~(b) Notifying))~~ is directly responsible for both on-site and off-site ~~the subpermittee's~~' actions related to wildlife rehabilitation under his or her primary permit.

(a) The primary permittee must submit a completed application provided by the department for each subpermittee;

(b) A primary permittee may have no more than two off-site subpermittees at one time;

(c) A primary permittee must ~~have the capacity to~~ visit the off-site subpermittee at least once a week if the subpermittee has wildlife at his or her facility and is caring for wildlife; a written record must be kept for those visits;

(d) The primary permittee must submit a quarterly report of visits to and animals at off-site subpermittee facilities on the form provided by the department;

(e) An on-site subpermittee is authorized and responsible for managing the wildlife rehabilitation activities at the permitted facility in the temporary absence of the primary permittee; and

(f) A primary permittee must notify the department within ten business days of removing or adding a subpermittee or changing the address of an off-site subpermittee's (~~facilities~~) facility using the application provided by the department.

(3) In addition to subsection (1) of this section subpermittees must also:

(a) Be listed on the primary permittee's wildlife rehabilitation permit;

(b) Be eighteen years of age or older;

(c) (~~Be~~) Been employed by or a registered volunteer for the primary permittee's wildlife rehabilitation facility and demonstrate at least 300 documented hours at the facility, at least one month of this experience must occur during the spring or summer, ~~for at least one hundred documentable hours~~, have assisted with or observed all facets of wildlife care practices at the facility ~~including during the spring and summer seasons~~, and possess sufficient experience to tend to the species in his or her care (~~to the satisfaction of the primary wildlife rehabilitator and the department~~);

(d) Possess direct contact information for at least one other employee or volunteer of the permitted facility in addition to the

primary permittee, who the subpermittee must be able to reach at any time; and

(e) (~~Have read the National Wildlife Rehabilitators Association/International Wildlife Rehabilitation Council minimum standards for wildlife rehabilitation and retained a copy of the publication for reference; and~~

~~(f))~~) Comply with all federal Migratory Bird Treaty Act rules.

(4) A violation of this section by a primary permittee or a subpermittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

[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 § 220-450-080, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-843, filed 8/30/13, effective 9/30/13.]

WAC 220-450-080 Wildlife rehabilitation – Responsibilities of primary permittees and subpermittees.

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In section (1) Minimum Standards for Wildlife Rehabilitation, capitalization was required.

Rationale: Minimum Standards for Wildlife Rehabilitation is the title of a book.

Page 2

- Change: In section (2) additional language was added for clarification.

Rationale: There are two categories of subpermittees, this addition make it clear that primary permittees are responsible for both categories.

- Change: In section (2) (c) language was removed and added for clarification.

Rationale: The removal makes it clearer that primary permittees must visit off-site subpermittees to oversee and manage properly the wildlife under their care. The written record allows the department to verify that visits were conducted.

- Change: In section (2) (d) clarification language was added.

Rationale: Welfare of the wildlife is of primary concern and reviewers felt another step requiring a primary permittee to regularly schedule visits and reporting would help assure good care.

- Change: In section (2) (e) clarification language was added.

Rationale: Qualifications are different for on-site and off-site subpermittees, therefore the distinction was added that the on-site subpermittee is authorized for this responsibility.

Page 3

- Change: in section (2) (f) language was added for clarification.

Rationale: Again, there are two categories of subpermittees therefore the distinctions must be made in the rule.

- Change: In section (3) (c) language was added to require stricter qualifications for subpermittees.

Rationale: Both categories of subpermittees must be qualified to care for wildlife either at the primary facility or the subpermittee facility. These requirements were lacking in the previous WACs. The Wildlife Rehabilitation Advisory Committee felt that the requirements must be added to ensure proper care of wildlife.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-080 Wildlife Rehabilitation – Responsibilities of primary permittees and subpermittees.

Supporting Comments:

Eight (8) supporting comments.

One (1) comment appreciated retaining Subpermittees and also supported the additional requirements and restrictions on Subpermittees

Opposing, Neutral, and Other Comments:

There was one (1) comment in opposition to allowing Subpermittees.

Other Comments: Three (3) advocated increased experience hours for Subpermittees. One (1) requested definition of “sufficient experience.” Two (2) requested increasing number of Subpermittees allowed per Primary Permittee. One (1) strengthen primary oversight requirement.

One (1) asked for clearer distinction between on- and off-site subpermittees and one (1) requested permitting cottontail rabbits for Subpermittees.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including some changes suggested through the recommended adjustments process primarily to clarify on- and off-site Subpermittees and toughen requirements for Subpermittees.

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

WAC 220-450-090 Wildlife rehabilitation—Permit revocation, modification, or suspension. (1) The department may ~~((revoke,))~~ modify, ~~((or))~~ suspend, or revoke a wildlife rehabilitation permit if the primary permittee or a subpermittee violates any department rule related to wildlife possession, wildlife rehabilitation, wildlife trafficking, or permit conditions ~~((of the permit. Such))~~. Other violations include, but are not limited to:

- ~~(a) ((Violating a department rule;~~
- ~~(b) Failing to comply with permit conditions;~~
- ~~(c) Failing to provide adequate facilities for the care and housing of wildlife;~~
- ~~(d) Possessing a species of wildlife not expressly permitted in the wildlife rehabilitation permit or by department authorization;~~
- ~~(e) Failing to provide adequate care, feed for, or maintenance of the health of wildlife in the permittee's care;~~
- ~~(f) Treating wildlife in the permittee's care inhumanely, or negligently, or keeping the wildlife in unsanitary conditions;~~

~~(g)) Publicly displaying wildlife in rehabilitation or using wildlife in rehabilitation for public education ((~~or profit~~;~~

~~(h) Improperly handling, imprinting, habituation));~~

(b) Mal-imprinting, ~~mal-over-habituation to where animals lose~~ ~~fear of humans and predators~~, or taming wildlife in relation to humans or domestic animals at the facility; ((~~or~~

(add)Cohousing predators and prey in the same enclosure or room where prey can hear or see predators;

~~(i) Failing to maintain a daily patient log or ledger))~~

(c) A primary permittee or a subpermittee, within the last ten years, was:

(i) Convicted of a fish or wildlife offense; or

(ii) Convicted of any offense involving animal or child cruelty, neglect, abuse, or found guilty practicing veterinary medicine without an active license, as determined by the veterinary board of governors.

(2) A primary permittee who is in violation of permit conditions or department wildlife rehabilitation rules, or whose subpermittee is in violation of permit conditions or department wildlife rehabilitation rules(~~(, except for oiled bird facility requirements as provided in WAC 220 450 210, may provide a corrective action plan to return to compliance. The primary permittee must provide the plan to~~

~~the department within ten days of the notice of the violation. If the department accepts the plan for corrective action, it will allow the primary permittee at least thirty days to correct the permit violation. If the primary permittee fails to return to compliance by the deadline the department gave him or her, the department may revoke his or her permit.~~

~~(3)) shall, in this order:~~

(a) Receive written warning(s) outlining remedies and a deadline of not less than seven days to come into compliance and at which time the department may impose permit modification to remedy those violations.

(b) If, after fourteen days, the permittee continues to be noncompliant, the permit will be suspended and a requirement to adhere to a department-provided corrective action plan and timeline in which to provide a response and apply compliance plan remedies will be imposed.

(3) In conjunction with the written warning, permit modification or permit suspension, the department will conduct inspections to verify compliance. The permittee may receive permit amendment or restoration pending permittee compliance and department-documented validation inspection.

(4) A primary permittee will have the permit revoked if written warnings, permit modifications, compliance plan remedies, and permit suspension processes with concurrent inspections do not result in permittee compliance. Nothing in this section prevents the department from acting immediately to remove animals or suspend or revoke wildlife rehabilitation permits in case of documented animal cruelty or adverse animal welfare.

(5) If the department revokes, suspends, or modifies a permit, then the department or the U.S. Fish and Wildlife Service may seize ((and find a new rehabilitator for)) the primary permittee's wildlife and transfer those wildlife to another primary permittee's ((wildlife)) facility.

((+4)) (6) The department's revocation, modification, or suspension of a rehabilitation permit under this section does not preclude the department from taking criminal action against the primary permittee, subpermittee, or both.

((+5)) (7) The department may use subject matter experts, internal department staff, and external wildlife rehabilitators to review proposed permit modifications, suspensions, or revocations to determine if the proposed department actions reflect current standards of wildlife rehabilitation practice, meet current state wildlife

rehabilitation needs, and are in the best interest of the future of wildlife rehabilitation in the state.

Permittees whose rehabilitation permit is revoked may reapply for a new permit three years after the date of revocation. Upon application, the department will consider previous rehabilitation permit performance and the nature of the previous noncompliance or violations when determining whether to issue a new permit. The department will deny an application if the basis for revocation has not been, or is not likely to be resolved.

(8) Any primary permittee whose rehabilitation permit is revoked, modified, or suspended under this section may request an administrative hearing to appeal the department's action. The department will administer such appeals in accordance with chapter 34.05 RCW.

[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), amended and recodified as § 220-450-090, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-845, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 2

- Change: In section (1) (b) detail was added for clearer interpretation.

Rationale: A definition was added to aid in compliance and enforcement and leave less room for interpretation of the term.

- (1) (add) An additional violation was added to ensure wildlife welfare.

Rationale: Wildlife Rehabilitation Advisory Committee reviewers felt that clearly stating the separation of predators and prey and improper association of species as a violation was necessary to safeguard that it does not happen.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-090 Wildlife Rehabilitation – Permit revocation, modification, or suspension.

Supporting Comments:

Nine (9) supporting comments.

One (1) comment specifically expressed appreciation for the addition of mal-habitation and the stepwise compliance process.

Opposing, Neutral, and Other Comments:

One opposed these proposed rule amendments stating 14 days was too short a time period to complete compliance tasks, there should be a “plea” process up the chain of command, and more flexibility of rule to allow composition of written documents and, especially, for review by subject experts. Other comments: One (1) comment suggested emphasizing housing wildlife with the wrong species (such as predator and prey) as an offence. One (1) comment asked for redefining “mal”-habitation.

Direction and Rationale: The department will move forward with proposed amendments to the rule including some changes suggested through the recommended adjustments process.

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

WAC 220-450-100 Wildlife rehabilitation—Facility requirements and inspections—On- and off-site care. (1) The facility requirements listed in this section address wildlife health and safety. The department of labor and industries and other local, state, or federal agencies may have additional requirements relating to human health and safety. It is the ((primary)) permittee's responsibility to comply with all state and federal laws and regulations, and to ensure that his or her subpermittees do the same.

(2) Facilities.

(a) ((Primary)) Permittees on a wildlife rehabilitation permit must maintain approved facilities that meet the ((standards set by the department, the)) most current edition of National Wildlife Rehabilitators Association ((NWRA), and the) and International Wildlife Rehabilitation Council's ((IWRG)) Minimum Standards for Wildlife Rehabilitation, unless as otherwise provided by the department. ((More information on facilities requirements is available at www.wdfw.wa.gov.)

(b) All wildlife held under a wildlife rehabilitation permit must be maintained in humane(~~(, healthful, and secluded)~~) conditions.

(c) The wildlife rehabilitation facility must protect wildlife from predators, weather extremes, undue human contact and (~~noise, and domestic animals.~~

~~(d) In-home))~~ visual and auditory stressors.

(d) The wildlife rehabilitation facility must provide physical and visual separation from on-site domestic animals.

(e) Wildlife rehabilitation facilities must designate separate and exclusive rooms used only for wildlife housing, treatment, feeding, food preparation, and rehabilitation. It is unlawful to house, treat, or (~~handle wildlife in other parts of the residence. It is unlawful to house or treat~~) care for wildlife anywhere human food is prepared, stored, or consumed.

~~((e))~~ (f) Primary permittee shall report immediately to the department any department surveilled wildlife disease. If the director determines that such outbreak presents a threat to the wildlife of the state, the director may immediately order such action as necessary including quarantine or destruction ~~of stock~~ of wildlife in care, sterilization of enclosures and facilities, cessation of activities, and disposal of wildlife in a manner satisfactory to the director.

(g) The primary permittee must notify the department at least thirty days prior to moving if he or she intends to transfer his or her wildlife rehabilitation facilities to another location. The new facilities must pass a department facility inspection before wildlife is moved to the new facility.

~~((+£+))~~ (h) The wildlife rehabilitation facility must be associated with a primary permittee at all times. If a facility is left with no primary permittees, facility personnel must notify the department within five days of the departure of the last primary permittee. The facility has thirty days in which to bring a primary permittee into the facility. After thirty days, if the facility is no longer associated with a primary permittee, the facility must transfer wildlife to another facility associated with a primary permittee until a primary permittee is found.

(3) ~~If a facility is no longer associated with a primary permittee, the facility must transfer wildlife to another facility associated with a primary permittee until a primary permittee is found.~~ All facilities must be listed on the permittees' permits.

(4) Oiled-wildlife facility requirements. The facility requirements described in this section address the health and safety of oiled alcids ~~health and safety~~. For minimum housing/pen and pool

requirements for species other than alcids, refer to the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's *Minimum Standards for Wildlife Rehabilitation*.

(5) [Oiled-wildlife facility requirements.](#) Air temperature and air exchange requirements within indoor areas.

(a) Air temperature: A permittee must ensure that the air temperature in all indoor areas where live birds are housed is adjustable and can be maintained at between 65°F - 85°F. When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following requirements also apply:

(i) Intake and stabilization areas must be air-temperature controlled independently of other oiled bird rehabilitation facility areas. However, intake and stabilization areas may be controlled together;

(ii) Wash/rinse and drying areas must be air-temperature controlled independently of other oiled bird rehabilitation facility areas. However, wash/rinse and drying areas may be controlled together; and

(iii) The isolation/intensive care unit must be air-temperature controlled independently of other oiled bird rehabilitation facility areas.

(b) Air exchange: A permittee must ensure that all indoor areas where live birds are housed allow the exchange of the air volume a minimum of ten times per hour with fresh air from outside.

(c) The fresh-air exchange rate for any given indoor area may be reduced by up to ninety percent of the fresh air by use of an air-recirculation system that employs a high efficiency particulate air (HEPA) filter and an activated carbon filter.

(6) **Oiled-wildlife facility requirements.** When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following requirements also apply:

(a) Intake and stabilization areas must be independent ~~of or~~ other oiled bird rehabilitation facility air-exchange systems, but they may be combined on the same air-exchange system;

(b) Wash/rinse and drying areas must be independent of other oiled bird rehabilitation facility air-exchange systems, but they may be combined on the same air exchange system;

(c) The isolation/intensive care unit air-exchange system must be independent of other oiled bird rehabilitation facility areas; and

(d) The morgue/necropsy air-exchange system must be independent of other oiled bird rehabilitation facility areas.

(7) **Oiled-wildlife facility requirements. Intake space**

requirements: Intake of oiled birds must occur in an indoor area.

Forty square feet of contiguous floor space must be provided for each group of sixty live or dead oiled birds, or portion of each group of sixty, that are awaiting intake. The floor of the intake space must be impermeable and water must not be allowed to accumulate on the floor.

(8) **Oiled-wildlife facility requirements. Stabilization resource**

requirements: Stabilization must occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace must be provided in the stabilization area.

(a) Pen requirements: Oiled-wildlife pens must be constructed to minimize potential injury, provide ventilation and meet species-specific husbandry requirements as defined below or, for nonalcids, as documented in the current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's *Minimum Standards for Wildlife Rehabilitation*.

(b) For oiled alcids, stabilization pens must be:

(i) At least two feet in length by two feet in width, by two feet tall;

(ii) Constructed with knotless nylon net-bottoms with a one-half inch mesh size;

(iii) Constructed so that no point within the pen is greater than two feet from a pen wall;

(iv) Constructed to provide a minimum of at least 1.6 square feet of pen space per bird.

(c) Space requirements: In addition to the space required for the oiled bird stabilization pens, a minimum of an additional 3.2 square feet of dedicated workspace must be provided in the stabilization area for each bird held in that area. The floor of the stabilization area must be impermeable and water must not be allowed to accumulate on the floor.

(9) [Oiled-wildlife facility requirements. Wash/rinse resource requirements:](#) Wash/rinse must occur in an indoor area. A bird must have wash/rinse space and associated resources made available within twenty-four hours after intake.

(a) Water requirements: A minimum of three hundred gallons of fresh water with the following characteristics must be available within each wash/rinse space for each oiled bird being washed and rinsed. All water requirements listed below must remain available within the specified range at all times.

(i) The water temperature must be adjustable and maintainable at any given temperature between 102°F - 108°F;

(ii) The water hardness must be maintained between 34 mg - 85 mg calcium carbonate/liter (2 - 5 grain hardness);

(iii) The water pressure must be maintained between 40 - 60

p.s.i.;

(iv) The water flow rate must be no less than two gallons per minute from the wash/rinse supply line measured with the wash/rinse nozzle in place.

(b) Space requirements: One hundred square feet of contiguous floor space must be provided for each group of sixteen live oiled birds, or portion of each group of sixteen, that are ready to be washed and rinsed. The floor of the wash/rinse area must be impermeable and water must not be allowed to accumulate on the floor. Wastewater from wash stations should be disposed of appropriately.

(10) **Oiled-wildlife facility requirements. Drying resource requirements:** Drying must occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace must be provided in the drying area. Drying must be accomplished by warming

the air in the drying pen. The drying temperature must be adjustable and maintained at any given temperature between 90°F - 106°F.

(a) Pen requirements. Oiled-wildlife pens must be constructed to minimize potential injury, provide ventilation and meet species-specific husbandry requirements as defined below or, for nonalcids, as documented in the current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's *Minimum Standards for Wildlife Rehabilitation*.

(b) For alcids, drying pens must be:

(i) At least two feet in length by two feet in width, by two feet tall;

(ii) Constructed with knotless nylon net-bottoms with one-half inch mesh size;

(iii) Constructed so that no point within the pen is greater than two feet from a pen wall;

(iv) Constructed to provide a minimum of 2.7 square feet of pen space per bird.

(c) Space requirements: In addition to the space required for drying pens, a minimum of an additional 3.2 square feet of dedicated workspace must be provided in the drying area for each bird held in

that area. The floor of the drying area must be impermeable and water must not be allowed to accumulate on the floor.

(11) Oiled bird rehabilitation pool resource requirements: Oiled bird rehabilitation pools must be filled with fresh water. Oiled bird rehabilitation pool space must be available for use immediately after a bird has been dried, and must be available until the bird is released.

(a) Oiled bird rehabilitation pool requirements: Water from oiled bird rehabilitation pools may be recirculated within pools if the water is made oil-free. Each oiled bird rehabilitation pool must:

(i) Have dimensions so no point within the pool is greater than eight feet from a side of the pool;

(ii) Have a breathable cover available for use to prevent birds from escaping;

(iii) Have a constant supply of water sufficient to maintain a minimum depth of three feet and an exchange rate of not less than four and one-half times per day;

(iv) Be constructed so that water exiting the pool comes from the surface of the pool so that floating debris and oil are removed.

(b) Space requirements:

(i) For alcids, a minimum of 7.5 square feet of water-surface space should be provided for each bird (e.g., a twelve-foot diameter oiled bird rehabilitation pool may not house more than fifteen alcids);

(ii) For nonalcids, pools must meet the species-specific husbandry requirements as documented in the most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's *Minimum Standards for Wildlife Rehabilitation*;

(iii) Oiled bird rehabilitation pools must be located within the area of the oiled bird rehabilitation facility and constructed at least four feet away from other structures.

(12) [Oiled-wildlife facility requirements.](#) **Semi-static areas:**

(a) Semi-static areas are spaces within an oiled bird rehabilitation facility where the required size of the space will vary relative to the number of birds present in the facility. Semi-static areas must be areas with impermeable floors and water must not be allowed to accumulate on the floor.

(b) Space requirements:

(i) When the total number of birds in a facility is less than fifty, there are no minimum space requirements for semi-static areas;

(ii) When the total number of birds in a facility is between fifty and one thousand, each semi-static area listed below must be allocated the indicated space:

(A) Morgue/necropsy: Two hundred fifty square feet.

(B) Animal food preparation: Three hundred square feet.

(C) Dry storage: One hundred square feet.

(D) Animal food freezer: One hundred square feet.

(iii) When the total number of birds in a facility is between one thousand one and two thousand, each semi-static area listed above must be allocated two times the associated space;

(iv) When the total number of birds in a facility is between two thousand one and three thousand, each semi-static area listed above must be allocated three times the associated space, etc.; and

(v) Space for the semi-static area listed above must be accommodated as a part of an oiled bird rehabilitation facility.

(13) [Oiled-wildlife facility requirements.](#) **Static areas:**

(a) Static areas are dedicated spaces within an oiled bird rehabilitation facility where the required size of the space does not vary, regardless of the number of animals in the facility. Static areas must be indoor areas with impermeable floors and water must not be allowed to accumulate on the floor.

(b) Space requirements:

(i) When the total number of birds in a facility is less than fifty, there are no minimum space requirements for static areas.

(ii) When the number of birds in a facility exceeds fifty, each static area listed below must be allocated the associated space.

(iii) All of the space associated with the areas listed below must be accommodated as a part of an oiled bird rehabilitation facility.

(c) Static area space requirements by activity type:

(i) Isolation/intensive care unit: Two hundred square feet;

(ii) Medical lab: Two hundred square feet;

(iii) Laundry: Two hundred square feet; [may be accommodated off-site](#)

(iv) Electrical: One hundred square feet;

~~(v) Mechanical: Two hundred square feet.~~

(14) Off-site facilities and care.

(a) A primary permittee is responsible for ensuring that his or her off-site facilities, or those of his or her subpermittee, meet all species- and treatment-stage-specific facility requirements as provided by department rule.

(b) A primary permittee, or subpermittee authorized to care for wildlife off-site from the wildlife rehabilitation facilities, must have adequate facilities to house the species in his or her care, based on the criteria for wildlife rehabilitation facilities outlined in the (~~NWRA/IWRC~~) most current edition of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation.

(c) It is unlawful for a subpermittee to care for wildlife in his or her off-site facility, or for the primary permittee to transfer wildlife to the subpermittee, unless the following requirements are met:

(i) (~~The primary facility is overcrowded or~~) There is a need for twenty-four-hour or after-hours care, such as nestling care or nursing small mammals, or critical care;

(ii) The off-site subpermittee only houses and cares for the following species off-site: (~~Common small mammals (except bats), ducks and geese (except swans), pheasant, grouse, quail, pigeon and dove, woodpeckers (except pileated woodpecker), and songbirds and perching birds;~~

~~(iii))~~ Eastern gray squirrels, Douglas squirrels, opossum, mallard ducks, pheasant, quail, rock dove, American robin, black-

capped chickadee, chestnut-backed chickadee, ~~European starling~~, song-sparrow, dark-eyed junco, white-crowned sparrow, house finch, house sparrow, and hummingbirds if the primary permittee is permitted for those species;

(iii) The number of wildlife animals held at the off-site facility does not exceed the total capacity of the primary facility so that the primary facility does not use the off-site subpermittees to increase capacity;

(iv) The primary permittee would not exceed their permitted capacity if animals were returned from the off-site subpermittee;

(v) The wildlife receives an initial intake exam at the primary permittee's facility before ((wildlife)) it is transferred to the subpermittee for off-site care;

~~((iv))~~ (vi) The wildlife exhibits no signs of a reportable disease;

~~((v))~~ (vii) The subpermittee follows a treatment plan developed by the veterinarian or directions from the primary permittee ~~if a treatment plan is prescribed~~ ((for any nonreportable condition;

~~(vi) The subpermittee returns the animal to the wildlife rehabilitation facility under which the subpermittee is permitted as~~

~~soon as the facility is able to care for the animal, such as space becoming available; and~~

~~(vii))~~ i

(viii) The subpermittee possesses a copy of the wildlife rehabilitation permit at all times while in possession of wildlife, including while transporting wildlife for the wildlife rehabilitation facility. It is unlawful for an off-site subpermittee to release wildlife from their facility without ~~returning the animals to the primary facility for~~ a release evaluation by the primary permittee.

(d) It is unlawful for a subpermittee to house, possess, care for, or treat large carnivores at his or her off-site facilities.

(e) It is unlawful for a subpermittee to house, possess, care for, or treat state ~~((and))~~ or federally designated threatened ~~((or))~~ endangered, or sensitive species at his or her off-site facilities.

~~((4))~~ (15) Inspections.

(a) ~~((Wildlife rehabilitation facilities, records, equipment, and animals may be inspected without advance notice at reasonable times and in a reasonable manner by authorized state or federal personnel. This includes off-site wildlife rehabilitation facilities, records, equipment, and animals.~~

~~(b) Inspecting authorities may not enter the facilities or disturb wildlife unless the primary permittee, a subpermittee, or a designated staff member or volunteer is present.~~

~~(e)) Fish and wildlife officers or other agents of the department may inspect without warrant or advanced notice at reasonable times and in a reasonable manner all wildlife rehabilitation facilities and premises, cages, enclosures, all records required by the department for wildlife rehabilitation, and all equipment, and animals.~~

~~(b) If wildlife rehabilitation facilities are on property owned by a person other than the ((primary)) permittee ((or a subpermittee)), the permittee must submit a signed, dated statement in which the property owner((+~~

~~(i)) gives written permission to the permittee to engage in wildlife rehabilitation on the property((; and~~

~~(ii) Agrees that the wildlife rehabilitation facilities may be inspected by the department at reasonable times and in a reasonable manner)).~~

~~((+5)) (16) A violation of this section by a ((primary)) permittee or a subpermittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.~~

[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 § 220-450-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-847, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 2

- Change: In section (2) facilities, (f) replaced the words of stock with of wildlife in care.

Rationale: Stock is an improper word for wildlife and not used in the definitions for wildlife.

Page 3

- Change: In section (2) facilities (h) added language for clarification

Rationale: The new wording makes it clear that wildlife may be transferred back to the wildlife rehabilitation facility once a primary permittee is associated with that facility.

- Change: In section (3) removed language for clarification.

Rationale: This sentence became redundant with the above section and subsection and therefore removed.

- Change: In section (4) Oiled-wildlife facility requirement, changed the sentence structure for better clarification.

Rationale: Recommended by the department's Oil Spill Team.

Page 4

- Change: In section (5) added Oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 5

- Change: In section (6) added Oiled-wildlife facility requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

- Change: In section (6) (a) replaced or with of.

Rationale: Erroneous word.

Page 6

- Change: In section (7) added Oiled-wildlife facility requirements. Intake space requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

- Change: In section (8) added Oiled-wildlife facility requirements. Stabilization resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 7

- Change: In section (9) added Oiled-wildlife facility requirements. Wash/rinse resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 8

- Change: In section (10) added Oiled-wildlife facility requirements. Drying resource requirements.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 11

- Change: In section (12) added Oiled-wildlife facility requirements. Semi-static areas.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 12

- Change: In section (13) added Oiled-wildlife facility requirements. Static areas.

Rationale: Without this language the section appeared to refer to general wildlife rehabilitation facility requirements. These requirements apply only to oiled wildlife facilities.

Page 13

- Change: In section (13) (c) (iii) added language to clarify.

Rationale: Requested by the department's Oil Spill Team.

- Change: In section (13) (c) removed (v) Mechanical: Two hundred square feet.

Rationale: Requested by the department's Oil Spill Team.

Page 15

- Change: In section (14) (c) (ii) removed European starling and added hummingbirds.

Rationale: European starling was removed to discourage the rehabilitation and release of this species. Wildlife Rehabilitation Advisory Committee reviewers suggested the addition of hummingbirds because of their need for over-night care.

- Change: In section (14) (c) (vii) language was removed and added to this section for compliance with veterinary regulations.

Rationale: By law veterinarians are the only practitioners in wildlife rehabilitation that can prescribe treatment. Primary permittees may direct subpermittees in husbandry and rehabilitation and explain veterinarian prescribed treatment.

Page 16

- Change: In section (14) (c) (viii) language was removed and added to this section for wildlife welfare purposes.

Rationale: The requirement to return an animal to the primary facility for release evaluation was removed to decrease the number of times animals must be transported.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-100 Wildlife Rehabilitation – Facility requirements and inspections – On- and off-site care.

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) comment was concerned with what “visual and auditory” stressors meant and specifically and how would an enforcement officer interpret that. One (1) proposed a word change. Two (2) proposed adding or removing species to the subpermittee permitted species list. Two (2) stated that transport back to the primary facility for release check was too much stress on the animal. One (1) expressed confusion over when to transfer animals after the primary permittee left. One (1) corrected the statement that a permittee may structure a treatment plan – only veterinarians may legally provide that. One (1) suggested shifting much of this WAC to WAC 220-450-080 Wildlife Rehabilitation – Responsibilities of primary permittees and subpermittees. One (1) questioned the qualifications of subpermittees to provide critical care. Two (2) asked for clarification on how veterinarians can separate domestic animals and wildlife.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including most of the changes suggested through the recommended adjustments process especially to address welfare of the wildlife in care such as decreasing transport time and adding or deleting subpermittee allowable species.

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

WAC 220-450-110 Wildlife rehabilitation—Releasing wildlife.

(1) (~~(A primary permittee must release)~~) Rehabilitated wildlife (~~((according to subsection (3) of this section))~~) must be released as soon as the animal is deemed physically, behaviorally, and psychologically (~~((capable of surviving in))~~) fit and conforming to the species natural history to increase successful reintegration into the wild.

(2) It is unlawful to hold wildlife for rehabilitation longer than one hundred eighty days. A primary permittee must obtain department authorization if (~~((he or she wishes to retain wildlife))~~) the animal requires care longer than the one hundred eighty-day time limit (~~((normally allowed for wildlife rehabilitation))~~). The department (~~((will grant an extension of time if the permittee needs to find suitable placement for the wildlife, or the wildlife))~~) may grant a time extension if wildlife is over-wintering, molting, ((or)) completing recovery, or waiting for suitable placement.

(3) (~~(A primary permittee must release)~~) Wildlife must be released at locations using methods and protocol to minimize stress on released animal; disease free; and into the same area from which the wildlife was taken(~~(. If)~~) unless doing this poses a substantial risk to the health or safety of the released wildlife or humans(~~(, the permittee may release the wildlife)~~); or at a location within (~~(its normal individual)~~) the wildlife's normal species range and appropriate habitat(~~(. The primary permittee must obtain department approval prior to releasing wildlife at a location other than where it was taken or outside its normal individual range)~~) if location of origin is unknown or release cannot or should not occur at origin location.

The department may direct the permittee to release wildlife at a location other than where the wildlife was taken.

(4) A group of unrelated wildlife (~~(that are)~~) of the same species and that were raised together for socialization (~~(purposes)~~) may be released at the same location even if that location is not where the wildlife was originally taken. All other release requirements must be followed. Migratory birds including raptors may be released at a location other than where they originated, without

department preapproval, but within their natural range and must be at a location and timing appropriate for migration or flock behavior.

~~(5) ((If a primary permittee does not know where wildlife was originally taken, he or she must release the wildlife into appropriate habitat and at a location where substantial risk to the health or safety of the wildlife and humans is minimal. Primary permittees must obtain department authorization for the release location prior to releasing cervids, large carnivores, or coyotes.))~~ **Release restriction and requirements.**

(a) Wildlife may not be given to the public to release after rehabilitation.

(b) Permittees must obtain department authorization for the release location prior to releasing cervids, large carnivores, coyotes, or beaver; cervids may not be released out of their WDFW region of origin.

(c) Orphaned cervids received by a wildlife rehabilitator and born during the year received must be released no later than October 31 of the year received. If an extension is needed to complete rehabilitation, a request must be made to the department for an extension authorization.

(d) Eastern gray squirrels, Virginia opossum, eastern cottontail, European starlings, and house sparrows must be released where these species already abundantly occur, releasing these species outside of where these species already occur is prohibited.

(e) Amphibians and reptiles must be released at point of origin, without exception. It is unlawful to release amphibians and reptiles if:

(i) They are a Washington state nonnative species.

(ii) They have been in captivity as pets.

(iii) They have been exposed to items or animals from the pet trade or pet stores including live food items or ~~plants~~ plants prior to being admitted to the permitted rehabilitation facility.

(iv) The point of origin is unknown.

(6) The primary permittee must notify and receive authorization from the department ((at least seventy-two hours prior to)) before releasing oiled wildlife, or state or federally designated threatened, endangered, or sensitive species.

(7) Hacking of orphaned raptors is permitted at or through a permitted facility where ((appropriate)) department-inspected and approved hacking facilities are available.

(8) A violation of this section is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty. [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 § 220-450-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-849, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 4

- Change: In section (5) (e) (iii) added language to allow for care of amphibians.

Rationale: Wildlife rehabilitators must be allowed to feed reptiles and amphibians food purchased from reputable suppliers, therefore, language was added to allow for that. The previous sentence prohibited that practice.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-110 Wildlife Rehabilitation – Releasing wildlife.

Supporting Comments:

Eight supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) stated that once reptiles and amphibians are in rehabilitation they need food from pet stores and that European starlings should never be rehabilitated and released. Three (3) were concerned with what to do if their facility received a cervid from outside of their WDFW Region and asked for guidance in the WAC. One (1) expressed the same concern over reptiles and amphibians and suggested also disease surveillance of this group. One (1) wondered how to obtain department authorization on where to release cervids.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including most of the changes suggested through the recommended adjustments process and with addressing the concerns of the reviewers.

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

WAC 220-450-120 Wildlife rehabilitation—Veterinary care. (1)

Veterinarians may euthanize wildlife or provide ~~((initial care for wildlife))~~ stabilization without a wildlife rehabilitation permit.

~~((However,))~~ Veterinarians must arrange to transfer the wildlife to a primary permittee ~~((after stabilizing the wildlife, preferably))~~ within forty-eight hours of receiving wildlife. Veterinarians must separate wildlife from domestic animals.

Principal veterinarian. Provides timely advice and services, veterinary treatment, and any medical protocols to primary permittee; and

If the principal veterinarian detects, suspects, or confirms a reportable illness or disease, it must be reported to the primary permittee ~~or~~ and the department's wildlife veterinarian within twenty-four hours.

(2) A violation of this section is punishable under the statute for the species being rehabilitated, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or

wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; and RCW 77.15.430 for wild animals not classified as big game.

(3) A wildlife rehabilitation permit is not a veterinary license. [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 § 220-450-120, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-851, filed 8/30/13, effective 9/30/13.]

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In section (1) edits to comply with state veterinary regulations.

Rationale: Veterinarians must report reportable diseases to the state and were uncomfortable with the previous language.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-120 Wildlife Rehabilitation – Veterinary care.

Supporting Comments:

Eight supporting comments.

Opposing, Neutral, and Other Comments:

There was one (1) opposing opinion but with no comments given. Other comments: One (1) comment corrected the statement that veterinarians report reportable diseases to the state **or** the primary permittee whereas veterinarians **must** report reportable diseases to the state. One (1) comment asked for more time to transfer wildlife from a veterinary hospital to a wildlife rehabilitation facility.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process to address licensing concerns and work load capabilities of veterinarians.

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

WAC 220-450-130 Wildlife rehabilitation—Records retention and reporting requirements. (1) This section contains records retention and reporting requirements for primary permittees on wildlife rehabilitation permits. Other state and federal laws and regulations may require additional records retention and reporting. (~~It is the primary permittee's responsibility to comply with all state and federal laws and regulations, and to ensure that his or her subpermittees do the same.~~) Required records include daily ledger, patient records, written verification of volunteer training records, and veterinary summaries.

(2) Retaining records.

(a) The primary permittee must keep all (~~required permits and~~) records at the wildlife rehabilitation facility and retain those (~~permits and~~) records for a period of five years. Written or electronic records retention is acceptable.

(b) The primary permittee must make ~~((the permits and))~~ records available ~~((for))~~ to the department at inspection ~~((by))~~ or to department personnel upon request.

(3) ~~((Daily ledger.~~

~~((a) The primary permittee must record the following information in his or her daily ledger: All wildlife acquisitions; transfers; admissions; releases; deaths; reasons for admission; nature of illness or injury; dates of release, transfer, or any other disposition; and any tag or band numbers.~~

~~((b) The primary permittee must make the daily ledger available for inspection by department personnel upon request.~~

~~((4))~~ Annual report. ~~((a) The primary permittee must fill out the annual report))~~ Submit a completed annual report on the form provided by the department ~~((and submit the annual report))~~ along with the daily ledger ~~containing the prior year's records~~ to the department no later than January 31~~((st))~~ of each year.

~~((b) Along with the annual report form, the primary permittee must submit a copy of his or her daily ledger containing records for the year.~~

~~((5))~~ (4) Reporting requirements for oiled, threatened, endangered, or sensitive wildlife.

(a) The primary permittee must notify the department's wildlife rehabilitation manager within twenty-four hours of receiving oiled wildlife or wildlife designated as a threatened or endangered species under state or federal laws or rules.

(b) The primary permittee must notify the department's wildlife rehabilitation manager within seventy-two hours of receiving a state designated sensitive species.

(c) The primary permittee must notify the department's wildlife rehabilitation manager within twenty-four hours if a state or federally designated threatened or endangered species in his or her possession dies. The primary permittee must receive prior department approval before disposing of deceased state or federally designated threatened or endangered species.

~~((6))~~ (5) The primary permittee must notify the department's wildlife rehabilitation manager within seventy-two hours if he or she admits any wildlife that has a state or federal band, research marker, tag, or transmitter attached to it. The primary permittee must include band numbers and any other relevant information in the report. Primary permittees must send these reports, in writing (email is sufficient), to the department's wildlife rehabilitation manager (~~at P.O. Box 43200, Olympia, WA 98504-3200, or at rehabcoord@dfw.wa.gov~~)).

~~((7))~~ (6) The primary permittee must report ~~((the following diseases, confirmed by a veterinarian,))~~ any veterinarian-diagnosed and confirmed reportable wildlife diseases listed by the department to the department's wildlife veterinarian within twenty-four hours of diagnosis ~~((: West Nile virus, white nose syndrome, avian cholera, avian pox, duck viral enteritis, psittacosis, rabies, environmental toxins, canine distemper, tuberculosis, Newcastle disease, salmonellosis, hair loss syndrome, deer adenovirus, plague, leptospirosis, and tularemia))~~.

~~((8))~~ (7) If wildlife is stolen or missing from ~~((a primary permittee or subpermittee))~~ the facility, the primary permittee must report the stolen or missing wildlife to the department ~~((and to the U.S. Fish and Wildlife Service Regional Law Enforcement office))~~ wildlife rehabilitation manager and law enforcement within twenty-four hours of discovering the ~~((theft of the))~~ missing wildlife.

~~((9))~~ (8) A violation of this section is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty. [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 § 220-450-130, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW

77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-853, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In section (1) added the word written and removed records.

Rationale: Reviewers asked for clarification on how to verify volunteer records. Forms will be supplied to wildlife rehabilitators.

Page 2

- Change: In section (3) removed language for simplicity.

Rationale: “Prior year’s records” is the definition of Daily Ledger, therefore redundant.

Page 3

- Change: In section (5) added language for ease of submission of these records.

Rationale: Reviewers asked for this addition to make sure that it was an acceptable method of record submission.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-130 Wildlife Rehabilitation – Records retention and reporting requirements

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Three (3) requested word additions and changes. Two (2) asked for definition of “Veterinary summaries.” Two (2) asked for what was meant by documenting volunteer training.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process

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

WAC 220-450-140 Wildlife rehabilitation—Falconers assisting with raptor rehabilitation. (1) (~~(A general or master falconer may assist a primary permittee in rehabilitating raptors to prepare the birds for release into the wild so long as the primary permittee and falconer comply with all applicable federal rules. Only master class falconers or those falconers with U.S. Fish and Wildlife Service (USFWS) written authorization may assist in rehabilitating bald or golden eagles. Raptors held by falconers for rehabilitation remain under the primary permittee's permit.)~~) A wildlife rehabilitator may utilize a department permitted three-year general or master falconer only for prerelease conditioning for release. Falconers may not practice wildlife rehabilitation without a wildlife rehabilitation permit. Falconers may not rehabilitate [hatchling and nestling](#) raptors.

(2) If the raptor is assigned to a falconer, the primary permittee must provide the falconer with:

(a) A copy of the ((USFWS)) U.S. Fish and Wildlife Service wildlife rehabilitation permit showing the falconer listed as a subpermittee; or

(b) A copy of the primary permittee's wildlife rehabilitation permit and a copy of the department authorization for transfer; and

(c) A written document identifying the raptor and explaining that the falconer is assisting in the raptor's rehabilitation and acting as an authorized subpermittee of the primary permittee. The written document must:

(i) Provide the dates of possession and the falconer's name, state falconry license number, contact information, and location of the falconer's facility; and

(ii) Accompany the raptor at all times, including during transport and at the housing location of the raptor.

(3) The primary permittee is responsible for ensuring that falconers adhere to permit terms, state law, department rules, and federal law and regulations at all times when assisting in rehabilitation activities under the primary permittee's rehabilitation permit.

(4) ((~~A falconer may house and treat a raptor undergoing rehabilitation at an approved falconry facility that does not meet~~

~~wildlife rehabilitation facility standards so long as the facility meets the standards under department rule for housing raptors.~~

(5)) Any raptor that cannot be permanently released into the wild must be returned to the primary permittee ~~or transferred to the department~~ within one hundred eighty days from the date of transfer to the falconer, unless:

((a)) The department authorizes retaining the raptor for longer than one hundred eighty days ~~(; or~~

~~(b) The primary permittee or department transfers the raptor to a permitted educational))~~ to complete conditioning or is awaiting placement to a permitted education facility.

((6)) (5) A primary permittee may transfer a releasable raptor directly to a falconer for falconry purposes so long as the falconer can lawfully possess the species of raptor and complies with all applicable state and federal laws and regulations. The primary permittee must notify the department of the transfer of the raptor to a falconer within ten days of the transfer. The USFWS may also require notification of raptor transfers and release. It is the primary permittee's and falconer's responsibility to ensure compliance with all state and federal laws and regulations.

~~((7))~~ A falconer may not transfer a bird under his or her care for rehabilitation conditioning to his or her falconry permit; a raptor in rehabilitation conditioning must remain on the wildlife rehabilitator's permit at all times.

(6)(a) A violation of this section by a primary permittee is punishable under RCW 77.15.750(1), Unlawful use of a department permit—Penalty.

(b) A violation of this section by a falconer assisting a primary permittee is punishable under the statute for the species being rehabilitated, including RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; and RCW 77.15.400 for all other wild birds.

[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 § 220-450-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-855, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In section (1) language was added for clarification.

Rationale: Falconers may not raise any raptor orphans which was not clearly stated, therefore hatchlings was added to avoid misunderstanding and the misspelling of nestling was corrected

Page 3

- Change: In section (4) language was removed for clarification.

Rationale: The department does not have the facilities or capacity to care for non-releasable raptors. We will assist rehabilitation facilities in placement.

Page 4

- Change: In section (5) language was added for clarification.

Rationale: The primary goal of wildlife rehabilitation is release to the wild, therefore the Wildlife Rehabilitation Advisory Committee felt it was counter to that goal for a falconer to acquire a bird through assistance with conditioning for release after rehabilitation.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-140 Wildlife Rehabilitation – Falconers assisting with raptor rehabilitation

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There was one (1) opposition to this rule with comments offering justifying reasons. Other comments: One (1) requested delineation of time limit that raptors in conditioning phase remain on the rehabilitation permit. One (1) requested instruction on where non-releasable raptors would go if transferred to WDFW. Two (2) asked if falconers were subpermittees on the primary rehabilitator's permit.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process.

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

WAC 220-450-150 Wildlife rehabilitation—Transfer, import, and export of wildlife and restrictions. (1) A primary permittee may import wildlife into Washington state for wildlife rehabilitation purposes if it is legal to import that species and the primary permittee possesses a Certificate of Veterinary Inspection ~~health certificate~~ from an accredited veterinarian licensed in the state of origin and an entry permit as required by the Washington state department of agriculture for the animal.

(2) It is unlawful to transfer Washington state mammals to an out-of-state rehabilitator without obtaining prior department approval.

(3) It is unlawful to import species in the order Cervidae(~~(~~ and)) or rabies vector species(~~(~~) into Washington state for rehabilitation purposes.

(a) Cervids are Roosevelt and Rocky Mountain elk, mule deer, black-tailed deer, white-tailed deer, moose, and caribou.

(b) Rabies vector species are bat, skunk, fox, raccoon, and coyote.

(c) Wildlife rehabilitation permits may be conditioned by the department with additional restrictions on wildlife transfer related to a specific endorsement or current interpretations of species-specific disease transfer.

(4) Transferring wildlife for socialization.

(a) Transferring wildlife undergoing rehabilitation between Washington wildlife rehabilitators for the purpose of orphan imprinting, (~~(appropriate companionship,)~~) conspecific socialization, appropriate species behavior maintenance, (~~(flight conditioning and specialized)~~) prerelease condition, and/or species-specific and veterinary medical care is permissible (~~(and encouraged)~~).

(b) No transfer of cervids, [beaver](#), or bats between eastern Washington (all lands lying east of the Cascade Crest Trail and east of the Big White Salmon River in Klickitat County) and western Washington (all lands lying west of the Cascade Crest Trail and west of and including the Big White Salmon River in Klickitat County).

(c) No transfer of cervids between ~~or among~~ Washington department of fish and wildlife regions.

(ADD) No intake/admission of cervids from outside of the Washington department of fish and wildlife region in which the facility is located. If any cervid is brought to a wildlife rehabilitation facility from outside that facility's Washington department of fish and wildlife region, the animal must be euthanized.

(d) Wildlife possessed for rehabilitation may be transferred between Washington wildlife rehabilitators without prior department approval if the receiving wildlife rehabilitator is permitted to possess those species and geographic restrictions ~~conditions~~ are followed-permitted.

(5) A violation of this section is punishable under RCW 77.15.290, Unlawful transportation of fish or wildlife—Penalty. [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 § 220-450-150, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-857, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In section (1) incorrect term was substituted for correct term.

Rationale: Certificate of Veterinary Inspection is the title of the document required by Washington Dept. of Agriculture to import an animal into the state. The inspection (examination) must be done by a USDA certified veterinarian.

Page 2

- Change: In section (4) (b) beaver was added, and in section (c) language was removed for clarity.

Rationale: This was requested by WDFW game program to coincide with beaver management.

Page 3

- Change: In section (4) (c) language was added to strengthen restrictions on artificial cervid movement around the state.

Rationale: WDFW is very concerned about transmission of existing and emergent cervid diseases into and within Washington and must protect the wild populations by restricting and discouraging cervid transport.

- Change: In section (4) (d) language was added and deleted for clarification purposes.

Rationale: Reviewers were confused by the existing wording.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-150 Wildlife Rehabilitation - Transfer, import, and export of wildlife and restrictions.

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Two (2) suggested clarification for “geographic conditions.” Three (3) reviewers asked for guidance on what to do if an out-of-WDFW Region cervid was brought to a wildlife rehabilitation facility.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process especially to protect wildlife populations of cervids.

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

WAC 220-450-160 Wildlife rehabilitation—Possession of dead wildlife and wildlife parts. (1) A primary permittee may receive and possess dead wildlife from the department for the purpose of feeding wildlife in rehabilitation.

(2) Feather possession.

(a) A primary permittee may possess bird feathers for imping (~~as long as he or she possesses a valid wildlife rehabilitation permit~~).

(b) Primary permittees may receive or exchange feathers of birds from and with other wildlife rehabilitators if the rehabilitators possess and comply with (~~necessary~~) relevant U.S. Fish and Wildlife Service Migratory Bird Treaty Act permits.

~~((b))~~ (c) A primary permittee may donate feathers from rehabilitation birds to any person or institution with a valid permit to possess feathers, except feathers from golden eagle or bald eagle.

~~((e))~~ (d) A primary permittee may leave feathers that are molted or otherwise lost by a bird in wildlife rehabilitation where they fall, store the feathers, or destroy the feathers, except that

the rehabilitator must gather primary or secondary flight feathers or rectrices from golden eagle and bald eagle and send these feathers or rectrices(~~((, if not kept for imping,))~~) to the National Eagle Repository.

~~((+d))~~ (3) A primary permittee whose permit is expired(~~((, suspended,))~~) or revoked must donate any (~~((feathers from wildlife that was in his or her care))~~) wildlife carcasses and parts to a person or institution with a valid permit to possess the (~~((feathers))~~) wildlife carcasses and parts, or the primary permittee must burn, bury, or otherwise destroy the carcasses or parts(~~((the feathers))~~).

~~((+3))~~ (4) A violation of this section is punishable under the statute for the species being unlawfully retained, including RCW 77.15.120 for endangered fish or wildlife; RCW 77.15.130 for protected fish or wildlife; RCW 77.15.400 for wild birds; RCW 77.15.410 for big game; or RCW 77.15.430 for wild animals not classified as big game. [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 § 220-450-160, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-859, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 2

- Change: In section (2) to correct a spelling error.

Rationale: The word rectrices was missing the c.

- Change: In section (3) language was added for clarification

Rationale: This rule applies to all wildlife not just birds, therefore for certainty of compliance, the terms were corrected.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-160 Wildlife Rehabilitation – Possession of dead wildlife and parts

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Two (2) comments requested word additions.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process.

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

WAC 220-450-170 Wildlife rehabilitation—Disposition of nonreleasable and mal-over-habituated, mal-imprinted, and tamed wildlife and live retention for foster and education. (1) A primary permittee may retain live, nonreleasable wildlife for the purposes of:

(a) Orphan imprinting, socialization, and appropriate wild behavior retention and development, if the permittee possesses valid U.S. Fish and Wildlife Service (USFWS) permits and written authorization from the department. The department determines whether wildlife may be retained for these purposes on a case-by-case basis.

(b) Static ~~D~~display and program education, if the permittee possesses valid USFWS permits and written authorization from the department.

~~((i))~~ (c) To obtain authorization for education or ~~ef~~ fostering, the permittee must submit a completed Education or ~~ef~~ Foster Animal - Live Wildlife Retention Form application form provided by the department.

(d) A fee for presentation of an education program may be charged to recoup the permittee's cost.

(e) Education programs must provide information about the biology, ecological roles, or needs of wildlife; wildlife may not be presented as if they are pets.

(f) Wildlife tamed~~by~~, overly habituated and lacking fear of humans and domestic animals~~+, ((imprinted on, or habituated))~~ or mal-imprinted to humans before admission to the primary permittee's facility can be retained for static display or education programs if the department authorizes this in writing. The department will make such determinations on a case-by-case basis.

~~((ii))~~ (g) Permittees must house wildlife used for educational purposes separately and out of sight of wildlife in rehabilitation.

~~((iii) Wildlife)~~ (h) Mammals retained for education purposes may not be used for orphan imprinting or companionship for wildlife in rehabilitation.

(i) It is permissible to use birds retained for education, including raptors, for orphaned imprinting, nestling care, or companionship if federally permitted.

(j) The permittee may not have the following animals for education programs or static display: Cervids, large carnivores, amphibians.

(k) The permittee may not use ~~have~~ the following animals ~~in used~~ ~~as~~ education programs ~~animals~~: All rodents (except eastern gray squirrels), ~~M~~moles and shrews, weasels, skunks, raccoons, coyotes, foxes, beavers, muskrats, pikas, hares, rabbits, Apodidae, Trochilidae, Picidae, Passerines (except American crow, Northwestern crow, and common ravens), loons, grebes, seabirds, herons, bitterns, storks, and ibis.

(2) Wildlife tamed (~~(by, imprinted on, or habituated)~~) or mal-imprinted to humans while at the primary permittee's (~~(facility or subpermittee's)~~) facility and determined to be nonreleaseable must be transferred or humanely euthanized (~~(no later than one hundred eighty days following admission to the rehabilitation facility,)~~) to protect the public and to protect the animal from human abuse.

(3) A violation of this section is punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty. [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 § 220-450-170, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW

77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-861, filed 8/30/13, effective 9/30/13.]

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and over-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In the title, changed mal-habituated to over-habituated.

Rationale: The term mal-habituated is rarely used therefore not easily understood. Over-habituated is more descriptive and more easily defined in the text of the WAC.

- Change: In section (1) (b) added static in front of display and program in front of education.

Rationale: There are two types of public education – static display are animals that remain in cages for viewing, program education are those presentations where animals are removed from cages and used in the program such as a raptor on the fist. Many species of animals are inappropriate for active program animals and must be protected through this rule by distinguishing the two types of education.

- Change: In section (1) (c) replaced of with or.

Rationale:

Page 2

- Change: In section (1) (e) language was added for clarification.

Rationale: WDFW strictly discourages exhibiting wildlife as pets. This language was added hoping to make that more clear.

- Change: In section (1) (f) language was added for clarification.

Rationale: It is critically important that all care is taken not to tame, over-habituate (some “habituation” is needed in wildlife rehabilitation facilities to decrease stress on the animal), or imprint wildlife in a wildlife rehabilitation facility. The clearer the terms are presented the more likely it can be avoided by wildlife rehabilitators.

The words static display and programs were again inserted to distinguish between the two types of education.

Page 3

- Change: In section (1) (k) language was added for clarification.

Rationale: Many species of wildlife are inappropriate as education animals, both in static display and in programs. Paying close attention to the Wildlife Rehabilitation Advisory Committee and other reviewers, these species were added to protect as many as possible from poor quality of life.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-170 Wildlife Rehabilitation – Disposition of nonreleasable and over-habituated, mal-imprinted, and tamed wildlife and live retention for foster and education.

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Six (6) comments asked for changes in allowable education species. Two (2) comments requested better distinction between static display and education program animals. One (1) comment asked for deletion of “mal-habituation” and that mal-imprinted wildlife should not be used for fostering. One (1) asked for education program handler requirements to be outlined in the rule.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process with the intent to protect the welfare of nonreleasable and education wildlife.

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

WAC 220-450-180 Wildlife rehabilitation—Euthanizing

~~((protected, threatened, or endangered wildlife and migratory birds))~~

wildlife. Euthanasia must be provided in accordance with an animal's welfare, using humane techniques and at a reasonable time after admission to prevent unnecessary suffering of the animal. Permittees must follow the most current American Veterinary Medical Association Guidelines on Euthanasia.

(1) Bald eagles, golden eagles, ~~((peregrine falcons and other state or federally))~~ and state endangered or threatened wildlife may be euthanized, without prior department approval, if the animal is suffering and untreatable or has a terminal illness or injury. In all other cases, prior department approval must be obtained before euthanizing ~~((bald eagles, golden eagles, peregrine falcons, and other state or federally))~~ state endangered or threatened wildlife.

(2) Any bird that has sustained injuries requiring amputation of a ~~((leg,))~~ foot, a portion of a leg or wing at the elbow (humero-ulnar

joint) or above, or (~~(a bird that is completely)~~) any animal that is permanently blind must be euthanized.

(3) If (~~(a migratory bird)~~) an animal cannot, after medical management, feed itself, (~~(perch upright,)~~) or ambulate without inflicting additional injury to itself, the (~~(bird)~~) animal must be euthanized.

(4) The primary permittee must comply with all applicable federal Migratory Bird Treaty Act rules when taking action for migratory birds under this section.

(5) The primary permittee shall report immediately to the department any department-surveilled wildlife disease or suspected emerging disease. If the director determines that such disease or outbreak presents a threat to wildlife of the state, the director may immediately order destruction of the wildlife.

(6) A violation of this section is punishable under RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; or RCW 77.15.400 for all other wild birds, depending on the bird species. [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 § 220-450-180, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW

77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-863, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: In the first paragraph, added the word using to complete the sentence structure.

Rationale: The word using was inserted upon suggestion from a reviewer for ease of interpretation.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-180 Wildlife Rehabilitation – Euthanizing wildlife

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: One (1) comment asked for a word addition.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process.

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

WAC 220-450-190 Wildlife rehabilitation—Disposing of wildlife

remains. (1) Wildlife carcasses (except for those that are oiled) must be ~~burned~~incinerated, buried, or otherwise destroyed, according to local laws and regulations (~~(, within ten days of the animal's death or after final necropsy by a veterinarian. However:~~)) to avoid the risk of poisoning wildlife, a primary permittee must not allow chemically euthanized wildlife to be scavenged.

(a) Wildlife carcasses may be donated to any person or institution authorized under state or federal law to acquire and possess specific wildlife carcasses or parts.

(b) A primary permittee on a wildlife rehabilitation permit may keep the carcass of any bird, except golden eagle or bald eagle, so the feathers on the carcass are available for imping and education as long as they are in compliance with federal rules.

(c) A primary permittee must send (~~(the entire carcass)~~) any and all remains of a golden eagle or bald eagle, including all talons, feathers (~~((unless feathers are kept for imping purposes),)~~) and other

parts, to the National Eagle Repository ~~within thirty days of the bird's death~~ following instructions from the U.S. Fish and Wildlife Service.

(d) A primary permittee may retain wildlife carcasses and skins ~~((, instead of disposing of the carcasses or skins, to have the carcass mounted or the skin prepared by a taxidermist))~~ for mounting or skin preparation for the purpose of public display and education programs. If prepared by a licensed taxidermist, the primary permittee must supply the taxidermist with written documentation that the carcass or skin is possessed pursuant to a wildlife rehabilitation permit. The taxidermist must possess the written documentation at all times while the carcass or skin is in the taxidermist's possession. The primary permittee must keep the mount at the wildlife rehabilitation facility and may use it for public display for education programs. If the wildlife carcass is a banded bird or has an implanted microchip, the band number or microchip number must ~~((stay in place))~~ be reported to the issuing agency, entity, or person.

(e) A primary permittee who retains a wildlife carcass or parts may only possess the carcass or parts so long as the primary permittee possesses a valid wildlife rehabilitation permit and complies with all applicable federal laws. If the permittee no longer has a valid

wildlife rehabilitation permit, the person must have a different authorizing state or federal permit to keep the carcasses or parts, or surrender the carcasses or parts to the department.

~~(2) ((A primary permittee must take appropriate precautions to avoid the risk of poisoning scavenging wildlife when disposing of carcasses of euthanized wildlife. Wildlife euthanized by chemical injection may not be buried or taken to a landfill.~~

~~(3))~~ Animals that have died of or have been euthanized due to reportable diseases must be disposed of as directed by Washington department of fish and wildlife (WDFW) wildlife veterinarian. No carcasses or parts should be retained.

(3) A primary permittee must not dispose of dead oiled wildlife without obtaining department approval.

(4) A violation of this section by a permittee or subpermittee on a wildlife rehabilitation permit is punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty.

~~((4))~~ (5) A violation of this section by a person who lacks a valid wildlife rehabilitation permit is punishable under RCW 77.15.120 for endangered birds; RCW 77.15.130 for protected birds; or RCW 77.15.400 for all other wild birds, depending on the bird species.

[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 § 220-450-190, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070. WSR 13-18-046 (Order 13-192), § 232-12-865, filed 8/30/13, effective 9/30/13.]

RECOMMENDED ADJUSTMENTS

The department recommends the following adjustments since the Code Reviser filed (CR-102). The adjustments are included in your notebooks.

Page 1

- Change: Replaced the word burned with incinerated.

Rationale: The department veterinarian recommended the word incinerated as a more appropriate term for the action.

Page 2

- Change: In section (1) (c) removed and replaced language for clarification.

Rationale: Several wildlife rehabilitators clarified that the US Fish and Wildlife Service does not impose a 30 day deadline on sending eagle carcasses to the National Repository, therefore the department did not want to pose a restriction over the federal guidelines. Rehabilitators often wait to send eagle carcasses in large batches which can be over 30 days.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-190 Wildlife Rehabilitation – Disposing of wildlife remains.

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. Other comments: Two (2) said the US Fish and Wildlife Service does not impose a time limit on sending eagle carcasses to the National Repository.

Direction and Rationale:

The department will move forward with proposed amendments to the rule including the changes requested through the recommended adjustments process.

WAC 220-450-200 Wildlife rehabilitation—((Prohibition on)) Commercial uses. (1) It is unlawful to sell, offer for sale, purchase, or use for commercial purposes wildlife or parts of wildlife under any circumstances under a wildlife rehabilitation permit.

(2) ~~((As long as a primary permittee or rehabilitation facility is not paid and does not collect a fee or receive compensation))~~ Consistent with all existing wildlife rehabilitation rules, and the rest of this section, the primary permittee ~~((may use photographs, films, live video, or other sources of information to:~~

~~(a) Provide education on the practice of wildlife rehabilitation or the biology, ecological roles, and conservation needs of wildlife;~~

~~(b) Raise funds to support the wildlife rehabilitation facility or wildlife rehabilitation activities, so long as the primary permittee complies with the following criteria:~~

~~(i) He or she may not require payment or sell items, but may request a "suggested donation." Money exchanged for any item must be by donation only. A primary permittee may not refuse to give an item to a person if the person refuses to donate money or donates less money than the suggested donation;~~

~~(ii) All funds received through fund-raising efforts))~~ or entity operating a wildlife rehabilitation facility may collect funds to support the wildlife rehabilitation facility or wildlife rehabilitation facility activities.

(3) The primary permittee or the entity operating the wildlife rehabilitation facility may request donations or collect funds, however, except for oiled-wildlife rescue and rehabilitation authorized under the Federal Oil Pollution Act, all funds received for wildlife rehabilitation must go to the entity operating the wildlife rehabilitation facility or supporting wildlife rehabilitation activities~~((; and~~

~~(iii))).~~ The primary permittee may not ~~((keep money))~~ retain funds received through fund-raising efforts for personal use.

~~((3))~~ (4) It is unlawful to require a donation or charge a fee when receiving or admitting wildlife for rehabilitation unless it is authorized under the Federal Oil Pollution Act.

(5) A violation of this section is punishable under RCW 77.15.260 or 77.15.750, or both.

Summary of Public Comments Received During the Official Comment Period and WDFW Response:

WAC 220-450-200 Wildlife Rehabilitation – Commercial uses

Supporting Comments:

Nine (9) supporting comments.

Opposing, Neutral, and Other Comments:

There were no opposing comments to these amendments. There were no additional comment.

Direction and Rationale:

The department will move forward with proposed amendments to the rule.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|--|
| WAC 220-450-210 | Oiled bird rehabilitation—Facility requirements. |
| WAC 220-450-220 | Reporting receipt, death, carcass retention, and release of oiled birds. |



PROPOSED RULE MAKING

CR-102 (August 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 03, 2018

TIME: 4:15 PM

WSR 18-24-091

Agency: Washington Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-22-058 on October 26, 2017 ; 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).

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

The following rules are amended:

WAC 220-450-060 Definitions - Wildlife rehabilitation permits.

WAC 220-450-070 Wildlife rehabilitation permits – Requirements and restrictions.

WAC 220-450-080 Wildlife rehabilitation – Responsibilities of primary permittees and subpermittees.

WAC 220-450-090 Wildlife rehabilitation – Permit revocation, modification, or suspension.

WAC 220-450-100 Wildlife rehabilitation – Facility requirements and inspections – on-and off-site care.

WAC 220-450-110 Wildlife rehabilitation – Releasing wildlife.

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

WAC 220-450-130 Wildlife rehabilitation – Records retention and reporting requirements.

WAC 220-450-140 Wildlife rehabilitation – Falconers assisting with raptor rehabilitation.

WAC 220-450-150 Wildlife rehabilitation – Transfer, import, and export of wildlife and restrictions.

WAC 220-450-160 Wildlife rehabilitation – Possession of dead wildlife and wildlife parts.

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and mal-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

WAC 220-450-180 Wildlife rehabilitation – Euthanizing wildlife.

WAC 220-450-190 Wildlife rehabilitation – Disposing of wildlife remains.

WAC 220-450-200 Wildlife rehabilitation – Commercial uses.

The following rules are repealed:

WAC 220-450-210 Oiled bird rehabilitation – Facility requirements.

WAC 220-450-220 Reporting receipt, death, carcass, retention, and release of oiled birds.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|---------------------|-----------|---|----------|
| January 11-12, 2019 | 8:00 a.m. | Natural Resources Building Room 172 1111 Washington Street SE Olympia Washington 98501 | |

Date of intended adoption: February 8-9, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Wildlife Program

Address: PO Box 43200, Olympia, WA 98504

Email: wildthing@dfw.wa.gov

Fax: (360) 902-2162

Other: <https://www.surveymonkey.com/r/C53HMDW>

By (date) December 26, 2018

Assistance for persons with disabilities:

Contact Tami Lininger

Phone: (360) 902-2267

Fax:

TTY: (800) 833-6388

Email: tami.lininger@dfw.wa.gov

Other:

By (date) January 4, 2019

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

WAC 220-450-060 Definitions - Wildlife rehabilitation permits.

The purpose of the proposal is to eliminate unnecessary definitions, add definitions of terms inserted within the new amendments, and improve and refine definitions that were causing confused interpretation of the rules. Refining this rule will aid wildlife rehabilitators in understanding the rules and therefore assist them in compliance, and will aid the department in evaluating compliance of rehabilitators.

WAC 220-450-070 Wildlife rehabilitation permits – Requirements and restrictions.

The purpose of the proposal is to more thoroughly specify wildlife rehabilitator qualifications. Enhanced qualifications increases the department's ability to ensure that wildlife receive proper and humane care in wildlife rehabilitation facilities through the permitting and candidate vetting process. Clarifying language was added to existing requirements to help wildlife rehabilitation candidates know what is expected of them, and permitted wildlife rehabilitators know what they must do to maintain and renew their permits. These revisions augment the ability of the department to control the quality and character of those wishing to be wildlife rehabilitators.

WAC 220-450-080 Wildlife rehabilitation - Responsibilities of primary permittees and subpermittees.

The purpose of the proposal is to define more clearly the responsibilities of primary permittees and their sub-permittees and impose stricter requirements and conditions on these two classes of permittees. Better definition of responsibilities and relationships of the primary permittee to the sub-permittee is intended to alleviate misunderstanding of sub-permittee and primary permittee roles and clearly making the primary permittee responsible for their sub-permittees. This proposal also expands required qualifications of sub-permittees to improve care of wildlife in sub-permittee custody and allow the department more control of who may become a sub-permittee.

WAC 220-450-090 Wildlife rehabilitation – Permit revocation, modification, or suspension.

The purpose of the proposal is to present a better and more effectual description of when and how the department may take action when non-compliance, violations, or mal-practice is discovered at a wildlife rehabilitation facility. This rule outlines the procedure for assisting wildlife rehabilitators to return to compliance and the department's process to finally revoke a non-compliant permittee.

WAC 220-450-100 Wildlife rehabilitation – Facility requirements and inspections – on and off-site care.

The purpose of the proposal is to develop language for better understanding of facility requirements to increase assurance that wildlife rehabilitators provide healthy, safe, and comfortable caging, and a stress-reduced environment. Details were added to emphasize and codify the necessity for wildlife rehabilitators to follow the most current version of the National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council's Minimum Standards for Wildlife Rehabilitation. Understanding the need for these standards aids the rehabilitator in providing the safest and best living environment for captive wildlife, and supports the department with consistent criteria to assist the rehabilitator in compliance. Importantly, off-site sub-permittee restrictions and requirements were strengthened to give the department more control over sub-permittee operations and protect wildlife in both the sub-permittee and primary permittee facilities.

WAC 220-450-110 Wildlife rehabilitation – Releasing wildlife.

All wildlife rehabilitation facilities have release protocols that give wildlife the best chance at survival when back in the wild. The purpose of this proposal is to include additional provisions for release and strengthen the requirement that release protocols be followed. Substantial additions were made to this revision to better protect free wildlife populations from competition from released individuals, non-native species, and disease. In particular is the addition of cervid, amphibian, and introduced species release restrictions.

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

The purpose of the proposal is to make clear that licensed veterinarians may admit wildlife for first aid, stabilization, and euthanasia, but tightens restrictions on them. The increased restrictions places a time-limit on how long a non-permitted veterinarian may hold wildlife at his or her hospital and the requirement for transfer. This revision adds the definition of the Principal Veterinarian required by all wildlife rehabilitators.

WAC 220-450-130 Wildlife rehabilitation – Records retention and reporting requirements.

The purpose of the proposal is to enhance the understanding that records are a vital part of any wildlife rehabilitation program and are necessary for best practices and animal welfare. Little has changed in this WAC except the designation of department required records. This designation allows department agents to the records enhancing compliance.

WAC 220-450-140 Wildlife rehabilitation – Falconers assisting with raptor rehabilitation.

The purpose of the proposal is to further delimit restrictions on falconers assisting in rehabilitation of raptors. Little has changed in this WAC except the clarification that falconers may not practice wildlife rehabilitation nor use raptors in their care for falconry.

WAC 220-450-150 Wildlife rehabilitation – Transfer, import, and export of wildlife and restrictions.

The purpose of the proposal is to tighten restrictions on moving wildlife among wildlife rehabilitation facilities to prevent disease transmission and dispersion. Substantial restrictions on cervid and bat transfers were added.

WAC 220-450-160 Wildlife rehabilitation – Possession of dead wildlife and wildlife parts.

The purpose of the proposal is to only clarify what may be possessed by wildlife rehabilitators.

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and mal-habituated, mal-imprinted, and tame wildlife and live retention for foster and education.

The purpose of the proposal is to further describe clearly the rules and restrictions for obtaining education and foster animals taken from the wild and to better protect education wildlife from stress and mistreatment at a facility. Animals not suited as program animals are specifically added in this revision for their wellbeing and the public's protection. To help prevent over habituation and taming of wildlife at facilities, the 2013 wildlife rehabilitation rules included the provision that *Wildlife tamed by, imprinted on, or habituated to humans while at the primary permittee's facility or subpermittee's facility must be humanely euthanized no later than one hundred eighty days following admission to the rehabilitation facility, to protect the public and to protect the animal from human abuse* (WAC 220-450-170 (2)). Added to this provision is the option of transfer. These animals must still be evaluated for safe retention as education animals.

WAC 220-450-180 Wildlife rehabilitation – Euthanizing wildlife.

The purpose of the proposal is to prevent prolonged suffering of wildlife at a facility and ensure they receive the service of euthanasia in a timely and appropriate manner. An addition was made to ensure that wildlife presenting with diseases threatening wildlife populations be immediately reported to the department and provides for euthanasia of those animals.

WAC 220-450-190 Wildlife rehabilitation – Disposing of wildlife remains.

The purpose of the proposal is to direct for appropriate disposition of deceased wild animals in rehabilitation. Language was strengthened to ensure free wildlife was not poisoned by improperly disposed of chemically treated deceased wildlife. Added were provisions for disposition of animals with reportable diseases.

WAC 220-450-200 Wildlife rehabilitation –Commercial uses.

The purpose of the proposal is to allow wildlife rehabilitators to collect donations and funds to support the wildlife rehabilitation facility but not charge for services. This WAC has substantial changes concerning collecting funds for facility operations.

WAC 220-450-210 Oiled bird rehabilitation – Facility requirements. (Repealer)

The purpose of the proposal is to eliminate this rule and merge oiled facility requirements into the existing wildlife rehabilitation facility requirements rule for ease of location and to emphasize that oiled wildlife facilities are a part of general wildlife rehabilitation permitting. Oiled facility requirements were not changed substantially. This rule was moved in consultation with the Oil Spill Team and all language revisions were done by the Oil Spill Team.

WAC 220-450-220 Reporting receipt, death, carcass, retention, and release of oiled birds. (Repealer)

The purpose of the proposal is to eliminate this rule and merge with existing appropriate wildlife rehabilitation rules for ease of location. The elimination of this rule and move to existing wildlife rehabilitation rules was done in consultation with the Oil Spill Team.

Reasons supporting proposal:

WAC 220-450-060 Definitions - Wildlife rehabilitation permits.

This revision is consistent with providing easy-to-understand rules by which wildlife in captivity may experience best practices for housing and welfare, and compliance is made less complicated for the permitted wildlife rehabilitator.

WAC 220-450-070 Wildlife rehabilitation permits – Requirements and restrictions.

These amendments make the rule consistent with the department's responsibility to safeguard wildlife in captivity and strengthen staff's ability to evaluate and certify qualifications of those applying for a wildlife rehabilitation permit. Since the expanded wildlife rehabilitation rules were adopted in 2013 we have recorded where additional qualifications, guidelines, and regulations were necessary for wildlife rehabilitators to provide proper care for wildlife and meet the department requirements. These revisions better ensure that humane care and treatment is provided for wildlife in rehabilitation which is expected by the department and the public.

WAC 220-450-080 Wildlife rehabilitation – Responsibilities of primary permittees and subpermittees.

The existing rule has failed to provide the tools by which the department can manage sub-permittees and protect wildlife in their care, relying too much on the primary permittee to certify qualifications and oversee the operations of their sub-permittees. The amendments to this rule will strengthen department oversight of sub-permittees, prevent cases of mal-treatment of wildlife and illegal possession of wildlife, and afford the department greater ability to verify and enforce compliance of sub-permittees.

WAC 220-450-090 Wildlife rehabilitation – Permit revocation, modification, or suspension.

This revision is consistent with the department's responsibility to protect wildlife in captivity from inhumane treatment, protect free wildlife populations from the spread of disease and mal-behavior caused by improper handling of animals, and protect the public from dangerous wildlife to the best of the department's ability, and that all wildlife held under a wildlife rehabilitation permit remains the property of the state held in trust for Washingtonians and is controlled and regulated by the state. The current rule has failed to provide a coherent system for suspending and revoking permits of wildlife rehabilitators who violate rules and permit conditions in most flagrantly. This revision should provide a less cumbersome and more efficient step-wise method for assisting wildlife rehabilitators to come into compliance and enforcing state and department rule.

WAC 220-450-100 Wildlife rehabilitation – Facility requirements and inspections – on and off-site care.

Wildlife rehabilitation housing and operations are essential for captive wildlife health, safety, and successful release and the department must continue improving standards required of wildlife rehabilitators. The intent of this proposal is to improve wildlife housing at new and existing facilities and assist wildlife rehabilitators in providing the best conditions. Included in this revision is a provision to make inspections consistent with RCW [77.15.096](#) providing for inspections without warrant at any reasonable time and without a rehabilitator present.

The current rule fails to define clearly off-site permittees and their facilities which has been problematic in tracking and enforcing best practices of sub-permittees, therefore, detailed requirements and restrictions were added.

WAC 220-450-110 Wildlife rehabilitation – Releasing wildlife.

The primary importance of this rule's amendments is the protection of free wildlife populations. The revisions to this rule are consistent with the departments mandate to protect wildlife populations and, particular to this rule, prevent the transmission and introduction of disease. Supporting this proposal will provide this protection with increased regulations on the release of rehabilitated wildlife.

WAC 220-450-120 Wildlife rehabilitation – Veterinary care.

Well-meaning veterinarians often have little to no experience in treating and handling wildlife which results in very poor care to tragic consequences to the individuals. This revision requires that wildlife admitted to a veterinary clinic be transferred within 48 hours to a wildlife rehabilitator. Conversely, veterinarians have been unsure of and uncomfortable with accepting wildlife for fear of illegal possession and rehabilitation of wildlife. This rule revision makes it clear that even unpermitted veterinarians may admit wildlife. One of the essential services that veterinarians can provide for wildlife and the public is immediate euthanasia of a suffering animal. Support of this proposal will encourage provision of that service.

WAC 220-450-130 Wildlife rehabilitation – Records retention and reporting requirements.

Good record keeping provides documentation that animals are being cared for thoroughly and properly. Department agents and staff must be allowed to inspect records to verify that a facility is conforming to best husbandry and treatment practices for wildlife. In past compliance cases, this has not been allowed. Supporting this revision will permit the department to require the records and verify that wildlife is getting the best care at a facility

WAC 220-450-140 Wildlife rehabilitation – Falconers assisting with raptor rehabilitation.

The proposed revisions clarify the limits on falconers who assist with raptor rehabilitation. Support of this proposal will maintain the separation of the activities of falconry and wildlife rehabilitation.

WAC 220-450-150 Wildlife rehabilitation – Transfer, import, and export of wildlife and restrictions.

It is exceptionally important to free wildlife populations to be protected from the introduction and transmission of existing diseases and emerging diseases. It is equally important to protect the public from the spread of zoonotic diseases. Supporting this proposal will provide a means for this protection by increasing restriction and regulations on the transfer and movement of wildlife in rehabilitation around the state.

WAC 220-450-160 Wildlife rehabilitation – Possession of dead wildlife and wildlife parts.

Only minor word changes were made to this WAC.

WAC 220-450-170 Wildlife rehabilitation – Disposition of nonreleasable and mal-habituated, ma-imprinted, and tame wildlife and live retention for foster and education.

Considerable concern has been expressed about the conditions under which wildlife is kept for education, and the circumstances under which those wild animals became education animals. Added to this rule is greater protection for wildlife held for education by requiring an application for education and foster animals certifying that the animal is in fact nonreleasable and will not experience pain, suffering, and undue stress while captive.

WAC 220-450-180 Wildlife rehabilitation – Euthanizing wildlife.

This proposal seeks to ensure that all wildlife so severely injured or non-treatable admitted to a permitted wildlife rehabilitation facility be given the service of euthanasia in a humane and timely manner and that those animals not languish for long periods of time.

WAC 220-450-190 Wildlife rehabilitation – Disposing of wildlife remains.

Amendments to this proposal protect free wildlife from euthanasia, immobilization, and drug chemicals, and from disease transmission.

WAC 220-450-200 Wildlife rehabilitation –Commercial use.

Wildlife rehabilitators maintain and operate their facilities and services on a donation basis only making it difficult to obtain funding for wildlife rehabilitation. This revision gives them options for collecting funds to support their wildlife rehabilitation practice.

WAC 220-450-210 Oiled bird rehabilitation – Facility requirements. (Repealer)

Moving oiled wildlife facility requirements to *WAC 220-450-100 Wildlife rehabilitation—Facility requirements and inspections—On- and off-site care* simplifies the oiled wildlife rules and places facility requirements in a logical place in the general wildlife rehabilitation rules.

WAC 220-450-220 Reporting receipt, death, carcass, retention, and release of oiled birds. (Repealer)

The elimination of an extra rule and moving the requirements to an existing rule make the requirements easier to find. This proposal emphasizes that oiled wildlife rehabilitation is part of general wildlife rehabilitation permitting. This rule was moved in consultation with the Oil Spill Team and all language revisions were done by the Oil Spill Team.

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070.

Statute being implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.467, 77.12.469, and 77.32.070.

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

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: | Eric Gardner | Natural Resources Building 1111 Washington St SE Olympia, WA 98501 | (360) 902-2515 |
| Implementation: | Eric Gardner | Natural Resources Building 1111 Washington St SE Olympia, WA 98501 | (360) 902-2515 |
| Enforcement: | Steve Bear | Natural Resources Building 1111 Washington St SE Olympia, WA 98501 | (360) 902-2373 |

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

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:

TTY:

Email:

Other:

No: Please explain: The rule proposal will not impose more than minor costs on businesses in the industry.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.030.

Explanation of exemptions, if necessary: Because the proposed rules will not impose more than minor costs on businesses in the affected industry.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES


If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

| | |
|---------------------------------|---|
| Date: December 3, 2018 | Signature:  |
| Name: Scott Bird | |
| Title: Rules Coordinator | |