



Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

3/15/2024

Agenda item: Petition to amend policies on the use of Wildlife Control Operators

Presenter(s): Fenner Yarborough, Landowner Services Division Manager

Background summary:

The petitioner has requested the Commission to direct the Department to commence rulemaking to expand the current Wildlife Control Operator (WCO) program. The request, if adopted, would amend WCO and certain wildlife conflict rules to allow for direct unsupervised WCO response to human-wildlife conflicts involving species beyond the scope of their current certification level as approved by the Department. This proposal would alter the WCO program dramatically and require significant changes to conflict WAC rules, training, and Department policies and dramatically increase field and administrative staff time to administer and manage expanded WCO activities.

The Department has three rules in WAC related to requirements for application, certification, use, and reporting required for WCOs. See WACs 220-440-020, 220-440-100, 220-440-110, and 220-440-120. Under these rules, WCOs are not governmental agents or employees of, nor contractors for the Department of Fish and Wildlife. These rules provide for the minimum qualifications, Department-provided training and certification of these experienced citizens as professional wildlife conflict reduction and abatement practitioners. With a WCO certification, an individual may assist landowners, prioritizing non-lethal over killing mitigation methods, including legal trapping methods, with wildlife damage issues.

Once trained and certified by the Department, the WCO is certified and allowed to charge a fee for providing services to assist landowners with employing nonlethal abatement techniques, or to pursue, harass, trap, or kill certain species of wildlife when causing damage to private property. The species WCOs are trained for and allowed to abate are only those species classified as small game, furbearers, unprotected, or unclassified wildlife. The petition, as written, implies these species, ungulates, and large carnivores would be lumped into a single category for management.

The existing WCO WAC rules already provide for multiple “levels of certification” and the Department has thus far limited WCO certification to a single level, certifying WCOs for only the conflict abatement of the above listed smaller species more typically involved in residential or non-agricultural business conflicts. Thus, a WAC amendment would not be required to add additional levels of certification for other species if the Department chose to create those additional tiers. The WCO rules also already provide for the Department to make additional conditions, procedures, and training requirements for certification without the rules being amended.

WCO training and certification does not include abatement of conflicts involving ungulates, large carnivores, and any protected species on a federal or state list. Waterfowl can be mitigated in certain

circumstances with additional permitting by that species from US Fish and Wildlife Service and the Department. Any wildlife removed under an abatement action can only be retained for personal use if the WCO is providing abatement involving a species for which they also have any required trapping or hunting license, and the appropriate season is open for those species. In the event a species is taken under a special trapping permit issued by the Department for use of an authorized body gripping trap that wildlife cannot be sold.

Department staff from both the enforcement program and the wildlife program have shared responsibility to handle calls involving large carnivores and moose in urban areas. Wildlife program staff handle all other species that our enforcement and WCOs do not. There are established regulations and procedures already in place which address the majority of damage situations the petitioner has referenced. There are also safety concerns related to response to these large species in conflict situations that WCOs would not be able to deal with under current laws and authority. Further, there are specific rules and responsibilities of the Department regarding deer and elk conflict response when it involves commercial crop damage. Those incidents can also result in claims for damage and for payment by the agency.

The agency would need to study the possibility of any possible legislative RCW changes to accommodate some of the actions the petitioner requests. The Department may also need to amend WAC rules to incorporate a wider range of experience requirements for a WCO applicant, significantly increase training for additional species and include training that is vastly more complex than that for the species they are already certified for. Also, more than just WCO rules may need to change, including crop damage and claim rules regarding communication with the Department and reporting. The Department already has a well-established Master Hunter Program that is structured and used to do this type of work for deer and elk conflicts in exchange for receiving hours of service credit toward their Master Hunter renewal. This program is administered by the Hunter Education Program. Expanding WCO activities into those areas handled by Master Hunters would only reduce the ability and opportunities for those volunteers who willingly invest their time and expense to train, be certified, and subsequently engage in assisting the Department with reducing conflict.

Additionally, major Department policies currently under review for revision (such as commercial deer and elk crop damage response and dangerous wildlife policies), would also need to be amended to now share response options with WCOs. This would be a challenge as a policy matter as both policies attend to issues such as liability of the state for crop damage, and for safe handling and relocation or lethal removal decisions of large carnivores in a conflict situation. It would be a substantial departure from agency past policy and practice to allow trained, but unaffiliated parties to make independent decisions in the field that have larger overall public safety, financial, species impacts, and policy implications for the agency and public.

One of the initial assertions in the petition is that by enabling WCOs to assist WDFW Wildlife Conflict Specialists, staff time and expenses would be reduced, enabling staff to respond to other calls faster. The petitioner outlined a suggested new protocol to implement. The outlined protocol may offset select field staff workload in limited areas, but the outlined protocol is not applicable statewide. If the proposal was implemented, the outcome may instead require more staff interaction time with producers, especially in challenging areas like those with no shooting zones and other ordinances which affect conflict response. Development, maintenance and stewardship of related reports, forms, and collected data, as well as the design and implementation of a new training also significantly increases WDFW staff workload. Ultimately this would create more work and time (expenses) for all Conflict Section staff, from the field to Headquarters. With the suggested protocol, WCOs would require supervision and direction from local

Wildlife Conflict Specialists, which is beyond the job description of Wildlife Conflict field staff. Supervision of WCOs would also create more workload for all staff involved to direct and review the referenced work and increased record keeping.

Lastly, the petitioner suggested that WDFW pay WCOs a flat fee for the initial response and report documenting the ungulate or predator conflict. WCOs are not paid by WDFW. The petitioner's suggestion would change the Department's relationship to the WCO to make them our contractor and/or agent. There are contracting, liability, insurance, and other issues that present legal impediments and make this proposal more expensive and management intensive than the damage it prevents.

Staff recommendation:

Department staff recommend denying this petition as there are statutory, liability, Department policy issues, and funding challenges that make the petition infeasible.

Policy issue(s) and expected outcome:

If this petition is denied, rulemaking would not be initiated to amend WAC 220-440-040, WAC 220-440-060, WAC 220-440-100, WAC 220-440-110, and/or WAC 220-440-120.

Fiscal impacts of agency implementation:

The fiscal impact of this decision is minimal and is not different from the status quo.

Public involvement process used and what you learned:

The public were given notice of this petition through the commission agenda and had an opportunity to submit written comment. There was no public involvement directly related to this petition prior to its submission. A public engagement process will occur if rule making occurs in the future.

Action requested and/or proposed next steps:

Dependent on Commission decision.

Draft motion language:

I move that we deny this petition.

Post decision communications plan:

Communicate the outcome of the Commission's decision to the petitioner.