

STATEMENT OF REASONS

WYOMING GAME AND FISH COMMISSION

CHAPTER 52

NONGAME WILDLIFE REGULATION

W.S. § 23-1-103 states it is the purpose of this act and the policy of the state to provide an adequate and flexible system for control, propagation, management, protection and regulation of all Wyoming wildlife.

W.S. § 23-1-302 (a)(xxii) directs and empowers the Commission to promulgate such regulations as the Commission considers necessary to carry out the intent of this act.

The title has been changed to TAKE OF NONGAME WILDLIFE FROM WITHIN WYOMING to more accurately capture the intent of this regulation.

Section 2. The definitions and terms “Aquaria” and “Ornamental Pond” have been removed from this regulation and will be incorporated into a new proposed Commission Regulation Chapter 69, Importation and Possession of Cold-Blooded Wildlife. The terms “Exotic species, Predacious bird and Protected animal” have been included so as to properly reference their statutory definitions. “Nongame wildlife” has been redefined to exclude “exotic species, domestic animals and domesticated animals”. (Domestic and domesticated animals are currently defined in Commission Regulation Chapter 10, Importation and Possession of Warm-Blooded Wildlife). Subsection 2 (b)(v) references Section 2 of Commission Regulation Chapter 46, Fishing Regulations since the definition of game fish is dependent on specific waters or drainages where the species occurs.

Section 3 is a new section and addresses the purpose of the regulation, and is meant to clarify that these rules apply only to in-state take of nongame wildlife and that such taking may require a permit under Commission Regulations Chapter 10, Importation and Possession of Live Warm-Blooded Wildlife; Chapter 33, Scientific Research, Educational or Special Purpose Permits; or Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

Old Section 3 has been reorganized into the new Section 4. Updated language was added to clarify the controlling regulation for warm-blooded live wildlife is Commission Regulation Chapter 10, and the controlling regulation for cold-blooded live wildlife will be the new Commission Regulation Chapter 69.

Old Section 4 has been reorganized into the new Section 5. The new Section 5 clarifies that the take of nongame wildlife only applies to take from within Wyoming. Language has been added that requires a Chapter 33 permit for take of nongame wildlife for research, education or special purposes. This will allow the Department to utilize information gained from permit activities for the benefit of wildlife management. The additional language of “unintentional motor vehicle strikes” is

meant to provide clarification regarding the unintentional take of a swift fox or gray fox in subsection (c). Language has been added that requires Department authorization to retain the pelts of swift and gray fox. Language has been added in subsection (d) requesting notification from persons who unintentionally take or injure a protected animal. The data gained from such reporting will help the Department monitor the presence of these species.

Old Section 4 (b) has been reformatted into the new Section 6 and has been edited to include the take of nongame wildlife from within Wyoming for commercial use, and also includes reference to the new Commission Regulation Chapter 69, Importation and Possession of Cold-Blooded Wildlife. These edits will facilitate locating rules concerning commercial use of nongame wildlife within Department Regulations.

Old Section 5 has been reformatted into the new Section 7. Edits to this section restrict the public's opportunity to take certain amphibians and reptiles for personal use but continue to allow their take under Commission Regulation Chapter 33 for scientific research, educational or special purposes. These are species of concern and warrant additional protection due to their sensitive status. Four additional species were added to the list of amphibians and reptiles due to their sensitive status. Clarification has been included in Section 7 (b) indicating that any reptiles or amphibians taken for personal use shall not be used as fishing bait. This clarification is designed to help prevent the spread of disease; similar wording is also found in Commission Regulation Chapter 46, Fishing Regulations. Due to the destructive potential the bullfrog has on native wildlife, the requirement that they be killed immediately upon possession was added.

Old Section 6 has been reformatted into the new Section 8 and addresses the take of nongame birds. Edits to this section removed language that is otherwise included under Commission Regulation Chapter 33 with regard to determining a beneficial use to the Department for permit requests. Language has been added that requires a Chapter 33 scientific research, educational or special purpose permit for take of predacious and exotic birds and birds declared as pests. This will allow the Department to utilize information gained from permitted activities for the benefit of wildlife management. Edits to Section 8 (c) include "take for commercial use without a permit" to provide clarity. Mute swans may not be taken for commercial use due to their invasive nature and potential of harming the state's natural resources through disease, competition and destruction of habitat.

Old Section 8 has been reformatted into the new Section 9 and distinguishes nongame fish that are not defined as aquatic invasive species for clarity. Edits to this section restrict the public's opportunity to take certain fish for personal use but continue to allow their take under Commission Regulation Chapter 33 for scientific research, educational or special purposes. In addition to a license or permit required for taking of nongame fish in subsection (b), the new Commission Regulation Chapter 69 was referenced. The prohibition against using live Goldfish or koi for fishing bait was added to protect Wyoming's resources from competition from these species. This prohibition is also found in Commission Regulation Chapter 46, Fishing Regulations. Take of nongame fish for use in aquaria in subsection (d) is no longer authorized under a Chapter 33 permit, but will be authorized under the new proposed Chapter 69 regulation which will govern this intended use. If the species were to be taken for scientific research, the need for a Chapter 33 permit would still apply.

Old Section 10 taxonomic reference information is being removed from this regulation. These reference documents are continually updated with genus and species name changes by the scientific community and doesn't always allow for the most current scientifically accepted references to be utilized in this regulation. Scientific names of species are provided on permit applications which allows Department personnel to consult with applicants to identify exactly which species are being requested.

The new Section 10 incorporates language from the old Section 9. The ability of obtaining a Chapter 10 permit other than for those non-sensitive species listed in subsection (b) has been removed due to the sensitive status of all other nongame mammal species. Commercial and personal use was added to the taking of mammal pests for added clarity in subsection (b). The marmot was added in this subsection as it was inadvertently omitted in the last Chapter 52 revision and should be allowed for take without a permit. The Norway rat was removed from this subsection as it is defined in Commission Regulation Chapter 10 as a domestic animal, and is not considered nongame wildlife.

Old Section 7 has been reformatted into the new Section 11 and distinguishes mollusks and crustaceans that are not otherwise defined as aquatic invasive species for clarity. Subsection (a) removes the ability of obtaining a Chapter 10 permit for the species listed due to their sensitive status but retains the ability for a person to apply for a Commission Regulation Chapter 33 permit for scientific research, educational or special purpose. Subsection (b) provides a restriction that only crayfish are allowed for use as live fishing bait as other crustaceans or mollusks routinely are not. This restriction will also help to prevent unintended introductions of mollusks and crustaceans into Wyoming waters. Due to disease concerns, crayfish may not be used as live fishing bait once transported from the water of capture. Except for live crayfish as mentioned, live crustaceans and mollusks shall be confined to aquaria or aquaponic systems, and shall not be used as fishing bait due to disease and competition concerns.

Minor grammatical and numerous formatting edits have been incorporated to provide additional clarity but do not change the intent of the rules and regulations.