



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing. 11-192

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: The new WAC specifies legal season dates, bag limits, and open areas to hunt waterfowl, coot, and snipe for the 2011-12 hunting season.

Waterfowl seasons and regulations are developed based on cooperative management programs among states of the Pacific Flyway and the U.S. Fish and Wildlife Service, considering population status and other biological parameters. The rule establishes waterfowl seasons and regulations to provide recreational opportunity, control waterfowl damage, and conserve the waterfowl resources of Washington.

Citation of existing rules affected by this order:

Repealed: 232-28-433 and 232-28-434

Amended:

Suspended:

Statutory authority for adoption: 77.04.012; 77.04.055; 77.12.047; 77.32.070

Other authority : CFR Title 50, Part 20; Migratory Bird Treaty Act

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 11-13-089 on June 17, 2011 (date).

Describe any changes other than editing from proposed to adopted version:

For changes regarding waterfowl, see Attachment A – Statement of Changes. Adoption of cougar rules contained in WSR 11-13-089 will come under a separate CR-103P, with filing expected on or shortly after August 19, 2011.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____

Address: _____ fax () _____

e-mail _____

Date adopted: August 11, 2011

NAME (TYPE OR PRINT)

Miranda Wecker

SIGNATURE

Miranda Wecker

TITLE

Chair, Fish and Wildlife Commission

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 11, 2011

TIME: 3:20 PM

WSR 11-17-049

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	<u>1</u>	Amended	_____	Repealed	<u>2</u>
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

ATTACHMENT A

STATEMENT OF CHANGES

WAC 232-28-435 2011-12 Migratory waterfowl seasons and regulations.

Changes from the text of the proposed rule and reasons for difference:

- In Goose Management Area 1, additional requirements for the use of snow goose decoys were developed for the 2010-11 season to reduce trespass, ethical hunting concerns, and safety issues on Fir Island in Skagit County. The 2010-11 requirements were continued in the draft 2011-12 rule, which included size, numbers, placement, and attendance of decoys. The proposed adjustment eliminates requirements and associated penalties based on recent input from the Fir Island Working Group, which viewed the requirements as being too restrictive, interfering with legitimate hunting practices, and discouraging participation in the season.
- For the regular and late seasons in Goose Management Areas 2A and 2B, specific limits for cackling geese were not proposed in the draft rule. Due to lower cackling goose breeding numbers recorded in July 2011 and the continuing need to address agricultural damage concerns, U.S. Fish and Wildlife Service established the cackling goose limits at 3 per day and 6 in possession. These adjustments to limits are recommended in several locations in the draft rule.
- For Goose Management Area 2B, the Oct. 15 – Jan. 14 season dates are recommended for adjustment to Oct. 15 – 26 and Nov. 5 – Jan. 21, for both the regular and falconry seasons. The one week closure is proposed to accommodate a new Pacific Flyway population survey for the area, which requires no harvest of marked birds during the survey period.
- For Goose Management Areas 2A and 2B, the definition of a cackling goose was omitted from the draft rule because specific bag limits were not proposed. Specific cackling goose limits are recommended as adjustments to the draft rule, so the definition is now required and also included as a recommended adjustment.
- The brant season in Pacific County was proposed in the draft rule for 10 days during January 14-29. In response to recent input from the Waterfowl Advisory Group, the proposed adjustment shifts the 10 day season one week earlier to January 7-22, to allow less overlap with the Skagit County brant season.
- The draft rule proposed an administrative penalty in 2012-13 for failing to report 2011-12 migratory bird harvest by established deadlines. This penalty is proposed for consistency with non-reporting penalties for several other game species with mandatory reporting requirements. The recommended adjustment proposes delaying implementation by one year, because of unanticipated scheduling problems in applying the penalty through the WILD licensing system for 2012-13. This adjustment will allow more time for implementation in the WILD licensing system and additional notice for migratory bird hunters.

NEW SECTION

WAC 232-28-435 2011-12 Migratory waterfowl seasons and regulations.

DUCKS

Statewide

Oct. 15-19, 2011 and Oct. 22, 2011 - Jan. 29, 2012; except scaup season closed Oct. 15 - Nov. 4.

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 24-25, 2011.

Daily bag limit: 7 ducks, to include not more than 2 hen mallard, 2 pintail, 3 scaup, 1 canvasback, and 2 redhead statewide; and to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye in Western Washington.

Possession limit: 14 ducks, to include not more than 4 hen mallard, 4 pintail, 6 scaup, 2 canvasback, and 4 redhead statewide; and to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye in Western Washington.

Season limit: 1 harlequin in Western Washington.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SEA DUCKS

Hunters must possess a special 2011-2012 hunting authorization and harvest record card for sea ducks when hunting harlequin, scoter, long-tailed duck, and goldeneye in Western Washington. Hunters who did not possess a 2010-11 sea duck harvest record card must submit an application form to WDFW. Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest record card.

COOT (Mudhen)

Same areas, dates (including youth hunting weekend), and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

SNIPE

Same areas, dates (except youth hunting weekend), and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

GEESE (except Brant)

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 24-25, 2011, statewide except Western Washington Goose Management Areas 2A and 2B.

Daily bag limit: 4 Canada geese.
Possession limit: 8 Canada geese.

Western Washington Goose Seasons

Goose Management Area 1

Island, Skagit, Snohomish counties.

Oct. 15, 2011 - Jan. 29, 2012 for snow, Ross', and blue geese.
Oct. 15-27, 2011 and Nov. 5, 2011 - Jan. 29, 2012 for other geese (except Brant).

Daily bag limit: 4 geese.
Possession limit: 8 geese.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SNOW GEESE

Hunters must purchase a special 2011-12 migratory bird hunting authorization and harvest record card for snow geese when hunting snow, Ross', and blue geese in Goose Management Area 1. Hunters who did not possess a 2010-11 snow goose harvest record card must submit an application form to WDFW. Immediately after taking a snow, Ross', or blue goose into possession, hunters must record in ink the information required on the harvest record card.

SNOW GOOSE QUALITY HUNTING PROGRAM IN GOOSE MANAGEMENT AREA 1

All hunters must obey posted signs regarding access restrictions. Quality hunt units are not available for commercial uses.

SKAGIT COUNTY SPECIAL RESTRICTIONS

It is unlawful to discharge a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or to discharge a firearm for the purpose of hunting snow geese within 100 feet of any paved public road in other areas of Skagit County.

While hunting snow geese, if a hunter is convicted of (a) trespass; (b) shooting from, across, or along the maintained part of any public highway; (c) discharging a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or discharging a firearm within 100 feet of any paved public road for the purpose of hunting snow geese in other areas of Skagit County; or (d) exceeding the daily bag limit for geese, authorization will be invalidated for the remainder of the current snow goose season and an authorization will not be issued for the subsequent snow goose season.

Goose Management Area 2A

Cowlitz and Wahkiakum counties, and that part of Clark County north of the Washougal River.

Open in all areas except Ridgefield NWR from 8 a.m. to 4:00 p.m.,

Saturdays, Sundays, and Wednesdays only, Nov. 12-27, 2011 and Dec. 7, 2011 - Jan. 29, 2012, except closed Dec. 25, 2011 and Jan. 1, 2012. Ridgefield NWR open from 8 a.m. to 4:00 p.m. Tuesdays, Thursdays, and Saturdays only, Nov. 12-26, 2011 and Dec. 8, 2011 - Jan. 28, 2012, except closed Nov. 24, 2011 and Dec. 25, 2011 and Jan. 1, 2012.

Bag limits for Goose Management Area 2A:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 6 cackling geese.

Season limit: 1 dusky Canada goose.

Goose Management Area 2B

Pacific County.

Open from 8 a.m. to 4:00 p.m., Saturdays and Wednesdays only, Oct. 15-26, 2011 and Nov. 5, 2011 - Jan. 21, 2012.

Bag limits for Goose Management Area 2B:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose, 3 cackling geese, and 1 Aleutian goose.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose, 6 cackling geese, and 2 Aleutian geese.

Season limit: 1 dusky Canada goose.

Special Provisions for Goose Management Areas 2A and 2B:

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

The goose season for Goose Management Areas 2A and 2B will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 40 geese. The fish and wildlife commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 40 dusky, to be distributed 5 for Zone 1 (Ridgefield NWR); 5 for Zone 2 (Cowlitz County south of the Kalama River); 15 for Zone 3 (Clark County except Ridgefield NWR); 7 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); and 8 for Zone 5 (Pacific County). Quotas may be shifted to other zones during the season to optimize use of the statewide quota and minimize depredation.

Hunters must possess a special 2011-12 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card when hunting geese in Goose Management Areas 2A and 2B. New hunters and those who did not maintain a valid 2010-11 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to

receive authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time.

Immediately after taking any goose into possession, hunters must record in ink the information required on the harvest record card. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site, before 6:00 p.m. All geese shall be presented intact and fully feathered at the check station. If a hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the harvest record card, authorization will be invalidated and the hunter will not be able to hunt geese in Goose Management Areas 2A and 2B for the remainder of the season and the special late goose season. It is unlawful to fail to comply with all provisions listed above for Goose Management Areas 2A and 2B.

Special Late Goose Season for Goose Management Area 2A:

Open to Washington department of fish and wildlife master hunter program graduates and youth hunters (15 years of age or under, who are accompanied by a master hunter) possessing a valid 2011-12 southwest Washington goose hunting authorization and harvest record card, in areas with goose damage in Goose Management Area 2A on the following days, from 7:00 a.m. to 4:00 p.m.:

Saturdays and Wednesdays only, Feb. 4 - Mar. 7, 2012.

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 6 cackling geese.

Season limit: 1 dusky Canada goose.

A dusky Canada goose is defined as a dark-breasted Canada goose (as shown in the Munsell color chart 10 YR, 5 or less) with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

Hunters qualifying for the season will be placed on a list for participation in this hunt. Washington department of fish and wildlife will assist landowners with contacting qualified hunters to participate in damage control hunts on specific lands incurring goose damage. Participation in this hunt will depend on the level of damage experienced by landowners. The special late goose season will be closed by emergency action if the harvest of dusky Canada geese exceeds 45 for the regular and late seasons. All provisions listed above for Goose Management Area 2A regarding authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their participation at least 24 hours in advance by calling the goose hunting hotline (listed on hunting authorization), and hunters must check out by 5:00 p.m. on each hunt day regardless of success. It is unlawful to fail to comply with all provisions listed above for

the special late season in Goose Management Area 2A.

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1, 2A, and 2B.

Oct. 15-27, 2011 and Nov. 5, 2011 - Jan. 29, 2012.

Daily bag limit: 4 geese.

Possession limit: 8 geese.

Eastern Washington Goose Seasons

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Saturdays, Sundays, and Wednesdays only during Oct. 15, 2011 - Jan. 22, 2012; Nov. 11, 24, and 25, 2011; Dec. 26, 27, 29, and 30, 2011; January 16, 2012; and every day Jan. 23-29, 2012.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4.

Oct. 15-19, 2011, every day from Oct. 22, 2011 - Jan. 29, 2012.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese.

Possession limit: 8 geese.

BRANT

Open in Skagit County only on the following dates:

Jan. 14, 15, 18, 21, 22, 25, 28, and 29, 2012.

If the 2011-12 preseason brant population in Skagit County is below 6,000 (as determined by the early January survey), the brant season in Skagit County will be canceled.

Open in Pacific County only on the following dates:

Jan. 7, 8, 10, 12, 14, 15, 17, 19, 21, and 22, 2012.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT BRANT

Hunters must possess a special 2011-12 migratory bird hunting authorization and harvest record card for brant when hunting brant. Hunters who did not possess a 2010-11 brant harvest record card must submit an application form to WDFW. Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest record card.

Bag limits for Skagit and Pacific counties:

Daily bag limit: 2 brant.

Possession limit: 4 brant.

SWANS

Season closed statewide.

MANDATORY REPORTING FOR MIGRATORY BIRD HARVEST RECORD CARDS

Hunters must report 2011-12 harvest information from band-tailed pigeon harvest record cards to WDFW for receipt by September 30, 2011, and harvest information from brant, sea duck, and snow goose harvest record cards to WDFW for receipt by February 15, 2012. Every person issued a migratory bird hunting authorization and harvest record card must return the entire card to the Washington department of fish and wildlife or report the card information at the designated internet site listed on the harvest record card. Any hunter failing to report by the deadline will be in noncompliance of reporting requirements. Hunters who have not reported hunting activity by the reporting deadline for any harvest record card acquired in 2012-13 will be required to pay a \$10 administrative fee before any new 2013-14 migratory bird authorization and harvest record card will be issued. A hunter may only be penalized a maximum of \$10 during a license year.

FALCONRY SEASONS

DUCKS, COOTS, AND SNIPE (Falconry)

(Bag limits include geese and mourning doves.)

Oct. 15-19, 2011 and Oct. 22, 2011 - Jan. 29, 2012 statewide.

Daily bag limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese and mourning doves during established seasons.

GEESE (Falconry)

(Bag limits include ducks, coot, snipe, and mourning doves.)

Goose Management Area 1: Oct. 15, 2011 - Jan. 29, 2012 for snow, Ross', or blue geese. Oct. 15-27, 2011 and Nov. 5, 2011 - Jan. 29, 2012 for other geese.

Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. 12-27, 2011 and Dec. 7, 2011 - Jan. 29, 2012.

Goose Management Area 2B: Saturdays and Wednesdays only, Oct. 15-26, 2011 and Nov. 5, 2011 - Jan. 21, 2012.

Goose Management Areas 3, 4, and 5: Oct. 15-27, 2011 and Nov. 5, 2011 - Jan. 29, 2012.

Daily bag limit for all areas: 3 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

Possession limit for all areas: 6 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-28-433	2009-10 Migratory waterfowl seasons and regulations.
WAC 232-28-434	2010-11 Migratory waterfowl seasons and regulations.