

5. SPECIAL SEASONS AND HUNTING RESTRICTIONS – RULE BRIEFING AND PUBLIC HEARING

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“GREEN SHEET”

Meeting: March 6-7, 2009
Agenda Item 5: Special Seasons and Hunting Restrictions – **Rule Briefing and Public Hearing**
Prepared By: Dave Ware
Presented By: Dave Ware, Game Division Manager, Wildlife Program

Background:

Department staff will brief the Commission on proposed amendments and proposed new section to the following WACs: 232-28-294 Multiple season big game permits; 232-28-291 Special hunting season permits; 232-12-055 Hunting – Hunter orange clothing requirements; and 232-12-062 Party hunting.

Several changes are proposed for the special permit application system. The proposed changes were developed during the public comment period for the 2009-11 Hunting Season Package; however programming changes to the drawing system could not be completed in time for the 2009 drawing. Therefore, these recommended changes will be implemented for the 2010 drawing. The proposed changes have received support from the public as well as Game Management Advisory Council members. These changes will generate funding to expand the hunter access program into priority areas of the state.

The multiple season permit recommended amendments would change the process for purchasing permits to a first come first served system and would increase the number of deer permits from 1500 to 2000 and the number of elk permits from 500 to 600. Once the hunters are drawn, notifications would go out to a greater number of hunters than permits available. Those hunters notified would be allowed to purchase the multiple season permits on a first-come, first-served basis until the quota is reached.

Changes to the special permit rules are designed to accommodate the multiple season permit changes; reduce deer and elk permit group sizes; and clean up other areas consistent with the current permit drawings and proposed changes.

Changes to the hunter orange requirements are designed to clarify the seasons when hunters must wear orange clothing. The proposed party hunting rule is to define what is meant by party hunting; clarify that party hunting is illegal for big game and turkeys; and improve compliance with hunters who don't have a valid deer or elk tag, but wish to continue hunting other wildlife.

Policy Issue(s) you are bringing to the Commission for consideration:

- Modify the permit application process to create additional permit categories and generate additional revenue.
 - Expand the number of multiple season permits and simplify the purchasing process.
 - Clarify hunter orange and party hunting regulations.
-

Public involvement process used and what you learned:

The Department conducted an extensive public involvement process to develop these three-year hunting season cycle recommendations. In June 2008, the Department received nearly 4,000 responses to a scoping survey that was developed to determine the major issues that were important to the public. After the initial scoping phase, the issues were refined and preferred alternatives to address those issues were developed. The alternatives were discussed at more than ten public meetings held throughout the state in August and September. Nearly 5,000 people commented on the Alternatives, which were presented at the public meetings and available online for approximately seven weeks. In early January, an email was sent to over 50,000 hunters announcing that the proposed recommendations were online and would be available for comment until February 20. A postcard was mailed to approximately 800 organizations and individuals informing them of the opportunity to provide comments on the proposed regulations.

Action requested (identify the specific Commission decisions you are seeking):

Take public comment. Adoption is planned for the April 2-3-4, 2009 Commission meeting in Olympia.

Draft motion language:

N/A

Justification for Commission action:

N/A

Communications plan:

- News Release
 - Hunting Pamphlets
 - Direct email to approximately 55,000 hunters
-

AMENDATORY SECTION (Amending Order 07-292, filed 12/13/07, effective 1/13/08)

WAC 232-28-294 Multiple season big game permits. The commission may, by rule, offer permits for hunters to hunt deer or elk during more than one general season.

An annual drawing will be conducted by the department for multiple season permits.

(1) Multiple season big game hunting permit applications:

(a) To apply for multiple season big game hunting season permits for deer or elk, applicants must purchase a permit application.

(b) No refunds or exchanges for applications will be made for persons applying for multiple season big game hunting season permits after the drawing has been held.

(c) An applicant may purchase only one application for a multiple season big game hunting season permit for each species.

(d) Permits will be randomly drawn by computer selection.

(e) Incomplete applications will not be accepted.

(f) The department will establish application and drawing dates.

(2) The bag limit for this permit is one deer or elk.

(3) Multiple season permits:

(a) Hunters who are drawn will be required to purchase their original deer or elk license, corresponding to their permit, and the multiple season big game permit.

(b) Successful applicants (~~must purchase their multiple season permit within fifteen days of the drawing notification~~)

date. ~~If they have not purchased the multiple season permit by the deadline, the next person drawn will be offered the permit)~~ will be allowed to purchase their permit on a first come, first served basis until the quota has been reached. Once the quota is reached, permit sales will be curtailed.

(c) The permits are not transferable.

(4) Permit holders are required to follow all rules and restrictions for general season hunters within the game management unit or area hunted.

Number of Permits	Dates	Game Management Units (GMUs)	Legal Animal	Eligible Hunters
Multiple Season Deer Permits				
((1500)) 2000	Sept. 1 - December 31 within established general seasons and regulations for deer by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal buck-deer consistent with the game management unit or area restrictions	Any licensed deer hunter
50	Sept. 1 - December 31 within established general seasons and regulations for deer by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal buck-deer consistent with the game management unit or area restrictions	Hunter education instructors, meeting qualifications and selection criteria established by the department
Multiple Season Elk Permits				
((500)) 600	Sept. 1 - December 31 within established general seasons and regulations for elk by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal bull-elk consistent with the game management unit or area restrictions	Any licensed elk hunter
25	Sept. 1 - December 31 within established general seasons and regulations for elk by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal bull-elk consistent with the game management unit or area restrictions	Hunter education instructors, meeting qualifications and selection criteria established by the department

[Statutory Authority: RCW 77.12.047, 77.12.020. 08-01-052 (Order 07-292), § 232-28-294, filed 12/13/07, effective 1/13/08; 06-04-066 (Order 06-09), § 232-28-294, filed 1/30/06, effective 3/2/06.]

WAC 232-28-294 Multiple season big game permits

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR-102) filing and are already included in your notebook.

Page 2

In the table describing legal animal, the rule said any legal buck and any legal bull. Some general seasons (e.g. many archery seasons) allow any deer or elk, therefore we are recommending a change in the wording of the table to reflect what is legal in these seasons.

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-28-294 Multiple season big game permits

COMMENTS	AGENCY RESPONSE
<p>Multiple season big game Permits Section 4 for the multi-season deer tag says: Legal Animal Any legal buck consistent with the game management unit or area restrictions</p> <p>Is this intended to limit the archer with a multi-season deer tag to bucks only, even though the general season rules for a specific unit might allow the taking of a doe? I.e. should "Any legal buck..." be changed to "Any legal deer..." in section 4 of WAC 232-28-294? The same question applies to the multi-season elk tag. Is it "Any legal bull..." or "Any legal elk..."?</p>	<p>You are correct; our intent was to allow any legal deer or elk consistent with the GMU or area. The correction has been made to the recommendations. Thank you.</p>
<p>As for the system you folks have come up with for the "all weapons tag" drawing. This will just create a race to purchase a tag that is not necessary and is not a level playing field for all. Most folks will have something else to do at the moment the drawing results are posted and therefore the folks that don't have something else to do (game department employees friends and relatives maybe?) will have an unfair advantage at getting a tag. What is wrong with a fair and equitable lottery for the tags that everybody has a reasonable time to enter and therefore a reasonable shot at? If you are drawn you may purchase your tag. Wow what a concept! If the state thinks it needs more revenue from this drawing (which is obviously the reason it is being proposed) then raise the fee to enter the drawing slightly and LOWER the price to purchase a tag when drawn. The state will net more revenue this way. It may take a year or two to come up with the proper formula but creating this "race" is just nuts.</p>	<p>In the past, some permits were never purchased and by the time we conducted three drawings and notifications, the hunting seasons had started. We will limit the number notified to approximate the number of successful applicants that needed to be notified in the past drawings in order to sell out the permits. So it shouldn't be too much of a rush. In the past, successful applicants only had two weeks to purchase anyway.</p>
<p>Thank you for proposing an increase of multi-season elk. Per earlier feedback I would have liked to see this increase further (or even for additional cost) to allow hunters who enjoy multiple methods and the time in the field to hunt the duration as well as across both sides of the state.</p>	<p>We are monitoring the success rates of multi-season permit holders carefully to determine whether additional permits can be offered in the future. At this point it appears that elk permit holders are more successful than others, so the number of multi-season permits available must be limited. The price of the permit is set by the Legislature, not the Department.</p>

COMMENTS	AGENCY RESPONSE
<p>I have twice been drawn for multi-season deer. It is a joy. I doubt that I hunted many more days, but the quality of my season was significantly enhanced. We're losing hunters because of access and because of conflicting priorities. Opening up deer (but not elk) to general multi-season would encourage more hunters to stay in the hunt. You're simply more likely to buy your permit if you know that you have the extended period to hunt. Accordingly, my strongest recommendation is that you open up the multi-season concept for deer to all.</p>	<p>Opening up the multi-season deer permits may be a possibility in the future. We plan to monitor success rates for a couple more years to determine if that is possible. Thank you for your support.</p>
<p>I am also in favor of the new regulations for multiple season permits. If possible, please reduce the application fee to allow more hunters to apply.</p>	<p>The application fee is set by the Legislature, not the Department. At this point, we have plenty of applicants to sell all of the permits.</p>
<p>I didn't realize hunters selected were not buying all permits. I better understand the game manager's intention and now am less inclined to disagree with the change. I still think the Green Sheet is misleading in that it addresses all the surveys conducted but does not mention that was addressed. If all permits are quickly sold under first come, first serve, then I think it would be better to inform hunters they have X number of days to buy permits, after which the rest will be sold first come, first serve.</p>	<p>As previously mentioned, that system was in place, but resulted in multiple drawings and notifications. That delay is partially why the permits did not sell once hunting seasons started.</p>
<p>I am very seriously concerned with the "first come first served" aspects of the permit drawing provisions. I hate the Oklahoma Land Rush mentality that I know will derive from this method.... and believe me it will!! How am I to know that ALL people drawn will receive word of their drawing at the same time? What if my mail comes late or I am out of town when my notice comes? Am I out of the running through no fault of my own doing? If I am unable to get an actual permit are my points returned? I heartily recommend that the Agency return to the previous method!!!</p>	<p>We will limit the number notified to approximate the number of successful applicants that needed to be notified in the past drawings in order to sell out the permits. So it shouldn't be too much of a rush. In the past successful applicants only had two weeks to purchase anyway.</p>
<p>I was fortunate to draw a any weapon deer permit for 2008. It costs a lot more but I loved that it allowed me to be selective and get out more in the woods. Hope you make more available.</p>	<p>Thank you for your support.</p>
<p>What are the impacts of the multi-season tag? I know it brings in badly needed money, but it is having a terrible effect on early archery seasons. The number of hunters I now see in the woods is at least double that of a couple years ago. Many of them are multi-season tag holders who spent 20 minutes practicing with a bow and are now out flinging arrows 60 yards at the first elk they see. And now you are going to increase the number of permits available? Why not make them a true drawing like other hunts, and have hunters use preference points? I just feel like it is all about money.</p>	<p>As the archery seasons have become more attractive over the past several years, more hunters have decided to hunt in those seasons. The multi-season permit added a few more as well. However, by most standards, the archery general seasons are not very crowded.</p> <p>The drawing for the multi-season permits will continue and does use a weighted point system.</p> <p>These permits do provide much needed funding for the Department, but also provide additional options for hunters.</p>

AMENDATORY SECTION (Amending Order 08-78, filed 4/18/08, effective 5/19/08)

WAC 232-28-291 Special hunting season permits. The commission may establish special hunting seasons limited to species and/or weapon type.

1. Deer, elk, cougar, or black bear special hunting season permit applications:

A. To apply for special hunting season permits for deer, elk, cougar, or black bear applicants must have a valid Washington big game hunting license and a valid transport tag for the appropriate species. To apply for a particular hunt, each applicant for deer or elk must have the proper transport tag as identified in the special deer or elk permit regulations.

B. Multiple season deer and elk permit applications may be purchased without additional licenses or tags. (~~The purchase of the application will result in entry into the drawing.~~) Persons who are successfully drawn must purchase a multiple season permit for deer or elk and may also apply for archery, muzzleloader, or modern firearm special hunting season permits for the species drawn.

2. Mountain goat, moose, and bighorn sheep special hunting season permit applications:

A. Persons who have previously harvested a mountain goat, bighorn sheep, or moose in Washington are ineligible to apply for a special hunting season permit for that species. This lifetime harvest restriction does not apply to individuals who harvested a mountain goat before 1999, raffle or auction hunt authorizations, or antlerless-only moose hunts.

B. Successful applicants under this section must purchase the appropriate hunting license within fifteen days of the published notification deadline by the department. Failure to purchase forfeits the permit to an alternate applicant.

3. Wild turkey special hunting season permit applications

A. To apply for wild turkey special hunting season permits, each applicant must have a valid small game hunting license.

B. (~~Early~~) Fall wild turkey special hunting season permit holders must have a valid turkey transport tag in possession to hunt turkeys in (~~the early~~) fall special hunting seasons.

~~((C. Late fall wild turkey special hunting season permit holders must have a valid turkey transport tag in possession to hunt turkeys in the late fall special hunting season.))~~

4. Special hunting season permit applications:

A. Maximum group sizes are determined for each category. If a group application is drawn, all hunters in the group will receive a special hunting season permit and each hunter in the group can take an animal. If the number of permits available in a hunt category is less than the maximum group size, then the maximum group size is equal to the number of permits.

i. Maximum group size for deer is (~~12~~) 8.

ii. Maximum group size for elk is (~~12~~) 8.

iii. Maximum group size for bear is 2.

iv. Maximum group size for cougar is 2.

v. Maximum group size for mountain goat is 2.

vi. Maximum group size for bighorn sheep is 2.

vii. Maximum group size for (~~early~~) fall turkey is 4.

viii. (~~Maximum group size for late fall turkey is 4.~~)

~~ix.~~) Maximum group size for moose is 2.

~~(*)~~) ix. Maximum group size for multiple season deer is ~~((1))~~
2.

~~(*)~~) x. Maximum group size for multiple season elk is ~~((1))~~
2.

B. An applicant may purchase only one application for a special hunting season permit for each category.

C. Permits will be drawn by computer selection using a weighted point selection system.

D. Incomplete applications will not be accepted.

E. If an applicant makes a mistake, applies for the wrong hunt, and is successfully drawn, the special hunting season permit can be returned to the department of fish and wildlife Olympia headquarters before the opening day of the special hunting season or the opening day of the general hunting season, whichever comes first. The applicant's points will be restored to the level prior to the permit drawing.

F. Anyone may apply for a special hunting season permit for deer, elk, bear, cougar, and wild turkey.

5. In addition to requirements for special hunting season permit applications, following are application requirements for:

A. Special hunting seasons for persons of disability: Only applicants with a Washington disabled hunter permit are eligible to apply for any special hunting season permits for persons of disability.

B. Special hunting seasons for youth: Only persons who are eligible to lawfully purchase a youth hunting license are eligible to apply for special hunting season permits for youth.

C. Special hunting seasons for hunters age 65 and older: Only applicants sixty-five years of age or older on or before March 31 of the current license year will be eligible to apply for special hunting season permits for hunters age 65 and older.

D. Special hunting seasons for master hunter program graduates: Only persons who hold a valid certificate from the Washington department of fish and wildlife's master hunter program are eligible to apply for special hunting season permits for master hunters.

6. Citizen reward for reporting violations - bonus points: A person who provides information which contributes substantially to the arrest of another person for illegally hunting or killing big game or an endangered species as defined by Title 77 RCW is eligible to receive ten bonus points toward the special hunting permit drawing for deer or elk special hunting season permits.

A. Only ten bonus points can be awarded for providing information for each person charged regardless of the number of violations involved.

B. Selection of bonus points is in lieu of application for a cash award.

[Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210. 08-09-090 (Order 08-78), § 232-28-291, filed 4/18/08, effective 5/19/08. Statutory Authority: RCW 77.12.047. 06-11-032 (Order 06-92), § 232-28-291, filed 5/8/06, effective 6/8/06; 05-02-046 (Order 04-327), § 232-28-291, filed 1/3/05, effective 2/3/05; 03-16-087 (Order 03-175), § 232-28-291, filed 8/5/03, effective 9/5/03; 03-13-047 (Order 03-129), § 232-28-291, filed 6/12/03, effective 7/13/03; 03-02-005 (Order 02-301), §

232-28-291, filed 12/20/02, effective 1/20/03. Statutory
Authority: RCW 77.12.040, 77.12.020, 77.32.070, 77.32.530.
01-10-048 (Order 01-69), § 232-28-291, filed 4/26/01, effective
5/27/01.]

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-28-291 Special hunting season permits

COMMENTS	AGENCY RESPONSE
<p>It used to be that years ago you could apply for a permit and if your name was drawn than you had to wait three years before you could reapply. I feel that this should be reenacted so that everyone in the hunting community can have an opportunity to draw these said permits. I would like to know if there is a way or a plan to bring this topic up for vote. Thank you.</p>	<p>That system was in place prior to the current weighted point system. Changes planned next year should help improve the odds of drawing for many hunts, just because of the new “pools” being created. The odds will shift to hunters in these smaller pools rather than all deer applicants or all elk applicants.</p> <p>If this does not work, the Department could consider waiting periods in the future.</p>
<p>Please consider these changes to the bonus point lottery system, which would make it a weighted bonus point system.</p> <ul style="list-style-type: none"> -The individuals with the highest number of points or the groups with the highest average number of points receives the available tags. -If there are more individuals or groups that share the highest number of points, than there are tags available for that hunt, then a drawing is held between those individuals or groups with the highest number of points. -Hunters are able to select their top four hunt choices -Hunt drawings are performed in an order based on the highest number of points that the applicants in each hunt have. Hunts whose applicants have the largest accumulated number of individual or group points are decided first. 	<p>The Department considered this during the public comment period. However, the changes planned for 2010 should help with drawing odds. If not, this type of proposal could be placed back on the table.</p>
<p>I would like to comment on issue 59. I am all in favor of increasing the odds of drawing a special permit. I have 13 elk points and have met several people who have drawn more than one permit in the last 13 years. I feel that the current permit system is to random, I like the idea of having a drawing that considers the applicants with the maximum points first and foremost, other states do this and I feel that it is a more fair system. Putting applicants with more than 10 points into a separate draw, or giving then 25% of the tags available would be the next best thing.</p>	<p>The Department considered this during the public comment period. However, the changes planned for 2010 should help with drawing odds. If not, this type of proposal could be placed back on the table.</p>

COMMENTS	AGENCY RESPONSE
<p>I would like to express my opposition to the earlier date for controlled hunt applications. I am a non resident hunter from Oregon. I generally base my decision on whether or not to apply for controlled hunts (which requires a purchase of a tag) in Washington based on my Oregon drawing results. The earlier date will not allow me to get my Oregon results before the Washington applications are due. This will probably cause me to not hunt in Washington at all. I am probably not unique to this scenario. You stand to lose some revenue with nonresident tag sales.</p>	<p>The Department currently does not sell many non-resident tags and has not tried to aggressively market opportunities for out of state hunters. Many permit applicants have asked that we conduct our drawings earlier, so we are accommodated that request.</p>
<p>There was a proposed rule change that would allow hunters with 13 or more points special consideration in the permit drawings. Did this proposal die in public comment?</p> <p>I have been Applying for a group hunt in GMU 247 for over 13 years, I was hoping to get my Dad and two sons, one chance at all of us filling our tag before my dad can no longer hunt. I suppose there was not a lot of public support because there is not a lot of hunters like me that have devoted 13 years trying to get drawn for one special hunt. It just irritates me, I know several people who have put in for this hunt the first time and have been drawn. I know of one group that was drawn there first time. In my opinion the game managers should have given this more consideration. The hunt experience, passed down through generations is the only way to keep family's involved in hunting.</p> <p>I will put in again this year and ever year after, but this year is probably my dad's last chance.</p>	<p>The Department considered this during the public comment period. However, the changes planned for 2010 should help with drawing odds. If not, this type of proposal could be placed back on the table.</p>

AMENDATORY SECTION (Amending Order 06-67, filed 4/11/06, effective 5/12/06)

WAC 232-12-055 Hunting--Hunter orange clothing requirements.

(1) Except as authorized in subsection (~~((4))~~) (5) of this section, it is unlawful to hunt upland birds or rabbits during any upland game bird season unless the hunter is wearing fluorescent hunter orange clothing.

(2) It is unlawful to hunt deer or elk during the modern firearm early and late general seasons in any manner unless the hunter is wearing fluorescent hunter orange clothing.

(3) All modern firearm permit holders must wear fluorescent hunter orange clothing.

(4) It is unlawful to hunt bear, cougar, bobcat, raccoon, fox, coyote, rabbit, forest grouse or hare during those times and in those places open to the taking of deer or elk during a modern firearm season, unless the hunter is wearing fluorescent hunter orange clothing.

~~((4))~~ (5) Persons who are hunting upland game birds during an upland game bird season with a muzzleloading firearm, bow and arrow or falconry are not required to wear fluorescent hunter orange clothing.

~~((5))~~ (6) Wearing fluorescent hunter orange clothing means: A minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist and visible from all sides.

~~((6))~~ (7) Violation of this section is an infraction, punishable under RCW 77.15.160.

[Statutory Authority: RCW 77.12.047. 06-09-021 (Order 06-67), § 232-12-055, filed 4/11/06, effective 5/12/06; 03-16-087 (Order 03-175), § 232-12-055, filed 8/5/03, effective 9/5/03. Statutory Authority: RCW 77.12.010 and 77.12.040. 91-08-075 (Order 489), § 232-12-055, filed 4/3/91, effective 9/1/91; 90-22-059 (Order 467), § 232-12-055, filed 11/5/90, effective 9/1/91.]

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-055 Hunting – Hunter orange clothing requirements

COMMENTS	AGENCY RESPONSE
<p>I absolutely agree with this addition. I still run across people during modern rifle whom have zero AND often times full camouflage. I do think it should be considered to make</p>	<p>Thank you for your support.</p>
<p>Hunter orange requirements need to be modified to include muzzle loader hunters. With the new weapons and the new powders and bullets you are recommending. The effective range of these weapons have greatly increased to the point there is not much difference between so called primitive weapons and a single shot modern rifle. On the west side most game is taken by modern firearms or muzzle loaders within 80 yards. The increased range of muzzle loaders put the public and other hunters at an increase risk the same as modern firearms. Muzzle loaders wearing hunter orange would not impact their success rate and make it safer for the public and other hunters. Several other states are requiring muzzle loaders to wear hunter orange.</p>	<p>The muzzleloader regulations in Washington are generally more restrictive than some states and the more modern muzzleloader firearms are not legal here. Therefore, at this point, the Department is not recommending adding the hunter orange clothing requirement during muzzleloader seasons.</p>
<p>Also I find the section on Hunter Orange a little more confusing. It has always been my understanding, because I am only a big game hunter that I only had to wear hunter orange during the deer and elk seasons. I have always worn my camo while pursuing cougar. Is this still the case?</p>	<p>You are correct; you may hunt cougar outside of modern firearm deer or elk seasons without wearing hunter orange.</p>

NEW SECTION

WAC 232-12-062 Party hunting. Party hunting is defined as killing big game or turkeys which another person tags, killing big game or turkeys with the intention of having another person tag the animal, or tagging a big game animal or turkey which another person has killed.

Party hunting is illegal for big game and turkey, except for hunters with disabilities and their designated hunting companion as defined in WAC 232-12-828.

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SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-062 Party hunting

COMMENTS	AGENCY RESPONSE
I appreciate the precise definition in the party hunting section. It has always been my understanding that the party hunting restrictions did not mean that you couldn't do drives but it is nice to see it spelled out clearly.	Thank you for your support.



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 08-10-108 & 08-24-103 ; or
 Expedited Rule Making--Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4).

- Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)
Hunting Rules – See Attachment A

Hearing location(s):
Ellensburg Quality Inn and Conference Center
1700 Canyon Road
Ellensburg, WA 98926
(509) 925-9800

Submit written comments to:
Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North, Olympia WA 98501-1091
e-mail Wildthing@dfw.wa.gov
fax (360) 902-2162

By: Friday, February 20, 2009

Assistance for persons with disabilities:

Contact: Susan Yeager by March 1, 2009

TTY (800) 833-6388 or (360) 902-2267

Date: March 6-7, 2009 Time: 8:00 am

Date of intended adoption: April 2-3-4, 2009
(Note: This is **NOT** the effective date)

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

Reasons supporting proposal:
See Attachment A

Statutory authority for adoption: 77.12.047; 77.12.020; 77.12.570;
77.12.210; 77.12.015; 77.12.240; 77.12.040; 77.32.155

Statute being implemented: 77.12.047; 77.12.020; 77.12.570;
77.12.210; 77.12.015; 77.12.240; 77.12.040; 77.32.155

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 21, 2009

TIME: 11:44 AM

WSR 09-03-111

DATE
January 21, 2009

NAME
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization)
Washington Fish and Wildlife Commission

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Dave Brittel	Natural Resources Building, Olympia	(306) 902-2504
Implementation....Dave Brittel	Natural Resources Building, Olympia	(360) 902-2504
Enforcement.....Bruce Bjork	Natural Resources Building, Olympia	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

These rules regulate recreational hunters and do not directly regulate small business.

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 () _____

e-mail _____

No: Please explain: Not hydraulics rules.

ATTACHMENT A

WAC 232-12-047 Unlawful methods for hunting

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

Amendments to this rule help clarify the title of the WAC which deals with more than firearms. The proposal clarifies language related to using handguns for hunting and also removes a conflict with the muzzleloading equipment WAC that proposes to allow muzzleloading handguns for hunting. The proposal would also allow crossbows to be used in firearm restriction areas as designated by the Fish and Wildlife Commission. Currently only hunters with disabilities that meet certain criteria are allowed to use crossbows.

Reasons supporting proposal:

To provide more flexibility in designing hunting seasons that address urban and suburban big game issues by allowing crossbows in some situations. The proposal also removes a conflict with a proposed change in the muzzleloading equipment WAC.

WAC 232-12-051 Muzzleloading firearms

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

The purpose of the proposal is to clarify language related to lawful ignition systems for muzzleloading firearms. The proposal also no longer restricts projectiles to lead only. The proposal would allow muzzleloading handguns to be used for hunting big game and clarifies muzzleloading handgun use for small game. Also the proposal would allow modern handguns to be carried for personal protection during a muzzleloader season.

Reasons supporting proposal:

To help clarify what types of muzzleloader equipment is lawful for hunting; allow hunters more flexibility in the types of projectiles they are allowed to use; removes an unnecessary restriction related to using muzzleloading handguns for big game and clarifies other allowed uses for muzzleloading handguns; and allows muzzleloader hunters to carry handguns for personal safety as long as they are not in conflict with existing big game hunting season restrictions.

WAC 232-12-054 Archery requirements – Archery special use permits

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

The purpose of the proposal is to allow modern handguns to be carried for personal protection during an archery season and allow the use of crossbows in firearm restriction areas as designated by the Fish and Wildlife Commission.

Reasons supporting proposal:

The proposal would provide more flexibility in designing hunting seasons that address urban and suburban big game issues by allowing crossbows in some situations. The proposal would also allow archery hunters to carry handguns for personal safety as long as they are not in conflict with existing big game hunting season restrictions.

WAC 232-12-055 Hunting – Hunter orange clothing requirements

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

The proposed amendments help clarify which hunters are required to wear hunter orange clothing. The clarification is for hunting during modern firearm seasons and for modern firearm deer and elk permit holders.

Reasons supporting proposal:

In the past, it has not been very clear whether archery and muzzleloader deer and elk hunters were required to wear hunter orange clothing outside of general seasons for modern firearm hunters.

WAC 232-12-062 Party hunting

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

To develop a definition of party hunting and clarify that it is illegal to hunt for another person's big game animal or turkey.

Reasons supporting proposal:

To clarify that party hunting for big game and turkeys is illegal.

WAC 232-12-068 Nontoxic shot requirements

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

The rule will provide additional nontoxic shot selections for waterfowl, coot, and snipe hunters.

Reasons supporting proposal:

To improve recreational opportunity and protect waterfowl resources.

WAC 232-12-227 Hunter education training program requirements

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

The purpose behind the proposal is to minimize confusion and avoid possible mistakes by license vendors.

Currently subsection (4) authorizes an individual who has a Washington hunting license from a preceding year to show that license and purchase a subsequent hunting license even if the initial license was not issued in compliance with the hunter education training requirement. The proposal will allow individuals to purchase a Washington hunting license only if they have a hunter education certificate or are identified as previous Washington hunters in the current license data system.

Reasons supporting proposal:

The proposal ensures that only hunter education graduates or individuals currently identified as hunting-license buyers within the WDFW license data system are eligible to purchase.

WAC 232-12-828 Hunting of game birds and animals by persons with a disability

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

The proposed amendment to this rule would authorize the Director to administer and issue special use permits to hunters with disabilities.

Reasons supporting proposal:

Accommodations that allow persons with disabilities to participate in Department programs are required by the Americans with Disabilities Act. Special use permits allow the Director to evaluate applications and provide accommodations where appropriate.

WAC 232-12-840 Hunting and fishing opportunities for terminally ill persons

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

This proposal is to implement recently passed legislation authorizing the Commission to establish rules for providing special hunting and fishing opportunities for terminally ill persons. In the proposal, the Director is authorized to provide opportunities in a variety of ways at no cost.

Reasons supporting proposal:

To implement the legislation, which provides special hunting and fishing opportunities for terminally ill persons.

WAC 232-28-248 Special closures and firearm restriction areas

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

The proposed rule amendments add more weapon options in firearm restriction areas. The effect will maintain some limited hunting opportunity in these areas and also provide an effective level of harvest to help control deer and elk populations causing damage and nuisance problems especially in more developed areas.

Reasons supporting proposal:

The proposed language retains some limited level of hunting that is compatible with urban expansion. Also helps deal with deer and elk damage and nuisance problems.

WAC 232-28-266 Damage prevention permit hunts

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

The amendment to the rule adds 200 turkey permits in northeastern Washington. These permits will provide landowners and WDFW enforcement with additional tools to address property damage issues.

Reasons supporting proposal:

An increasing number of landowners are requesting the use of these permits to address damage. They have proven to be very effective in dealing with damage problems and reducing landowner complaints with deer. WDFW enforcement officers have requested they be available for turkeys as well.

WAC 232-28-272 2009-2010, 2010-2011, and 2011-2012 Black bear and cougar hunting seasons and regulations

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

The rule establishes hunting seasons for black bear and cougar from 2009 to 2012. The purpose of the recommended changes is to maximize recreational hunting opportunities for bear and cougar while maintaining sustainable populations.

The Department is recommending status quo bear seasons, with two exceptions: (1) For management units that open Aug 1, the Aug 1-31 period is limited to hunting on private lands only; (2) For management units that open in early September, change the opener from the day after Labor Day to September 1.

The Department's cougar season recommendations are: Statewide Sept. 1-25 archery only and Sept. 26-Oct. 16 muzzleloader only seasons; Oct. 17-Mar. 31 general season (any weapon) for zones where trends in female harvest are within our guideline; Oct. 17-Dec. 31 general season for zones where female harvest slightly exceeds our guideline; Oct. 31-Nov. 30 season for zones where female harvested is limited by a quota system and the management need is to adequately evaluate the pilot hunt with the aid of dogs; Change the statewide bag limit from 2 cougars to 1 cougar.

Reasons supporting proposal:

Maximize recreational opportunities for bear and cougar hunting, while maintaining sustainable populations.

The justification for the August black bear season on private lands only is to reduce conflict with other recreational users on public lands during the summer while still allowing bears to be harvest for damage reasons (e.g., orchard damage). The justification for the September 1 start date is consistency with the opening day of deer archery seasons.

The justification for the cougar season changes is consistency with concurrent deer/elk seasons and to limit female harvest in those areas where harvest levels exceed our guidelines.

WAC 232-28-273 2009-2011 Moose, bighorn sheep, and mountain goat seasons and permit quotas

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

The proposed rule amendments include a status quo moose permit level of 130; creating a Master Hunter damage hunt in the Mount Spokane unit; adding ewe-only hunts in three herds; increasing bighorn sheep permit levels from 36 to 46; and reducing mountain goat permit levels consistent with the findings of our recent research.

Reasons supporting proposal:

Recommended adjustments in permit quotas are based on meeting population objectives for each species as indicated in the Game Management Plan.

WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits

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

The proposed rule amendments include removing dated language; clarifying areas open for specific deer auction and raffle seasons; and changing the areas open to the Rocky Mountain bighorn raffle permit hunt to reflect the status of mature rams in various populations.

Reasons supporting proposal:

Provide a variety of different hunting opportunities and maximize revenue for auction/raffle program, all within biological sustainable limits.

WAC 232-28-286 2010, 2011, and 2012 Spring black bear seasons and regulations

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

The proposed rule amendments add a spring bear hunt in a portion of GMU 501 with 50 permits and close the spring bear damage hunt in Capitol Forest.

Reasons supporting proposal:

Spring black bear seasons are used to minimize damage to trees by reducing bear populations to a lower but sustainable level, reduce nuisance activity in northeastern Washington, and better distribute the harvest geographically in southeastern Washington.

WAC 232-28-287 2009-2010, 2010-2011, 2011-2012 Cougar permit seasons and regulations

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

Establish fall permit hunts for 9 cougar zones around the state. Cougar permit hunts are designed to provide late season hunting opportunity for hunters without the use of dogs (i.e., spot and stalking in snow and/or calling). The anticipated effect is additional varieties of hunting opportunity with sustainable cougar populations.

Reasons supporting proposal:

Provide late season hunting opportunity for hunters without the use of dogs (i.e., spot and stalking in snow and/or calling).

WAC 232-28-291 Special hunting season permits

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

The amendments proposed are largely housekeeping in nature. Changes are recommended for multi-season permit application and group sizes. Changes are also recommended for deer and elk permit application group sizes and the late fall turkey permit application rules are eliminated. Fall turkey permit applications are consolidated into one set of rules.

Reasons supporting proposal:

The proposal would allow multi-season applicants to submit group applications; clean up turkey permit application language; and limit the number of deer and elk group applicants to better distribute permits.

WAC 232-28-294 Multiple season big game permits

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

This proposal would shorten the amount of time successful applicants for a multi-season permit would have to purchase their permit to allow for the sale of all permits prior to the first general seasons starting in September. It would also provide 50 multi-season deer and 25 multi-season elk permits to qualifying hunter education instructors.

Reasons supporting proposal:

Shortening the purchase time for successful applicants would make sure that more hunters would be able to purchase permits. Providing hunter education instructors with multiple season permits would be an incentive to recruit and retain instructors.

WAC 232-28-295 Landowner hunting permits

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

The proposal identifies permit levels and season dates for Landowner Hunting Permit (LHP) program participants for the 2009 hunting seasons. Amendments to this rule include removal of the 4-O Cattle Company who requested not to participate and addition of the Pine Mountain LHP in Yakima County. The permits will result in general public hunter access on private property and will help mitigate deer and elk foraging on private agricultural lands.

Reasons supporting proposal:

Increase public hunting access to private lands and help landowners address game damage issues.

WAC 232-28-333 Game management units (GMUs) boundary descriptions – Region three

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

GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

Reasons supporting proposal:

Clarifies boundaries and facilitates hunting seasons for big game.

WAC 232-28-335 Game management units (GMUs) boundary descriptions – Region five

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

GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

Reasons supporting proposal:

Clarifies boundaries and facilitates hunting seasons for big game.

WAC 232-28-336 Game management units (GMUs) boundary descriptions – Region six

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

GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

Reasons supporting proposal:

Clarifies boundaries and facilitates hunting seasons for big game.

WAC 232-28-337 Deer and elk area descriptions

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

Boundary adjustments are being proposed to better address current deer and elk damage issues.

Reasons supporting proposal:

The proposed rule amendment provides the means to reduce wildlife damage issues and direct deer and elk damage hunts by adjusting elk area boundaries.

WAC 232-28-342 2009-10, 2010-11, 2011-12 Small game seasons

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

The purpose of the new rule is to establish hunting season timing, hunting requirements, and applicable permit levels for the following species: bobcat, raccoon, fox, coyote, forest grouse, pheasant, chukar, gray partridge, mountain quail, California quail, bobwhite, wild turkey, Canada goose, band-tailed pigeon, mourning dove, cottontail rabbits, snowshoe hare, and crow. It also describes falconry and dog training seasons.

Amendments to this rule include: 1) Liberalize fall turkey hunting by establishing more general season opportunity, 2) Eliminate the use of dogs to hunt coyotes, 3) Eliminate the two-day September Canada Goose Season, shifting those dates to the regular goose season, 4) Increase the daily bag limit for forest grouse to four per day.

Reasons supporting proposal:

Proposals are consistent with conservation of wildlife populations and public sentiment.

WAC 232-28-351 2009-2011 Deer general seasons and definitions

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

The purpose of the proposal is to retain general season deer hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when deer populations allow, and reduce opportunity when declining deer numbers warrant such a change.

Reasons supporting proposal:

Provides recreational deer hunting opportunity and protects deer from overharvest. The proposal maintains sustainable general deer hunting season opportunities for 2009-2011. Helps reduce agricultural damage and provides for population control of deer where needed.

WAC 232-28-352 2009-2011 Elk general seasons and definitions

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

The purpose of the proposal is to retain general season elk hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when elk populations allow, and reduce opportunity when declining elk numbers warrant such a change.

Reasons supporting proposal:

Provides recreational elk hunting opportunity and protects elk from overharvest. The proposal maintains sustainable general elk hunting season opportunities for 2009-2011. Helps reduce agricultural damage and provides for elk population control where needed.

WAC 232-28-353 2009 Deer special permits

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

The purpose of the proposal is to retain special permit season deer hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when deer populations allow, and reduce opportunity when declining deer numbers warrant such a change.

Reasons supporting proposal:

Provides recreational deer hunting opportunity and protects deer from overharvest. The proposal maintains sustainable special permit deer hunting season opportunities for 2009. Helps reduce agricultural damage and provides for population control of deer where needed.

WAC 232-28-354 2009 Elk special permits

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

The purpose of the proposal is to retain special permit season elk hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when elk populations allow, and reduce opportunity when declining elk numbers warrant such a change.

Reasons supporting proposal:

Provides recreational elk hunting opportunity and protects elk from overharvest. The proposal maintains sustainable special permit elk hunting season opportunities for 2009. Helps reduce agricultural damage and provides for elk population control where needed.

WAC 232-28-516 Trapping seasons and regulations

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

The new WAC removes all superfluous regulations (e.g., area restrictions) that are no longer warranted given current trapping practices and low harvest levels. It recommends a standard trapping season for all furbearers from November 1 to March 31 and an increased annual bag limit for river otter from 6 to 12. WAC 232-28-516 replaces WAC 232-28-515.

Reasons supporting proposal:

To maximize trapping opportunity consistent with population objectives.