ITEM # 8

MASTER HUNTER PROGRAM - RULE BRIEFING AND PUBLIC HEARING

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"GREEN SHEET"

Meeting: August 7-8, 2009

Agenda Item: Master Hunter Permit Program – Rule briefing and public hearing

Prepared By: Mike Kuttel, Hunter Education Division, Enforcement Program

Presented By: Bruce Bjork, Chief, Enforcement Program

Background:

The Department requires application requirements and suspension protocol to attract and retain ethical master hunters. Master hunters play a key role in controlling problem game animals that damage property and threaten public safety. Master hunters also contribute significant volunteer conservation work to the state.

In 2009, the Washington State Legislature passed Substitute House Bill (SHB) 1778, which includes two new statutes authorizing the Master Hunter Permit Program. These statutes provide the cost for initial and renewal master hunter permits; they allow the department to conduct background checks on initial and renewal permit applicants; they give the department authority to suspend permits for specific reasons; and they allow the department to establish the program's requirements and curriculum.

The proposed changes to WAC 232-12-073 mirror the two statutes in SHB 1778 and provide accountability standards for initial and renewal applicants. These rules also indicate the conditions and lengths of time for which a master hunter permit will be suspended. The effect of these rules will be to ensure that master hunters are ethical hunters and can serve as highly regarded role models for the general hunting community.

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

Does the Washington Fish and Wildlife Commission want to revise the master hunter program to strengthen admission requirements and implement tighter accountability standards to attract and retain ethical hunters to the new Master Hunter Permit Program?

Public involvement process used and what you learned:

WDFW has worked in full partnership with the Master Hunter Advisory Group (MHAG) for the past 6 months in preparation of this proposed rule change. The latest update was on July 9, 2009. The MHAG is in full concurrence with the changes reflected in the amended rule language. In addition, the proposed language has been posted on the Master Hunter website since July 2, 2009; and the proposed rule changes were discussed at a "Special Hunt Management" Master Hunter public meeting in Ellensburg on July 18, 2009.

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

Receive the staff presentation and any comments from the public. Formal rule action is planned for the September 11-12, 2009, Commission meeting in Olympia.

Draft motion language:

N/A.

Justification for Commission action:

The proposed changes will strengthen the requirements for the Master Hunter Permit Program and will provide the department with the ability to suspend master hunters who are convicted of Title 77.15 RCW offenses. This will help cleanse the program of unethical hunters. It also will ensure that Master Hunters are qualified to help the department control problem game animals while serving as worthy role models for the hunting community.

Communications plan:

The department will explain the changes to WAC 232-12-073 on the Master Hunter website and on the Enforcement Program's Web page. The Enforcement Program will send out written correspondence to all certified Master Hunters about the rule amendments. These changes will also be discussed at future Master Hunter public meetings held throughout the state.

PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

☒ **Preproposal Statement of Inquiry was filed as WSR** 08-16-019 **; 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) WAC 232-12-073, Master hunter permit program.

Hearing location(s):
Sheriff's Ambulance Training Center
425 N. Highway
Colville, Washington 99114

Date: August 7-8, 2009 Time: 8:45 a.m.

Date of intended adoption: September 11, 2009
(Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Rules Coordinator
Address:600 Capitol Way No., Olympia, WA 98501-1091

e-mail Lori.Preuss@dfw.wa.gov
fax (360) 902-2155 by (date) July 31, 2009

Assistance for persons with disabilities: Contact

Susan Yeager by July 31, 2009

TTY (360) 902-2207 or (360) 902-2267

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In 2009, the Washington State Legislature passed SHB 1778, which includes two new statutes authorizing the Master Hunter Permit Program. These statutes provide the cost for initial and renewal master hunter permits; they allow the department to conduct background checks on initial and renewal permit applicants; they give the department authority to suspend permits for specific reasons; and they allow the department to establish the program's requirements and curriculum. These proposed rules mirror the two statutes and provide the accountability standards for initial and renewal applicants. These rules also indicate the conditions and lengths of time for which a permit will be suspended. The effect of these rules will be to ensure that master hunters are ethical hunters and can serve as highly regarded role models for the general hunting community.

Reasons supporting proposal: The department requires application requirements and suspension protocol to attract and retain ethical master hunters. Master hunters play a key role in controlling problem game animals that damage property or threaten public safety. They also contribute significant volunteer conservation work to the state.

Statutory authority for adoption: 77.12.047

Statute being implemented: 77.12.047

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE
July 1, 2009

NAME (type or print)
Lori Preuss

SIGNATURE
Lori Preuss

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 01, 2009
TIME: 9:45 AM

WSR 09-14-132

(COMPLETE REVERSE SIDE)

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

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

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Mike Kuttel and Lori Preuss	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-8413
Implementation	Mike Kuttel and Eric Anderson	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-8413
Enforcement.....	Chief Bruce Bjork	1111 Washington Street, SE, Olympia, WA 98504	(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. These rules affect recreational hunters.

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: These rules do not involve hydraulics.

AMENDATORY SECTION (Amending WSR 08-03-088, filed 1/16/08, effective 2/16/08)

WAC 232-12-073 Master hunter permit program. (1) In order to effectively manage wildlife in areas or at times when a higher proficiency and demonstrated skill level are needed for resource protection or public safety, the department establishes the master hunter permit program.

(2) The master hunter permit program emphasizes safe, ((~~lawful, and~~)) ethical, responsible, and lawful hunting practices. ((~~Two of the program's~~)) Program goals ((~~are to improve~~)) include improving the public's perception of hunting and ((~~to perpetuate~~)) perpetuating the highest hunting standards. A master hunter((~~s actively~~)) permit is required to participate in controlled hunts to eliminate problem animals that damage property ((~~and/~~))or threaten public safety.

(a) The cost of initially applying for ((~~the~~)) a master hunter ((~~program is twenty~~)) permit shall be fifty dollars. The ((~~department will determine the program's prerequisites and curriculum. The department may establish an advisory group to assist agency staff in developing the prerequisites and curriculum~~)) cost of renewing a master hunter permit shall be twenty-five dollars.

(b) ((~~Master hunter candidates who successfully complete the master hunter program will receive a certificate, a master hunter patch, and a master hunter identification card. The master hunter identification card is valid for five consecutive years from the date of issuance. The card will be renewed for an additional five years if, during the period of validity, the master hunter completes forty hours of additional master hunter program requirements as determined by the department.~~)) The department shall determine the program's requirements and curriculum. The director shall establish an advisory group to assist agency staff in developing and managing the program.

(3) Master hunters are held to the highest ethical standards because these hunters are ambassadors for the department and are role models and mentors for the hunting community and for the public at large. ((~~As such, current advanced hunters must apply to be master hunters. Applicants must submit to a criminal background check. Applicants who have prior wildlife or trespassing-while-hunting convictions within the last ten years, or prior felonies prohibiting the possession of firearms (unless firearm possession is reinstated), or who have a current hunting license suspension in another state, cannot apply for the master hunter program.~~

~~(a) Individuals who successfully complete the master hunter program must obey all laws and regulations.~~)) Initial master hunter permit applicants must submit to a criminal background check. The

department shall deny entry into the master hunter permit program to those applicants who have:

(a) Paid the required fine or been convicted within the last ten years of a chapter 77.15 RCW offense;

(b) Paid the required fine or been convicted within the last ten years of criminal trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department;

(c) Prior felonies prohibiting the possession of firearms, unless firearm possession is reinstated; or

(d) A current hunting or fishing license revocation or a current suspension of hunting or fishing license privileges in Washington or in another state.

(4) Master hunter((~~s~~)) permit applicants will be required to sign and abide by a hunter code of ethics ((~~in addition to all department laws and regulations.~~

~~(b) Persons who successfully pass the master hunter program and maintain the requirements set forth in this section are entitled to participate in special hunts. These hunters must possess a valid master hunter identification card while participating in the hunts. Master hunters who are convicted of wildlife misdemeanors, gross misdemeanors, or felonies; trespassing while hunting; or reckless endangerment involving hunting weapons, will be removed from the master hunter program for life. Master hunters who commit wildlife infractions may be removed from the master hunter program for up to a five-year period.~~

~~(c) The department's master hunter coordinator will maintain open communications with landowners and the community to investigate complaints about master hunters or the master hunter program. If a master hunter is charged with a wildlife or trespassing violation that does not result in a conviction, or an ethical violation that does not rise to a criminal law or regulation violation, a master hunter peer review committee, selected by the advisory group, will evaluate the behavior to decide whether it was egregious. If the committee deems the behavior egregious, the department may suspend the violator's master hunter privileges for any amount of time, up to and including life.~~

~~(d) Any person who has his or her master hunter privileges suspended under this subsection~~)) and pass a comprehensive examination based upon study materials provided by the department. An initial master hunter permit applicant found to have submitted fraudulent information to the department or to have cheated on the master hunter examination will be excluded from the master hunter permit program for life.

(5) Initial master hunter permit applicants who successfully complete the master hunter permit program will receive a master hunter patch and a master hunter permit. The initial master hunter permit is valid for five consecutive years from the date of issuance. The permit may be renewed for additional five-year increments if, during each five-year period of validity, the master

hunter fulfills the renewal requirements established by the department.

(6) Master hunters renewing their permit shall authorize the department to conduct a criminal background check each time they renew. The criminal background check will go back five years from the master hunter's anniversary date or back to the date this rule amendment was adopted, whichever period of time is shorter. The department's approval will be determined by compliance with this section.

(7) Persons who successfully complete the master hunter permit program and maintain the requirements developed by the department may participate in special hunts. These master hunters must possess a valid master hunter permit while participating in the hunts.

(8) The department shall suspend a master hunter's permit for life if the master hunter:

(a) Pays the required fine or is convicted of a chapter 77.15 RCW misdemeanor, gross misdemeanor, or felony;

(b) Pays the required fine or is convicted of criminal trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department;

(c) Pays the required fine or is convicted of a felony prohibiting the possession of firearms, unless firearm possession is reinstated;

(d) Has his or her hunting or fishing license revoked, or hunting or fishing license privileges suspended in Washington or in another state; or

(e) Submitted fraudulent information to the department.

(9) A master hunter who pays the required fine or is found to have committed an infraction under chapter 77.15 RCW or the department's rules shall have his or her master hunter permit suspended for a period of two years.

(10) If a master hunter is cited, or charged by complaint, for a chapter 77.15 RCW offense; or for trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department, the department may immediately suspend the person's master hunter permit until the offense has been adjudicated.

(11) The department's master hunter coordinator will maintain open communications with landowners and the community. The department will investigate written accusations about master hunters and determine whether such complaints have merit and warrant enforcement action.

(12) Except under subsection (10) of this section, if a master hunter has his or her initial or renewal master hunter permit suspended for less than life, and the person wants to become a master hunter again, he or she must repeat the entire master hunter permit application process once the suspension period is over.

(13) Any person who has been denied initial admission into the master hunter permit program, renewal of his or her master hunter

permit, or has had his or her master hunter permit suspended, has the right to an administrative hearing to contest the agency action. Such hearing will be held pursuant to chapter 34.05 RCW, the Administrative Procedure Act. Initial master hunter permit applicants who fail to submit the application fee or who submit an incomplete application will have their application returned. Denial of admission on these grounds does not trigger the right to an administrative hearing.

((~~(c)~~)) (14) "Conviction," as used in this section, is defined in RCW 77.15.050.

((~~(4)~~)) (15) It is unlawful for any person to ((~~participate~~)) hunt in a hunt restricted to master hunters if such person has not successfully ((~~passed~~)) been admitted into the master hunter ((~~course~~)) permit program and maintained the requirements set forth in this section, or if the person's master hunter ((~~privileges have~~)) permit has been suspended. Master hunters need a valid master hunter permit and a valid hunting license and tag to hunt in master hunter restricted hunts. "To hunt," as used in this section, is defined as "an effort to kill, injure, capture, or harass a wild animal or wild bird," pursuant to RCW 77.08.010(53). Master hunters who have been issued a disabled hunter permit by the department may only hunt with a designated hunter companion who has been admitted into the master hunter permit program and maintained the requirements under this section. Violations of this subsection shall be enforced under RCW 77.15.400 for wild birds, RCW 77.15.410 for big game, and RCW 77.15.430 for wild animals other than big game.

(16) Only Washington residents, as defined in RCW 77.08.010(39), may apply for an initial master hunter permit.

RECOMMENDED ADJUSTMENTS

MASTER HUNTER PROGRAM
WAC 232-12-073

The following recommended adjustments are a result of a "Special Hunt Management" Master Hunter public meeting in Ellensburg on July 18, 2009, and a review of the WAC by staff and AAG Jessica Fogel:

In (2): Changed the language so the first sentence reads, "The master hunter permit program emphasizes safe, ((~~lawful, and~~)) ethical, responsible, and lawful hunting practices." This is so that the wording parallels the wording in the new statute.

In (3)(b): Changed "trespassing" to "criminal trespass" because the correct term for the crime is "criminal trespass."

In (3)(d): Added "in Washington or" to clarify that having a current revocation of a hunting or fishing license or a current suspension of hunting or fishing privileges in another state, including Washington, will preclude an initial applicant from entry into the master hunter permit program.

In (7): Changed "are entitled to participate" to "may participate," because the department did not want to give the impression that we bestows entitlements on anyone.

In (8)(b): Changed "trespassing" to "criminal trespass" because the correct term for the crime is "criminal trespass."

In (8)(d): Added "in Washington or" to clarify that a hunting or fishing license revocation or a hunting or fishing privilege suspension in another state, including Washington, will cause a master hunter's permit to be suspended for life.

In (9): Changed the language so it reads, "an infraction under ~~a~~ chapter 77.15 RCW or the department's rules ~~infraction~~ shall have…" to clarify that a master hunter will have his permit suspended for two years if he pays the fine on, or is found to have committed, an infraction under chapter 77.15 RCW or the department's rules. This makes the language conform to the statute's language.

In (15): Changed "hunt or actively assist in a hunt restricted to master hunters" to "hunt ~~or actively assist~~ in a hunt restricted to master hunters." It would be too difficult to define "or actively assist." The definition of "hunt" is already included in this subsection.

In (15): Added, "Master hunters who have been issued a disabled hunter permit by the department may only hunt with a designated hunter companion who has been admitted into the master hunter permit program and maintained the requirements under this section." This clarifies the law and reaffirms the Master Hunter Advisory Group's role in

assisting disabled master hunters with locating certified master hunters to serve as their Designated Hunting Companions.

In (15): Changed “Violation” to “Violations” because the plural is more appropriate.

SUMMARY OF PUBLIC INPUT
WAC 232-12-073 -- MASTER HUNTER PERMIT PROGRAM

Written or oral comment ?	Date	By Whom? At What Forum?	Comment	WDFW's Response
Oral	3/14/09	21 certified master hunters at their Master Hunter Information and Outreach public meeting in Kennewick	They appreciated the strengthened accountability standards and disciplinary actions for certified master hunters. They were pleased with the detailed admission standards for permit candidates.	These strengthened accountability standards and disciplinary actions, and the clarified admission standards, were passed into law as part of SHB 1778 in 2009. This WAC adopts them all as they are in the bill. There is a formal appeal process for folks denied initial admission into the program, denied renewal of their permit, or who have had their permit suspended. These folks have the right to an administrative appeal hearing pursuant to chapter 34.05 RCW.
Oral	4/4/09	22 certified master hunters at their Master Hunter Information and Outreach public meeting in Longview	Same as above.	Same as above.
Oral	7/9/09	The Master Hunter Advisory Group (MHAG) at their business meeting in Ellensburg	They found the meaning of "actively assist" in subsection (15) unclear and problematic.	We dropped the words "or actively assist" from subsection (15). The definition of "hunt" in (15) sufficiently covers the activity for which a person must be admitted into the master hunter program and must maintain its requirements in order to participate in a master-hunter hunt.
Oral	Same as above	Same as above	They thought subsection (15) failed to address master hunters who have been issued a disabled hunter permit, and designated hunter companions.	We added specific language to clarify that master hunters who have been issued a disabled hunter permit may only hunt with a designated hunter companion who has been admitted into the program and maintained its requirements.

Written or oral comment ?	Date	By Whom? At What Forum?	Comment	WDFW's Response
Oral	Same as above	Same as above	They appreciated the strengthened accountability standards and disciplinary actions for certified master hunters. They were pleased with the detailed admission standards for permit candidates in subsections (3), (6), (8), (9), and (10).	These strengthened accountability standards and disciplinary actions, and the clarified admission standards, were passed into law as part of SHB 1778 in 2009. This WAC adopts them all as they are in the bill. There is a formal appeal process for folks denied initial admission into the program, denied renewal of their permit, or who have had their permit suspended. These folks have the right to an administrative appeal hearing pursuant to chapter 34.05 RCW.
Oral	Same as above	Same as above	They supported subsection (16), which precludes nonresidents from applying to the program.	We retained subsection (16), based on the following factors: The program examination is not available online and must be taken in WA in the presence of a designated proctor; the 20 hrs. of required volunteer conservation-project work must be performed inside WA; the required Criminal Observation and Reporting Training class is only available in WA; WA does not recognize "master hunter" certifications from other states or Canada because our standards are exceptionally high; and master hunters must be available at a moment's notice to address game-damage situations when called on by the department.