

3. SPECIAL HUNTING SEASON PERMITS AND DEALER FEES – RULE BRIEFING AND PUBLIC HEARING

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“GREEN SHEET”

Meeting: April 9-10, 2010
Agenda Item 3: Special Hunting Season Permits and Dealer Fees – **Rule Action**
Prepared By: Dave Ware
Presented By: Dave Ware, Game Division Manager, Wildlife Program

Background:

Department staff briefed the Commission on proposed rule amendments to WAC 232-28-291 Special hunting season permits and WAC 220-55-115 Recreational license dealer fees, at the March 12-13, 2010 Commission Meeting.

In developing the 2009-11 hunting season rule package, hunters supported changes to the permit application process. Because of necessary programming modifications to our drawing system, we could not make the changes until this year. The new proposal divides the drawing into multiple categories for each species. The purpose is to improve the drawing system and allow hunters to apply for multiple categories of hunts.

Using deer as an example, special hunt applications would be divided into eight categories for deer permits. A hunter may apply for all categories for which they are eligible. The proposed categories include: quality, buck, antlerless, second antlerless, youth, senior, hunters with disabilities, and master hunters. A hunter's current points for deer would be replicated in each deer category for 2010, but would be accrued and lost within each category in the future.

This proposal is also tied to the Department's 2010 legislative request to expand our hunter access program. These permit drawing changes will increase revenue to the Department that will be used to expand hunter access opportunities on the west side of the state on private timberlands and on both sides of the state for waterfowl and pheasant hunting.

The changes to this rule are to accommodate the changes to special permit drawings. The details of the categories and permits are provided in each of the big game permit rules provided later in the agenda.

In developing the proposed changes to the 2010 special permit application process, the Department was able to improve the availability of replacement permits from license vendors. This rule change allows license vendors to charge \$.50 for printing a substitute special permit for hunters who need a replacement.

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

- Provide special permit applications by category rather than species and allow hunters to apply for multiple categories of permits.
 - Allow dealers to charge \$.50 for replacement of special permits.
-

Public involvement process used and what you learned:

This proposal was part of the extensive 2009-11 hunting season package public involvement process and was developed in close consultation with the Department's Game Management

Advisory Group. Notification was mailed to approximately 450 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):

Amend WACs 232-28-291 and 220-55-115 as proposed.

Draft motion language:

I move to amend WACs 232-28-291 and 220-55-115 as proposed.

Justification for Commission action:

To change the special permit drawing rules to accommodate drawing by category rather than species and to allow dealers to charge \$.50 to provide substitute permits to hunters.

Communications Plan:

- News Releases
 - Hunting Pamphlets
 - Website
 - Washington State Register
 - License Vendor Notification
-

AMENDATORY SECTION (Amending Order 09-53, filed 4/15/09, effective 5/16/09)

WAC 232-28-291 Special hunting season permits. The commission may establish special hunting seasons (~~((limited to species and/or weapon type))~~) and may set the conditions for each category and hunt.

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

A. To apply for special hunting season permits for all categories of 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. 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 ram, or bull moose in Washington are ineligible (~~((to apply))~~) for a special hunting season permit for that (~~((species))~~) category. This lifetime harvest restriction does not apply to

individuals who harvested a mountain goat before 1999, raffle or auction hunt authorizations, ewe-only bighorn sheep hunts, (~~master hunter moose hunts,~~) or antlerless-only moose hunts.

B. Successful applicants under this section must purchase the appropriate hunting license (~~within fifteen days of the published notification~~) by the deadline established by the department (a minimum of 15 days). 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. Fall wild turkey special hunting season permit holders must have a valid turkey transport tag in possession to hunt turkeys in fall special hunting seasons.

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 categories is 8.
- ii. Maximum group size for elk categories is 8.
- iii. Maximum group size for bear categories is 2.
- iv. Maximum group size for cougar categories is 2.
- v. Maximum group size for mountain goat categories is 2.
- vi. Maximum group size for bighorn sheep categories is 2.
- vii. Maximum group size for fall turkey categories is 4.

viii. Maximum group size for moose categories is 2.

ix. Maximum group size for multiple season deer is 2.

x. Maximum group size for multiple season elk is 2.

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

C. Permit applications will allow four choices for all categories except the quality category for deer and elk will allow two choices.

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

i. Applicants will receive one point for each application category purchased.

ii. Once drawn for a permit, the applicant's points will be reduced to zero in that category.

iii. An applicant's accumulated point totals, immediately prior to sales of the 2010 permit applications, will be replicated across all categories for that species. The point replication will only occur in 2010, during the transition from single species categories to multiple categories of the same species. Applicants for any new category added in the future will begin with the point awarded at the time of the initial application purchase.

DE. Incomplete, ineligible, or inaccurate applications will not be accepted or entered into the drawing.

F. Permits will be voided if the applicant is found to be ineligible or to have provided an application based on inaccurate information.

G. The purchase of an application will result in one accrued point for the category purchased.

EH. 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.

FI. 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)~~) special hunt application 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 (~~(except for special moose hunts for persons age 65 and older, applicants must be 65 years of age or older by November 30 during the license year they are applying for)~~).

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 one application category of 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, 77.12.150, 77.12.240. 09-09-083 (Order 09-53), § 232-28-291, filed 4/15/09, effective 5/16/09. 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.]

WAC 232-28-291 Special hunting season permits.

RECOMMENDED ADJUSTMENTS

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

Pages 2 & 3

Add the word “categories” to the maximum group size listed by species to make it clear that the group sizes correspond to the new categories being proposed.

Page 3

To clarify how many choices would be allowed under each permit application category, add the following language: “Permit applications will allow four choices for all categories except the quality category for deer and elk will allow two choices.”

Add the following language under section D to provide clarity in the way accumulated points will be handled during the 2010 transition from single species permit categories to multiple categories within each species.

iii. An applicant’s accumulated point totals, immediately prior to sales of the 2010 permit applications, will be replicated across all categories for that species. The point replication will only occur in 2010, during the transition from single species categories to multiple categories of the same species. Applicants for any new category added in the future will begin with the point awarded at the time of the initial application purchase.

Change the sentence, “Incomplete applications will not be accepted or entered into the drawing” to read “Incomplete, ineligible, or inaccurate applications will not be accepted or entered into the drawing.”

Add the following language:

F. Permits will be voided if the applicant is found to be ineligible or to have provided an application based on inaccurate information.

G. The purchase of an application will result in one accrued point for the category purchased.

This information is added so that permit applicants would have a clear understanding of the application process.

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-28-291 Special hunting season permits.

COMMENTS	AGENCY RESPONSE
I support the new permit application options; I think it will increase the odds.	Thank you for your support. The odds of drawing a permit will depend on the number of hunters applying for each category of permit. With the proposed changes, we really don't know how it will affect the drawing odds, but the concept for the proposal was very popular.
The new special permit application proposals don't improve the odds of drawing permits.	There were several objectives to changing the way that the permit system application process is conducted. The primary objective is to provide revenue to expand the hunter access program on private lands. Another objective is to create a permit application program that provides greater options for hunters. The odds of drawing a permit within each of the proposed categories rely on the number of applicants. How the changes proposed will affect the number of applications in a category is largely unknown. The idea of increasing the odds of drawing popular permits is important, and the new structure proposed of application by category will allow for future modifications to better achieve that result. Several options for improving the odds of drawing popular permits were discussed with the public during the 2009-11 hunting season package. The one that has the greatest chance of improving the odds and the greatest public support to date is setting aside some number of these popular permits for hunters with significant numbers of permits. As mentioned previously, we would recommend waiting until we see the results of the current proposal before recommending further changes.
Spreading a hunter's current points across all categories results in an unfair advantage for hunters with a significant number of points especially for competition in the antlerless categories.	There are several reasons why hunters might have a large number of accumulated points. Certainly some of those reasons are due to applying for popular hunts over the years. The vast majority of hunters have fewer than three points, so the current proposal for addressing points should not have a significant or long lasting impact on drawing odds.
If a hunter draws more than one permit, can they harvest more than one animal?	No, a hunter is only allowed to harvest one animal unless they draw a 2 nd deer permit. Then they could harvest two deer.
How does the proposal affect hunter's current points?	A hunter's current point total for each species is replicated across all categories of that species.
Why not set aside 30 to 50 percent of the permits for hunters with a large number of points?	This idea has a lot of support, but we plan to wait and see how the current proposals affect the odds of drawing before suggesting additional changes.

<p>If a hunter gets drawn for multiple permits, they only get to harvest one animal, but they will have prevented several others from the opportunity to hunt.</p>	<p>The number of permits allocated is based on the number of animals available for harvest times the average success rate of permit holders. So over time, the allocation of permits will compensate for the number of hunters who draw multiple permits. We also suspect that the number of hunters drawing multiple permits will be small.</p>
<p>If I draw multiple permits, can I return the ones I don't want to use?</p>	<p>Yes, if you have a problem that meets our criteria, you can return your unusable permit and receive a refund of your points. Return requests must occur prior to the hunting season.</p>
<p>I understand and support the need to generate funds with the new permit proposals, but why not just increase the cost of permit applications for quality, buck and bull, mtn goat, bighorn sheep and moose permits to \$25. That would increase the odds of drawing and increase revenue.</p>	<p>We did consider this proposal during the past 2009-11 hunting season regulation package. However the majority of hunters did not support using increased fees to regulate the number of applicants. In addition, this type of change would require legislation, which is not easy to achieve.</p>
<p>I have accumulated eleven points and do not support the current proposals because I think the odds of drawing a good buck or bull permit will get worse. Too many people will put in for the most popular permits.</p>	<p>As discussed earlier, so much depends on the number of hunters willing to purchase multiple applications. In the current system, you are competing with everyone who applies for a species permit. In the proposed system, you will only be competing for those applying within your category. Any change in the odds of drawing is completely dependent on the number of hunters applying for each category.</p>
<p>I drew for both deer and elk permits last year and now have no points. If I had known the details of this proposal, I would have put in for ghost hunts.</p>	<p>You were fortunate to have drawn permits. Most hunters are probably envious. Any change cannot address every hunter's situation and make them completely satisfied. Our proposal attempts to be as fair as possible.</p>
<p>These proposals are detrimental to archers. The changes made in 2009 resulted in more restricted opportunity for archers. Please don't further restrict archers to make more permit opportunities for modern firearm hunters.</p>	<p>These are really different issues. The balance of opportunity between users is not directly impacted by this permit application proposal. This proposal takes existing permits and divides them into categories.</p>
<p>I and my sons have many points. I believe this proposal will result in reducing the odds of drawing, not increase them because so many people will purchase permit applications.</p>	<p>It certainly depends on the species, but this proposal will have very little effect on Mtn goats, bighorn sheep, and moose because the categories for them did not significantly change. The greatest issue is for deer and elk and as described previously with any change, it is hard to improve the odds of drawing because the competition and the number of hunters with a significant number of points is substantial.</p>
<p>If a person draws two special tags for one species why not give the hunter the option to turn one of the tags back so another hunter can draw the unwanted tag.</p>	<p>Harvest success is addressed annually in developing permit level recommendations. If harvest goes down due to too many hunters drawing multiple tags, then the number of permits will be increased. Re-issuing unused tags could be cumbersome and not help address harvest objectives very much. If this becomes a significant issue, it will be addressed in the future.</p>

<p>If you want to be serious about increasing peoples odds eliminate the number of choices one gets. One choice would do way more for increasing an individuals odds, or even making it so that a person had to choose between applying for a once in a lifetime tag or special permits for deer and elk.</p>	<p>We looked at this option, but the majority of hunters don't support reducing the number of choices on a permit application. The deer and elk category that received the most support for reducing the choices was for the quality category, so we are recommending only two choices for this category.</p>
<p>If a master hunter is not contacted in a given year for a special permit, why should their accumulated points be lost? Even if they are contacted, it would be for damage control. Why should they be penalized?</p>	<p>The majority of hunts for master hunters are now limited to hunt coordinator type hunts. You are only competing against each other so it makes sense to gain and lose points within this category.</p>
<p>The notion of allowing hunters to draw multiple permits for the same species may be problematic. Concern is that some hunters may think this equates to multiple tags/animals. Another possible concern is that you have a significant number of hunters that put in for multiple hunts per species, and if drawn they could call the WDFW and claim that they apply for one of the hunts in error (per your proposal, hunters drawn for hunt can call the WDFW before the hunt starts and state they didn't intend to put in for that hunt and get their points back for that hunt). You need to account for this scenario IMO. Simplest way is to provide applicants with a way to prioritize hunt categories per species. Implementing a software solution to prioritized scheme across hunt choices isn't that complicated - much easier overall that managing hunters phoning the WDFW to back out of 1 category because they drew a hunt in a preferred category.</p>	<p>We have been working very hard to reach out to hunters to make sure they understand the rules. As addressed previously, there are many questions that are really unknown and will have to be dealt with if they become problematic. The idea that lots of folks will draw multiple tags is really questionable.</p> <p>The simplest way to manage the drawing of multiple permits is the limitation of one animal harvested per year and hunters must make the choice of which permit to utilize. No programming or special software is required.</p>
<p>It is not possible to accurately predict what revenues will do. It is possible that more money will be generated from applicants. It is also possible that widespread dissatisfaction with these changes will result in fewer applications and revenues, and possibly even fewer hunters.</p>	<p>There is certainly some question about increased revenues, but judging from the responses we received during the 2009-11 hunting season process, these changes will be well received.</p>
<p>Finally, I am somewhat surprised and truly disillusioned by the process that has been used to draft these proposed changes. What does this say about the public input process? Why are resources (people and money?) being spent on making system changes before adequate and full public input about the specific proposals has been heard?</p>	<p>As described in the information provided on the web page, this proposal has received significant support from hunters during development of the 2009-11 hunting regulation package. What remains and what is being worked out currently are the details of making this concept acceptable and workable.</p>

<p>To make better opportunities' for more hunters to be drawn, consider two things...</p> <ol style="list-style-type: none"> 1. For 3pt or better deer and branched antler elk permits, impose a one year waiting period. (you can still buy a point, but can't be drawn) 2. Give points based on number of years an applicant has applied..... <ul style="list-style-type: none"> • 1-3 years receive 1 point (1-5 yrs) • 4-6 years receive 2 points (6-10yrs) • 7-9 years receive 3 points (11+ yrs) • 10+ years receive 4 points <p>These two changes would increase the odds of drawing a special permit to those who have waited for years and can't beat the odds. I've talked to a number of hunters, who have 10-14 points and can't get drawn, but know others who've been drawn 2-3 consecutive years.</p>	<p>We plan to wait and determine the impacts from the current proposals, but will consider other ideas if there are remaining concerns about drawing odds in the future.</p>
<p>If a hunter gets drawn for an antlerless tag & Buck/Bull permit, chances are they won't use the tag harvesting an antlerless animal. In addition, this reduces other hunters opportunities by allowing more than one permit. Make it so you have to rank your preference...buck/bull permit #1, Antlerless #2 etc.</p>	<p>As mentioned previously, department biologists include success rates to achieve harvest objectives. A relatively high percentage of permit holders do not participate currently. Future participation rate changes will be incorporated into harvest objectives and recommended permit levels.</p>
<p>Another proposed regulation states that if an archery hunter or a muzzle loader hunter applies for youth, senior, disabled, or master hunts for elk they will be pooled with modern firearm hunters. The way the proposal reads "weapon must be consistent with weapon/tag restriction noted for hunt". All the weapon types hunt the same season but it seems only archery and muzzle loaders are being restricted or penalized. As far as these hunts go there is no incentive or equity as an archer or muzzle loader to apply for those hunts if required to hunt alongside a hunter with a modern firearm. Please consider making archery, muzzle loader, and modern firearm seasons separate.</p>	<p>Applicants for youth, senior, or hunters with disabilities permits will be pooled in these categories and not pooled by weapon/tag restriction. For the most part, separate pools of permits were developed for all three tag types within each category if applicable.</p>

SUMMARY OF ORAL PUBLIC INPUT
 Testimony from the March 12-13, 2010 Commission Meeting.

WAC 232-28-291 Special hunting season permits.

COMMENTS	AGENCY RESPONSE
<p>Providing fewer options would improve the odds of an individual drawing.</p>	<p>There were several objectives to changing the way that the permit system application process is conducted. The primary objective is to provide revenue to expand the hunter access program on private lands. Another objective is to create a permit application program that provides greater options for hunters. The odds of drawing a permit within each of the proposed categories rely on the number of applicants. How the changes proposed will affect the number of applications in a category is largely unknown. The idea of increasing the odds of drawing popular permits is important and the new structure proposed of application by category will allow for future modifications to better achieve that result. Several options for improving the odds of drawing popular permits were discussed with the public during the 2009-11 hunting season package. The one that has the greatest chance of improving the odds and the greatest public support to date is setting aside some number of these popular permits for hunters with significant numbers of permits. As mentioned previously, we would recommend waiting until we see the results of the current proposal before recommending further changes.</p>
<p>The new special permit structure was well-vetted with the Game Management Advisory Council (GMAC). Hours and hours were invested in looking at all the possible ways this thing could be structured. We support the version proposed and encourage the Commission move forward with it.</p>	<p>Thank you for your support. We know the GMAC invested a lot of time in helping the Agency come up with the new structure and we really appreciate that effort.</p>

AMENDATORY SECTION (Amending WSR 09-15-122, filed 7/17/09, effective 8/17/09)

WAC 220-55-115 Recreational license dealer's fees. License dealers may charge a license issuance fee as follows:

(1) Two dollars for the issuance of any of the following fishing licenses:

- (a) A combination license.
- (b) A saltwater license.
- (c) A freshwater license.
- (d) A two-day temporary fishing license.
- (e) A family fishing weekend license.
- (f) A shellfish and seaweed license.
- (g) A razor clam license.

(2) Two dollars for the issuance of any of the following hunting licenses:

- (a) A big game combination license.
- (b) A small game license.
- (c) A three-consecutive day small game license.

(3) Two dollars for the issuance of a fish and wildlife lands vehicle use permit when issued separately from an annual freshwater, saltwater or combination fishing license, or separately from an annual small game hunting license, big game combination license, or trapping license.

(4) Notwithstanding the provisions of this section, if any two or more licenses are issued at the same time, or the fish and wildlife

lands vehicle use permit is issued with any recreational license, the license issuance fee for the document is two dollars.

(5) Fifty cents for the issuance of any of the following:

(a) A deer, elk, bear, cougar, mountain goat, mountain sheep, moose, or turkey transport tag.

(b) A state of Washington migratory bird stamp.

(c) A Western Washington pheasant permit.

(d) An application for a special permit hunt.

(e) A migratory bird hunting authorization (including harvest report card).

(f) A replacement of substitute special hunting season permit.

[Statutory Authority: RCW 77.12.047, 77.12.040, 77.12.020, 77.12.570, 77.12.210. 09-15-122, § 220-55-115, filed 7/17/09, effective 8/17/09. Statutory Authority: RCW 77.12.047. 04-17-097 (Order 04-216), § 220-55-115, filed 8/17/04, effective 9/17/04; 01-10-030 (Order 01-62), § 220-55-115, filed 4/24/01, effective 5/25/01. Statutory Authority: RCW 77.32.050. 00-11-178 (Order 00-80), § 220-55-115, filed 5/24/00, effective 6/24/00. Statutory Authority: SB 5020 and RCW 75.08.090. 99-17-095 (Order 99-129), § 220-55-115, filed 8/17/99, effective 9/17/99. Statutory Authority: 1998 c 191 and RCW 75.08.080. 99-03-029 (Order 99-02), § 220-55-115, filed 1/13/99, effective 2/13/99. Statutory Authority: RCW 75.08.080. 94-01-001, § 220-55-115, filed 12/1/93, effective 1/1/94; 89-07-071 (Order 89-05), § 220-55-115, filed 3/20/89; 88-05-002 (Order 88-03), § 220-55-115, filed 2/4/88; 80-03-064 (Order 80-12), § 220-55-115, filed 2/27/80, effective 4/1/80. Formerly WAC 220-105-047.]



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 09-24-111; 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):
Natural Resources Building, Room 172
1111 Washington Street SE
Olympia, Washington 98501
(360) 902-2515

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

Date: March 12-13, 2010 Time: 8:00 am

By: Wednesday, February 24, 2010

Date of intended adoption: April 9-10, 2010
(Note: This is **NOT** the effective date)

Assistance for persons with disabilities:
Contact: Susan Yeager by March 8, 2010
TTY (800) 833-6388 or (360) 902-2267

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: 77.012.040, 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240, 77.32.070, 77.32.530

Statute being implemented: 77.012.040, 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240, 77.32.070, 77.32.530

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: February 03, 2010

TIME: 11:35 AM

WSR 10-04-125

DATE
February 3, 2010

NAME
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: ¹⁶

None

Name of proponent: (person or organization)

Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Dave Brittell	Natural Resources Building, Olympia	(306) 902-2504
Implementation.... Dave Brittell	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 220-55-115 Recreational License Dealer Fees

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

The proposed language allows hunters to replace lost permits at vendors statewide and reimburses vendors for the cost of providing supplemental permits.

Reasons supporting proposal:

Provide greater flexibility for hunters to replace lost permits.

WAC 232-12-047 Unlawful methods for hunting

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

The proposed language clarifies that handguns may be used for personal protection by all hunters. Hunters will have greater certainty on their rights to possess handguns for personal protection.

Moves crossbow regulations from the archery requirement rule to the unlawful methods for hunting rule.

Reasons supporting proposal:

Provide consistency with the U.S. Constitution and state law.

Crossbows are lawful under modern firearm seasons and not under archery seasons.

WAC 232-12-051 Muzzleloading firearms

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

The proposed language clarifies that handguns may be used for personal protection by all hunters. Hunters will have greater certainty on their rights to possess handguns for personal protection.

Reasons supporting proposal:

Provide consistency with the U.S. Constitution and state law.

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 proposed language clarifies that handguns may be used for personal protection by all hunters. Hunters will have greater certainty on their rights to possess handguns for personal protection.

Moves crossbow regulations from the archery requirement rule to the unlawful methods for hunting rule.

Reasons supporting proposal:

Provide consistency with the U.S. Constitution and state law.

Crossbows are lawful under modern firearm seasons and not under archery seasons.

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 language closes deer hunting on Cottonwood Island and Howard Island. The purpose is to protect endangered Columbian white-tailed deer. The anticipated effect is to further the recovery of Columbian white-tailed deer while retaining deer hunting on the mainland in GMU 564 proper.

Reasons supporting proposal:

The proposed language allows the retention of hunting in GMU 564 proper, but does not allow deer hunting on Cottonwood and Howard Islands which are sites proposed for Columbian white-tailed deer release to further Columbian white-tailed deer recovery.

WAC 232-28-266 Damage Prevention Permits

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

This proposal changes the timeframe that turkey Damage Prevention Permits are valid, so they can be used beginning on October 10. This proposal does not change the number of turkey permits approved.

This proposal also dedicates an additional 50 antlerless elk permits to Game Management Units in Region 5 to address increased elk damage complaints.

Reasons supporting proposal:

In April 2009, the Fish and Wildlife Commission approved 200 turkey Damage Prevention Permits for GMUs 105 to 124 which were valid beginning December 15. WDFW enforcement officers found that landowners experienced damage issues during October and November, before the approved Damage Prevention Permit season.

Elk Damage Prevention Permits currently allocated throughout the state have not been adequate to address elk damage in Region 5.

WAC 232-28-273 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 WAC amends seasons for moose, bighorn sheep, and mountain goat. The Department recommends status quo seasons for moose and minor permit level changes for bighorn sheep and mountain goat. Winter surveys indicate moose populations are stable. The Department recommends status quo permit levels. All bighorn sheep populations that currently are hunted either meet or exceed population objectives. The Department recommends minor permit level changes (from 40 to 46) based on the population thresholds in the Game Management Plan (2008). The changes include closing the Wenaha (previously 1 permit), opening Swakane (1 permit), and opening Chelan Butte (1 permit). Mountain goat populations are stable in all hunted populations. Changes in permit levels are based on annual survey counts and tend to be conservative given the sensitivity of goats to over harvesting. The Department recommends status quo permit levels in all areas, except reducing the permit level from 2 to 1 in the Bumping River population management unit due to recent survey counts. The anticipated effects are sustainable recreational hunting opportunities and long-term viable populations.

Reasons supporting proposal:

Permit level changes are based on the population thresholds in the Game Management Plan (2008).

WAC 232-12-284 Bighorn sheep -Marking requirements

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

The proposed WAC amends the marking requirements for bighorn sheep that are harvested or in possession. The Department implemented a few ewe-only bighorn sheep hunts last hunting season and was unable to effectively mark ewe horns due to their smaller size. Given the intent of the rule and difficulty marking ewe horns, the Department is recommending amending the rule to only include marking requirements for bighorn sheep rams, not ewes. There is no anticipated effect to populations or hunting opportunity.

Reasons supporting proposal:

The intent of the rule is to address the potential for illegal harvest and commercialization of bighorn sheep ram horns, because a mature ram skull can have a market value of several thousand dollars. Fortunately, the same situation does not occur for bighorn sheep ewes. As such, the Department is recommending dropping the marking requirement for bighorn ewes.

WAC 232-28-285 2010-2011 Pilot cougar hunting seasons with the aid of dogs

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

Implements Engrossed Substitute House Bill (ESHB) 2438 and establishes pilot cougar with the aid of dogs in Chelan, Okanogan, Ferry, Stevens, Pend Oreille, and Klickitat counties for the 2010-11 winter. The objective of the bill is to use a pilot cougar hunt with the aid of dogs to address public safety and the protection of private property (e.g., pets and livestock), as well as to allow the Department to more effectively manage cougar populations.

The Department is recommending a status quo permit season for the 2010-2011 pilot cougar hunt, with the following exceptions:

1. Change the opening day of the permit hunt from Dec 19 to Dec 1 (except GMUs 101, 105, and 204).
2. Increase the kill quota for Klickitat hunt zone to 10 total cougars or 4 females.
3. Increase the cap on the number of permits issued from 2x the total quota to 3x the total quota.
4. If a second drawing occurs, select additional hunters from the unselected pool of applicants that reside in a participating county.
5. Routine calendar date changes for the six counties continuing the pilot program.

The anticipated effect is to stabilize cougar populations at current levels.

At date of this filing, only Klickitat County has met the basic requirements for inclusion in the pilot cougar hunt. This filing serves as a public notice that other counties may request inclusion in the pilot cougar program up until rule action by the Fish and Wildlife Commission in April 2010.

Reasons supporting proposal:

The rule implements ESHB 2438. The objective of the bill is to use a pilot cougar hunt with the aid of dogs to address public safety and the protection of private property (e.g., pets and livestock), as well as to allow the Department to more effectively manage cougar populations.

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 WAC amends spring black bear hunting seasons. To expand the benefit of the spring seasons in the Blue Mountains, the Department is recommending adding a spring bear hunt in GMU 181 (Couse) with 4 permits. The anticipated effect is better distribution of harvested bears geographically and a slight increase in total harvest.

For Westside spring bear hunts, the Department is recommending reducing the season length in the Kapowsin Tree Farm unit from April 15-June 15 to April 15-May 15 based on discussions with the landowners. There is a slight anticipated effect to the number of hunter days.

Reasons supporting proposal:

The objectives of spring bear hunts in the Blue Mountains are to better distribute the harvest geographically and increase total harvest while minimizing female take. Through time, the spring season has proven successful for both objectives.

The Fish and Wildlife Commission began implementing spring black bear hunts in western Washington in 2006. The purpose of these hunts is to reduce tree damage by bears during the spring.

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

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

The rule establishes cougar permit hunt seasons without the aid of dogs. The proposal removes permit hunt seasons in hunt areas with a concurrent pilot cougar permit hunt with the aid of dogs. The purpose of the change is to consolidate two permit seasons into one for simplification and allow anyone to apply for the hunt. The anticipated effects are simplification of hunting seasons and long-term sustainable cougar populations.

In addition, the proposal increases the permit level in the Blue Mountains zone from 40 to 100. The purpose of the increased permit level is to aid in achieving harvest objectives in the Blue Mountains.

Reasons supporting proposal:

Consolidates two cougar permit hunt seasons into one permit season where anyone can apply. Increased permit level in Blue Mountains is to aid in achieving harvest objectives in the Blue Mountains.

WAC 232-28-288 2010-2011 Fall black bear hunting seasons and regulations

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

The rule establishes the 2010 and 2011 fall black bear seasons. Proposed seasons are status quo compared to 2009 seasons, except the recommendation to open the season on Aug 14 rather than Aug 1 in three Black Bear Management Units (i.e., South Cascades BBMU, Okanogan BBMU, and Northeastern B BBMU). The purpose is to provide recreational harvest opportunities for black bear, while maintaining long-term sustainable populations in each BBMU (except Puget Sound and Columbia Basin BBMUs). The anticipated effects of the rule are continued recreational harvest opportunities similar to 2009 levels, with slight reduced season length in 3 of 9 BBMUs, and long-term sustainable bear populations.

Reasons supporting proposal:

Population indicators for black bears support status quo hunting seasons in each BBMU, except South Cascades, Okanogan, and Northeastern B. In those BBMUs, indicators suggest that hunting seasons should be more conservative.

WAC 232-28-290 Washington raffle hunts

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

The WAC establishes rules associated with conducting a raffle for a big game hunting license/transport tag. The purpose of the amendment is to implement SHB 1778 and provide spending direction for WDFW dedicated raffle account. The proposal directs Washington Department of Fish and Wildlife (WDFW) to spend revenue from single species raffle hunts on the management of respective species raffled, and spend revenue from multiple species raffle hunts on game management. The anticipated effect is spending consistent with SHB 1778 and public input.

Reasons supporting proposal:

Proposal implements SHB 1778 and addresses public input supporting dedicated accounts.

WAC 232-28-291 Special hunting season permits

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

The purpose is to modify the permit application rules to allow permit application in drawing by category rather than by species.

Reasons supporting proposal:

Consistency with initiative to provide greater permit application opportunities for hunters and expand funding for hunter access programs.

WAC 232-28-292 Washington auction hunts

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

The WAC establishes rules associated with conducting an auction for a big game hunting license/transport tag. The purpose of the amendment is to implement SHB 1778 and provide spending direction for WDFW dedicated auction account. The proposal directs Washington Department of Fish and Wildlife (WDFW) to spend revenue from single species auction hunts on the management of respective species auctioned, and spend revenue from multiple species auction hunts on game management. The anticipated effect is spending consistent with SHB 1778 and public input.

Reasons supporting proposal:

Proposal implements SHB 1778 and addresses public input supporting dedicated accounts.

WAC 232-28-295 Landowner hunting permits

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

In 2009, two "any elk" permits were allocated to the Teanaway Ranch LHP in Kittitas County; one public and one LHP landowner permit. This proposal removes one Landowner Hunting Permit (LHP) cooperator (Teanaway Ranch) from the program. This rule change will likely result in one less general public hunter accessing the Teanaway Ranch for elk hunting.

Reasons supporting proposal:

In the fall of 2009, the LHP cooperator contacted WDFW, informed the agency that they did not wish to continue in the LHP program, and requested that we cancel their contract for future years.

WAC 232-28-337 Deer and Elk Area Descriptions

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

The proposed language adjusts the boundaries of deer and elk areas and also creates a new elk area. Adjustment of the boundaries will help staff deal with wildlife damage problems where they are occurring. Creation of new areas also protects elk when appropriate.

Reasons supporting proposal:

The proposed language makes existing boundaries more appropriate when the Department is dealing with damage or nuisance issues. The new area helps protect elk on a small scale without excluding hunting entirely on the GMU scale.

WAC 232-28-342 Small Game Seasons

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

Since 2006, fall, either sex turkey hunting seasons in southeastern Washington have been liberalized, taking advantage of increasing turkey populations and providing expanded hunting opportunity. This proposal moves fall turkey hunting season in Game Management Units (GMUs) 145-154 and 162-186 (Blue Mountains GMUs) to the "early fall general" season from the "early fall permit only" season. During the 2006, 2007, and 2008 fall permit seasons, approximately 44 percent of special permit holders participated in the hunt, with approximately 45 percent of those hunters successfully filling their permit. In 2008, 89 turkeys were harvested in these GMUs during the fall permit season. Changing to a general season hunt will allow greater opportunity for turkey hunters while season length, hunter success, and mixed ownerships will moderate turkey harvest.

Reasons supporting proposal:

The proposed changes provide increased hunter opportunity in areas where expanding populations can support increased fall harvest.

WAC 232-28-351 Deer general seasons and definitions

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

The purpose of this proposal is to retain general season deer hunting opportunity, balance the hunting opportunity between 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. Maintains sustainable general deer hunting season opportunities for 2010 and 2011. Helps address deer damage problems and provides for deer population control when needed.

WAC 232-28-352 Elk general seasons and definitions

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

The purpose of this proposal is to retain general season elk hunting opportunity, balance the hunting opportunity between 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. Maintains sustainable general elk hunting season opportunities for 2010 and 2011. Helps address elk damage problems and provides for elk population control when needed.

WAC 232-28-355 Deer special permits**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

Introduces new category structure for special permits which provide more opportunities to apply. New structure is intended to provide more opportunity to the public and generate more revenue for WDFW. Maintain deer special hunting season opportunities for 2010. Adjust special deer permits for 2010 in response to deer population changes and damage complaints. Provides for recreational harvest of deer. Helps reduce agricultural damage and provides for population control of deer where needed.

Reasons supporting proposal:

New category structure will allow more opportunities to apply which will increase revenue for WDFW. Provides recreational, deer hunting opportunity and protects deer from overharvest. Addresses deer damage problems.

WAC 232-28-356 Elk special permits**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

Introduces new category structure for special permits which provide more opportunities to apply. New structure is intended to provide more opportunity to the public and generate more revenue for WDFW. Maintain elk special hunting season opportunities for 2010. Adjust special elk permits for 2010 in response to elk population changes and damage complaints. Provides for recreational harvest of elk. Helps reduce agricultural damage and provides for population control of elk where needed.

Reasons supporting proposal:

New category structure will allow more opportunities to apply which will increase revenue for WDFW. Provides recreational, elk hunting opportunity and protects elk from overharvest. Addresses elk damage problems.