

“GREEN SHEET”

Meeting: December 2-4, 2010

Agenda Item 15: Buying or Selling Game-Farmed Meat – Rule Briefing and Public Hearing
([WAC 232-12-071](#))

Prepared By: Deputy Chief Mike Cenci, Enforcement Program

Presented By: Deputy Chief Mike Cenci

Background: Investigations into high-profile wildlife trafficking cases over the past two years identified shortcomings in the current Department rule regulating the buying and selling of game animal parts:

- The activity of trafficking in edible parts of wild game animals is not specifically prohibited in the current rule, despite the historic intent to prohibit it and the inference from the WAC title itself (“Buying or selling game unlawful”).
- The word “game” in the title of the current rule is not defined in statute. However, “game fish” and “game animals” are defined. There are unintended consequences in relying on WAC titles to identify unlawful acts, as opposed to specifying the prohibitions in the rule and using defined terms. One could argue that a licensed game fish buyer cannot legally purchase treaty caught steelhead, given a broad interpretation of the undefined word “game” in the title and no clarification elsewhere.
- Our failure to specify particular acts that are unlawful, via properly structured rule provisions, will likely result in legal debates in criminal courts of law. The intent of this proposal is to rectify this problem.
- While game-farmed meat is an exception to the anti-trafficking law, proof of origin must be retained so that officers can track product back to its source. However, we have never defined the type of proof that must be retained. This proposal suggests changes that are consistent with commercial-fishing documentation requirements, which will increase our success in tracing products back to their origin and thus ensure that game-farm meat is not commingled with wild game.

In addition, the current rule and the proposed changes allow people to apply for a Department permit to sell, buy, or trade parts of bighorn sheep or mountain goat; gall bladders, claws, or teeth of bear that are not permanently attached to a full bear skin or mounted bear; or velvet antlers of deer, elk, or moose. However, we have never provided these people with the opportunity to request an administrative hearing if we deny their permit application. Under chapter 34.05 RCW, the Administrative Procedure Act, we need to allow these folks to request a hearing. The proposed changes do this.

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

Does the Commission want to:

1. Make the intent of the current prohibitions apparent?
 2. Clarify the prohibition on buying, selling and trading the non-edible parts of wild animals, game birds, and game fish to include those that were poached in other jurisdictions?
 3. Define proof of origin of game-farmed animals to ensure detection of commingled game-farmed meat and wild meat?
 4. Provide the opportunity for an administrative hearing if a person applies for a permit to buy, sell, or trade non-edible wildlife parts and the permit is denied?
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Public involvement process used and what you learned:

A CR-101 was filed in December 2008. In late July 2010, the Hunters Heritage Council had a fundraiser. At the event, members of WDFW's Wildlife Program shared the proposed change with council members. One of the members, Richard Lapinski, wrote a letter to Lori Preuss, WDFW's Rules Coordinator, demanding that the change be abandoned because he said it would take away individuals' property rights. WDFW Enforcement conferred with the Wildlife Program and other staff and decided to omit the proposed change. Although it would have helped to reduce trafficking in poached big game animals, the change's constraints on hunters to buy, sell, and trade their trophy mounts outweighed this benefit.

A CR-102 was filed on October 20, 2010. We have received no comments in response to the filing.

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 February 4-5, 2011, Commission meeting in Olympia.

Draft motion language:

N/A

Justification for Commission action:

Unlike the current rule, the proposed changes make it clear that:

1. it is illegal to sell, purchase, or barter edible parts of wild animals or game birds;
 2. it is illegal to sell, purchase, or barter edible parts of game fish unless allowed under RCW 77.65.480;
 3. it is illegal to sell, purchase, or barter wild animals, game birds, or game fish if prohibited by federal regulation or the animals or fish were taken in violation of any law or regulation in any jurisdiction;
 4. proof of source of the source of game-farmed meat must include specific information; and
 5. if a person is denied a permit to sell, purchase, or trade nonedible parts of big horn sheep or mountain goat; gall bladders, claws, or teeth of bear that are not permanently attached to a full bear skin or mounted bear; or velvet antlers of deer, elk, or moose, he or she may request an administrative hearing to contest the permit denial.
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Communications plan:

The Department's proposed changes are on the Department's "[current rule making activity](#)" page of its website. The Enforcement Program will work with Public Affairs to send out a press release on the proposed changes and outcome of the December Commission meeting.