



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>07.05.086</u> ; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or                 | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).   | <input type="checkbox"/> Continuance of WSR _____         |

Title of rule and other identifying information: (Describe Subject)

New WAC Chapter 232-13. Public Conduct in Wildlife Areas and Access sites owned or controlled by the Department of Fish and Wildlife.

Repeal WACs: 232-12-174 Domestic animals on department lands; 232-12-177 Vehicles using department lands; 232-12-184 Aircraft—Authorized use on department lands; 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon; 232-12-251 Removal of minerals, wood, and artifacts from department lands.

Hearing location(s):

MirabeauPark Hotel & Convention Center  
1100 N. Sullivan Road  
Spokane Valley, WA 99037  
(509) 924-9000

Date: June 1-2, 2007 Time: 8:00 am

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](mailto:Wildthing@dfw.wa.gov)

fax (360) 902-2162 by (date) May 2, 2007

Assistance for persons with disabilities: Contact

Susan Yeager by May 29, 2007

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

Date of intended adoption: August 3-4, 2007

(Note: This is NOT the effective date)

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

**New WAC Chapter 232-13.**

The purpose of this new chapter is to establish allowed and prohibited activities on Department of Fish and Wildlife owned or controlled lands, waters, or access areas. These include activities relating to: aircraft use, proper behavior and conduct, camping, commercial use or activities, dumping and sanitation, erecting structures, firearms and target practice, fireworks, livestock, parking, pets, resource removal, and vehicle use. It also establishes the authority to regulate public use, clarifies enforcement authority, and establishes violations of this chapter as misdemeanors.

**Repeal WACs: 232-12-174; 232-12-177, 232-12-184, 232-12-187; 232-12-251**

These WACs topics will be incorporated into the new Chapter 13.

**Reasons supporting proposal:**

The department's paramount responsibilities are to preserve, protect, perpetuate, and manage the fish and wildlife species of the state and maximize opportunities for people to hunt, fish, and appreciate fish and wildlife. It has been observed in recent years that many activities currently occurring on department lands are inconsistent with fish and wildlife management goals, damage habitat, disturb wildlife, or prevent others from enjoying fish and wildlife recreational opportunities. This new chapter serves to curb these undesirable effects. Regulations directing public use activities are currently scattered among other regulations. There is a need to consolidate them under one heading for clarity, better enforcement, and to ultimately allow the department to fulfill its responsibilities.

Statutory authority for adoption: RCW 77.12.210, 77.12.880

Statute being implemented: RCW 77.12.210, 77.12.880

Is rule necessary because of a:

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

DATE

April 17, 2007

NAME (type or print)

Lori Preuss

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

APR 17 2007

TIME

4:25

WSR

07.09.084

PM

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

None

**Name of proponent:**

Washington Fish and Wildlife Commission

- 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 rule regulate the use of department owned or controlled lands and do not pose an additional cost to small business beyond what is already required.

**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.

Chapter 232-13 WAC

PUBLIC CONDUCT IN WILDLIFE AREAS AND ACCESS SITES OWNED OR  
CONTROLLED BY THE DEPARTMENT OF FISH AND WILDLIFE

NEW SECTION

**WAC 232-13-010 Introduction.** The Washington department of fish and wildlife (department) is governed by a dual mandate. Its paramount responsibility is to preserve, protect, perpetuate, and manage the fish and wildlife species of the state (RCW 77.04.012). At the same time, the department strives to maximize opportunities for people to hunt, fish, and appreciate fish and wildlife (RCW 77.04.012 and 77.04.020).

NEW SECTION

**WAC 232-13-020 Purpose.** Primary purposes for the public use of department-owned or controlled public lands, waters, or access areas are lawful hunting and fishing, wildlife observation, and other wildlife oriented recreational activities. Other activities are secondary and may be restricted or prohibited.

NEW SECTION

**WAC 232-13-030 Definitions.** Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Aircraft" means any machines designed to travel through the air, whether heavier or lighter than air, including but not limited to airplanes, dirigibles, balloons, and helicopters. The term "aircraft" shall not include paragliders or remote controlled aircraft.

(2) "Camping" means erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle

for the purpose of remaining overnight.

(3) "Campgrounds" are department designated areas where camping is allowed.

(4) "Closed or restricted access" means any department-owned or controlled public lands, waters, or access areas (including roads and trails) that are gated and locked, closed by earthen mound, or designated as closed or posted as such with signs.

(5) "Commercial use or activity" is any use or activity on department-controlled or managed lands, waters, or access areas:

(a) Where an entry or other type of fee is charged; or

(b) Where the primary purpose is the sale or barter of a good or service; and

(c) In either case, the term applies regardless of whether the use or activity is intended to produce a profit.

(6) "Firearm" means a loaded or unloaded pistol, rifle, shotgun, or other weapon that is designed to, or may be readily converted to, expel a bullet or pellets by the ignition of a propellant.

(7) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and which meets the definition of articles pyrotechnic or consumer fireworks or display fireworks.

(8) "Incendiary" means causing or designed to cause fires, such as certain substances or bombs.

(9) "Land" means any area (including water, access areas, roads, and trails) under the ownership, management, or control of the department.

(10) "Livestock" means any hooved animal used for agriculture, riding, pulling, or packing purposes.

(11) "Motorized vehicle" means any vehicle, including snowmobiles, that is motor-propelled, and any vehicle that is propelled by electric power, except motorized wheelchairs used by persons with disabilities, and electric personal assistive mobility devices (EPAMDs).

(12) "Parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(13) "Pet" means a dog, cat, or any animal that has been domesticated, except livestock.

(14) "Possession" means exercising direct physical control or dominion, with or without ownership, over weapons, traps, nets or other property, or archeological, cultural, or natural resources.

(15) "Road" means a road wholly or partly within or adjacent to and serving department-owned or controlled public lands, waters, or access areas under the jurisdiction of the department.

(16) "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow and having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow or ice and steered by a ski or skis on contact with the snow or ice.

(17) "Tracer bullet or shell" means a bullet, projectile, or shell that traces its own course in the air with a trail of smoke,

chemical incandescence, or fire, so as to facilitate adjustment of the aim.

(18) "Vessel" means any craft that is used or is capable of being used as a means of transportation on or under water or ice, including but not limited to powerboats, cruisers, houseboats, sailboats, airboats, hovercraft, rowboats, canoes, kayaks, seaplanes, or other personal watercraft. This also includes buoyant devices permitting or capable of free flotation.

#### NEW SECTION

**WAC 232-13-040 Aircraft.** Except as authorized by the director or the director of the department of natural resources, it is unlawful to land aircraft on lands owned, leased, or controlled by the department, except in the case of a bona fide emergency.

#### NEW SECTION

**WAC 232-13-050 Behavior and conduct.** (1)(a) It is unlawful to engage in disorderly conduct on department-owned or controlled public lands, waters, or access areas.

(b) For the purposes of this subsection, "disorderly conduct" means conduct that unreasonably disturbs the repose of other persons lawfully using these lands, waters, or access areas; or is of a loud, threatening, insulting, boisterous, or abusive nature towards other persons, creating a risk of assault, fight, or riot; or by its indifference to or disregard for public safety, warrants alarm for the safety or well-being of others.

(2)(a) It is unlawful to engage in activities that violate quiet hours on department-owned or controlled public lands or access areas that are designated for camping.

(b) The term "activities that violate quiet hours," as used in this section, means engaging in loud and boisterous conduct or the playing of radios, musical instruments, sound, or music systems, or the activating of sound producing electronic or mechanical devices in the camping area, between 10:00 p.m. and 6:00 a.m.

(3)(a) It is unlawful to possess or dispense beer or malt liquor in quantities subject to keg registration laws and regulations of the liquor control board on department-owned or controlled public lands, waters, or access areas.

(b) It is unlawful to hold, sponsor, or attend an event requiring a banquet permit (chapter 314-18 WAC) from the liquor control board on department-owned or controlled public lands, waters, or access areas without a permit from the director.

(4) It is unlawful to use department-owned or controlled public or private lands, waters, or access areas in a manner or for a purpose contrary to signs or notices posted on those lands, waters, or access areas. This subsection also applies to private lands that are under management or access agreement with the department.

#### NEW SECTION

**WAC 232-13-060 Camping.** (1) It is unlawful to establish or occupy a camp on department-owned or controlled public lands, waters, or access areas in excess of fourteen days within a thirty-day period, except where designated by the director or when allowed by posted notice.

(2) It is unlawful to establish or occupy a residence camp on department-owned or controlled public lands, waters, or access areas. For purposes of this section, a residence camp is an encampment, occupancy, or presence on department-owned or controlled public lands, waters, or access areas that is the principal place of residence for the person or occupant.

(3) A residence camp on department-owned or controlled public lands, waters, or access areas is declared to be a public nuisance and may be abated by the department without notice or process.

#### NEW SECTION

**WAC 232-13-070 Commercial use or activity.** (1) It is unlawful to use department-owned or controlled public lands, waters, or access areas for any commercial purposes, including but not limited to the placement of bee hives, collecting mushrooms or plants or plant parts; guiding or outfitting hunters, anglers, or whitewater rafters; or sales or services, without a permit from the director.

(2) It is unlawful to sponsor, conduct, or hold a private or public event, race, regatta, contest, rally, rodeo, equestrian event involving more than five animals, shooting match, sporting clay competition, outdoor music festival, jamboree, field trial, hunting or fishing contest, or other similar public gathering or event on department-owned or controlled public lands, waters, or access areas without a permit from the director.

NEW SECTION

**WAC 232-13-080 Dumping and sanitation.** (1) It is unlawful for any person to throw, drop, or leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased, or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property. In addition, it is unlawful to pollute, or in any way contaminate by dumping or otherwise depositing therein, any waste or refuse of any nature, kind, or description, including human or animal bodily waste, into any stream, river, lake, or other body of water running in, through, or adjacent to any department-owned or controlled public lands, waters, or access areas.

(2) It is unlawful to burn trash on department-owned or controlled public lands, waters, or access areas.

(3) It is unlawful to drain or dump refuse or waste from any trailer, camper, automobile, other vehicle, or vessel on department-owned or controlled public lands, waters, or access areas.

(4) Except for department-owned vehicles or vehicles used by the department for department administration, it is unlawful to clean or wash any automobile, vessel, or other vehicle on department-owned or controlled public lands, waters, or access areas, except at designated areas and times for invasive species control and prevention.

NEW SECTION

**WAC 232-13-090 Enforcement.** (1) Fish and wildlife officers and ex officio fish and wildlife officers are authorized to control traffic and activities on department-owned or controlled public lands, waters, or access areas. Such officers shall have the authority to remove persons from these department-owned or controlled public lands, waters, or access areas who have violated the law or failed to obey department regulations.

(2) It is unlawful to fail, neglect, or refuse to obey the directions of such officers regarding use of department-owned or controlled public lands, waters, or access areas.

NEW SECTION

**WAC 232-13-100 Erecting structures on WDFW lands.** (1)(a) It is unlawful to erect, establish, use, or occupy a permanent or temporary structure on department-owned or controlled public lands,

waters, or access areas without a permit from the director.

(b) This provision does not apply to a tent or other temporary structure established as part of a camp. Such tents or temporary structures must be entirely removed at the end of the trip or season being hunted by the occupants of the camp. A structure may in no case remain more than fourteen days within a thirty-day period, unless otherwise posted. This provision does not apply to certain hunting blinds. Hunting blinds are defined for purposes of this section as temporary structures made entirely of natural materials and that do not use metal, cement, furniture, wire, rope, twine, plastic, or lumber in their construction. Portable hunting blinds that are designed to be removed and are removed at the end of the hunting day may be used.

(c) Unauthorized or unlawful permanent or temporary structures or hunting blinds may be declared to be public nuisances and may be removed by the department without notice or process.

(2)(a) It is unlawful to dig, use, or occupy a pit-type hunting blind on department-owned or controlled public lands, waters, or access areas except when such pit-type hunting blinds are established by the department or are authorized by a permit from the director.

(b) It is unlawful to attempt to exercise the provisions of an expired permit issued under this section by the director or to fail to obey the terms and conditions of a permit issued under this section by the director.

(c) It is unlawful to assert or attempt to assert a claim of exclusive occupancy on department-owned or controlled public lands, waters, or access areas unless such claim is supported or authorized by a permit from the director.

#### NEW SECTION

**WAC 232-13-110 Firearms and target practicing.** (1)(a) It is unlawful to discharge tracer or incendiary ammunition or projectile devices on department-owned or controlled public lands, waters, or access areas.

(b) It is unlawful to discharge firearms in those portions of department-owned or controlled public lands, waters, or access areas where or when such discharge is prohibited by posted notice or from or within five hundred feet of a designated campground.

(c) It is unlawful to fail to remove expended shell casings, ammunition packaging, or other related target debris when target practicing on department-owned or controlled public lands, waters, or access areas at the conclusion of the target practice session and prior to departure from the area. Failure to remove any debris constitutes littering.

(d) The use of glass, signs, appliances, mattresses, TVs, furniture, cans, and exploding items as targets in target

practicing are prohibited.

(2) The department may designate locations and times for target practice.

NEW SECTION

**WAC 232-13-120 Fireworks.** Except for legal firearms, it is unlawful to discharge or possess fireworks, model rockets, or other devices containing any explosive or flammable compounds on department-owned or controlled public lands, waters, or access areas.

NEW SECTION

**WAC 232-13-130 Land and road closures.** (1) The director may close or restrict access to department-owned or controlled public lands, waters, or access areas by an emergency or other permanent regulation on a seasonal, emergent, or permanent basis to protect human safety, for the protection of vulnerable fish and wildlife resources or habitats, or big game feeding stations, or to protect department or other infrastructure from damage or abuse.

(2) It is unlawful to enter or remain on department-owned or controlled public lands, waters, or access areas or portions thereof when such restrictions are in place or are established by posted notice.

NEW SECTION

**WAC 232-13-140 Regulating public access.** (1) The department may control public access and hunting methods on certain department-owned or controlled lands, waters, or access areas to increase wildlife use, improve hunter success and manage wildlife viewing opportunities. Public access may be controlled by limiting the number of users on the areas, limiting the number of days per week the areas can be hunted, and/or limiting the days of the week or hours of the day that the public can access the areas during the hunting season. Hunting methods may be controlled by such means as limiting the number of shotshells in possession or regulating the use of decoys.

(2) It is unlawful to enter or remain on department-owned or

controlled public lands, waters, or access areas or portions thereof when such restrictions are in place or are established by posted notice.

#### NEW SECTION

**WAC 232-13-150 Livestock.** (1) It is unlawful for any person to allow livestock to be unattended or to graze or utilize department-owned or controlled public lands, waters, or access areas without a permit from the director.

(2) In addition to other penalties provided by law, any such person shall be liable to the department for a compensatory fee of five dollars per head of livestock per day.

(3) It is unlawful to fail to pay the compensatory fees assessed by the department pursuant to this section.

#### NEW SECTION

**WAC 232-13-160 Parking.** (1)(a) It is unlawful to park or leave a vehicle unattended for more than five days on department-owned or controlled public lands or access areas without a permit from the director.

(b) It is unlawful to leave a motor vehicle or trailer parked or standing on department-owned or controlled public lands or access areas when the vehicle is blocking access to a boat ramp, roadway, gate, or driveway or otherwise prevents egress or ingress to a department facility.

(c) Vehicles unlawfully parked, standing, or abandoned on department-owned or controlled public lands or access areas may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) It is unlawful to site, park, emplace, or install a mobile or modular home on department-owned or controlled public lands, waters, or access areas except when authorized by a permit from the director. Such unauthorized or unlawful mobile or modular homes are declared to be public nuisances and may be removed by the department without notice or process.

(3) Vehicles, vessels, motor homes, and trailers parked or abandoned for more than fourteen consecutive days within a thirty-day period on department-owned or controlled public lands, waters, or access areas are declared to be public nuisances and may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer without notice or process.

(4) It is unlawful to moor a houseboat, other floating

occupancy structure, or dock for more than seventy-two hours on department-owned or controlled public lands, waters, or access areas without a permit from the director. Such unauthorized or unlawful boats, houseboats or other floating structures are declared to be public nuisances and may be removed by the department without notice or process.

#### NEW SECTION

**WAC 232-13-170 Pets.** (1) The department may prohibit or regulate pets, except for bona fide service dogs for persons with disabilities, on department-owned or controlled public lands, waters, or access areas.

(2) It is unlawful for any person to leave pets unattended on department-owned or controlled public lands, waters, or access areas.

(3) (a) It is unlawful to cause or allow a dog to roam freely on department-owned or controlled public lands, waters, or access areas, from April 1 through August 31, except in designated areas.

(b) It is unlawful to cause or allow a dog to roam freely on designated access sites or within two hundred yards of a designated campground on department-owned or controlled public lands.

#### NEW SECTION

**WAC 232-13-180 Resource removal.** (1) (a) Except for down dead wood collected for camping on department lands, it is unlawful to remove timber, wood, soils, minerals, fossils, plants, plant seeds or other property or artifacts from department-owned or controlled public lands, waters, or access areas without a permit from the director.

(b) Unlawful removals valued at over two hundred fifty dollars constitute theft under chapter 9A.56 RCW.

(2) It is unlawful to collect shed antlers on department-owned or controlled public lands, waters, or access areas from February 15 through April 30.

NEW SECTION

**WAC 232-13-190 Vehicle use.** Except for permitted use by persons with disabilities, it is unlawful to possess or operate any motorized vehicle, including snowmobiles, on or across public lands, waters, or access areas owned or controlled by the department, except on roads, unless posted otherwise. This section also applies to private lands that are under management or access agreement with the department.

NEW SECTION

**WAC 232-13-200 Penalties.** Except as provided in the "vehicle use" section, WAC 232-13-190, violation of any of the provisions of this chapter constitutes a violation of RCW 77.15.230, unlawful use of department-owned or controlled lands.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-174	Domestic animals on department lands.
WAC 232-12-177	Vehicles using department lands.
WAC 232-12-184	Aircraft--Authorized use on department lands.
WAC 232-12-187	Access areas--Other department lands--Wildlife agent to control traffic thereon.
WAC 232-12-251	Removal of minerals, wood and artifacts from department lands.