

“GREEN SHEET”

Meeting: December 2-4, 2010

Agenda Item 14: Removal of Minerals, Wood and Artifacts From Department Lands – Rule Briefing and Public Hearing ([WAC 232-12-251](#))

Prepared By: Deputy Chief Mike Cenci, Enforcement Program

Presented By: Deputy Chief Mike Cenci

Background:

In December 2007, the Fish and Wildlife Commission adopted a number of rules associated with public conduct on Department lands. As a result, the Enforcement Program has had more success in deterring activities inconsistent with our lands management rules. However, one area of regulation was omitted in the lands conduct package: resource removal. Resource removal is currently addressed in WAC 232-12-251, which was filed in 1990. The rule prohibits removing petrified wood, minerals, fossils, wood products, and artifacts from Department lands without a permit. However, it does not contain a penalty section and does not provide comprehensive protection.

The current rule misses is the habitat destruction caused by people cutting down snags and live trees and removing resources such as mushrooms, berries, plants, and soil. This proposal seeks to remedy the problem by prohibiting, unless a person has a Department permit, the cutting down or removal of dead standing timber, live trees, wood, soil, petrified wood, minerals, fossils, plants, mushrooms, berries, or artifacts. The proposal also establishes limits on the amount of downed dead wood a person may collect for camping, and the amount of mushrooms or berries a person may pick for personal use. These changes are consistent with specialized forest products statutes (Title 76 RCW).

With the current rule, violations are punished under RCW 77.15.230, Unlawful use of Department lands, which is a misdemeanor. This is fine for unlawful removal or excess take/use of downed dead wood, mushrooms, and berries. However, it is too lenient for other resources, considering their value. This proposal would punish as a theft the unlawful cutting down or removal of dead standing timber, live trees, wood, soil, petrified wood, minerals, fossils, or plants.

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

1. Does the Commission want to prohibit resource removal and excess take/use on lands the Department owns and controls?
 2. Does the Commission want to impose harsher penalties for unlawfully cutting down or taking dead standing timber, live trees, wood, soil, petrified wood, minerals, fossils, or plants, than there are for downed deadwood, mushrooms, and berries?
-

Public involvement process used and what you learned:

A CR-101 and CR-102 were filed for public notification and are on the agency's "[current rule making activity](#)" page of the website. We have received no comments. The amendments are largely housekeeping changes to ensure that the intention of the original rule could be enforced. The changes also restrict resource harvests to personal-use quantities consistent with other laws, including an existing Department rule, WAC 232-13-080, which requires a permit to conduct commercial activities on Department lands.

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:

Protects and conserves habitat and natural resources on Department lands.
Facilitates enforcement of this rule.

Communications plan:

The Department will coordinate with Public Affairs (PA) to issue a press release if PA deems it appropriate.
