

**15. IMPORTATION AND RETENTION OF DEAD NONRESIDENT
WILDLIFE – RULE ACTION**

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Summary

Meeting: April 12, 2013

Agenda item 15: Importation and Retention of Dead Nonresident Wildlife – **Rule Action**

Presented by: Jerry Nelson, Ph.D., Deer and Elk Section Manager, Wildlife Program

Background:

Department staff will brief the Commission on proposed amendments to WAC 232-12-021 Importation and retention of dead nonresident wildlife.

Research has confirmed the infective agents of chronic wasting disease (CWD) can transfer from decomposing carcasses into the environment. The research conducted by scientists from Colorado and Wyoming showed that infective agents in the soil could infect healthy deer. Therefore, the Commission adopted rules in 2004 to protect Washington deer and elk populations from exposure to CWD from animals harvested in states with confirmed cases of the disease. The Department has additional information on its website at: <http://wdfw.wa.gov/wlm/cwd/index.htm>.

The Department is recommending adding two new states that have confirmed CWD in their wild cervid populations: Missouri and Texas.

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

Amend restrictions on the importation of dead wildlife to include states known to harbor chronic wasting disease in wild populations. Add Missouri and Texas to list of states that have CWD in wild cervid populations. Reduce the risk for native deer, elk, and moose populations in Washington.

Public involvement process used and what you learned:

A letter was sent to approximately 600 organizations and individuals informing them of the opportunity to provide comments on the proposed regulation. Additionally these individuals and organizations were informed of the opportunity to provide testimony at the March 1-2, 2013 Commission Meeting in Moses Lake.

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

Amend WAC 232-12-021 as proposed.

Draft motion language:

I move to amend WAC 232-12-021 as proposed.

Justification for Commission action:

Reduce the disease risk for native deer, elk, and moose populations in Washington.

Communications plan:

- Washington State Register
 - News Release
 - Hunting Pamphlets
 - Agency Website
-

AMENDATORY SECTION (Amending Order 11-299, filed 11/16/11, effective 12/17/11)

WAC 232-12-021 Importation and retention of dead nonresident wildlife. (1) It is unlawful:

~~(1)(a)~~ To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.—~~Violation of this subsection is punishable under RCW 77.15.290.~~

~~(2)(b)~~ For a person who imports a dead mountain bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.—~~Violation of this subsection is punishable under RCW 77.15.290.~~

~~(3)(c)~~ To import or possess deer, elk, or moose, or parts thereof, harvested in Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, and Saskatchewan, with the following exceptions:

~~(a)(i)~~ Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

~~(b)(ii)~~ Skulls and antlers, antlers attached to the skull plate,

or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

~~(e)(iii)~~ Hides or capes without heads attached;

~~(d)(iv)~~ Tissue imported for use by a diagnostic or research laboratory; and

~~(e)(v)~~ Finished taxidermy mounts.

(2) Violation of ~~this~~ subsection (1) of this section is punishable under RCW 77.15.290, Unlawful transportation of fish or wildlife -- Penalty.

~~(4)(3) It is unlawful for an importer or receiver of deer or elk to fail to notify the department within twenty-four hours if an a state or province alerts the importer or receiver of deer or elk is notified by a state or province that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160, Infractions.~~

[Statutory Authority: RCW 77.12.047. 11-23-083 (Order 11-299), § 232-12-021, filed 11/16/11, effective 12/17/11. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.210, and C.F.R. Title 50, Part 21, Subpart C, Section 21.29; Migratory Bird Treaty Act. 10-18-012 (Order 10-214), § 232-12-021, filed 8/20/10, effective 9/20/10. Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210. 07-11-017 (Order 07-62), § 232-12-021, filed 5/3/07, effective 6/3/07. Statutory Authority: RCW 77.12.047. 06-02-063 (Order 05-271), § 232-12-021, filed 1/3/06, effective 2/3/06; 05-02-046 (Order 04-327), §

232-12-021, filed 1/3/05, effective 2/3/05. Statutory Authority:
RCW 77.12.030. 93-04-040 (Order 583), § 232-12-021, filed 1/27/93,
effective 2/13/93. Statutory Authority: RCW 77.12.040.
82-04-034 (Order 177), § 232-12-021, filed 1/28/82; 81-12-029 (Order
165), § 232-12-021, filed 6/1/81. Formerly WAC 232-12-060.]

WAC 232-12-021 Importation and retention of dead nonresident wildlife.

RECOMMENDED ADJUSTMENTS

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

Pages 1-3

- Several technical amendments were made throughout this section to improve the clarity and accuracy of the rule.

Page 1

- In the first sentence of subsection 2, the term “mountain sheep” was changed to “bighorn sheep” to clarify the intended species, *Ovis canadensis*, commonly known as bighorn sheep.



PROPOSED RULE MAKING

CR-102 (June 2012)

(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 12-19-007 on 9/6/12; WSR 12-20-084 on 10/3/12; and WSR 12-23-013 on 11/9/12; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

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

The subject of this proposed rule-making effort is the amendment of hunting seasons and regulations for 2013-2014, archery equipment regulations, and rules governing the importation of dead non-resident wildlife for the purposes of disease control. See Attachment A for a complete listing of rules.

Hearing location(s):
 Moses Lake Civic Center
 401 S. Balsam
 Moses Lake, Washington 98837

Date: March 1-2, 2013 Time: 8:30 a.m.

Submit written comments to:
 Name: Wildlife Program Commission Meeting Public Comments
 Address: 600 Capitol Way North
 Olympia, WA 98501-1091

Fax: (360) 902-2162 by (date) February 15, 2013

Assistance for persons with disabilities: Contact
Tami Lininger by February 22, 2013
 TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: on or after April 12, 2013
 (Note: This is **NOT** the effective date)

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: RCWs 77.12.047; 77.12.150; and 77.12.240

Statute being implemented: RCWs 77.12.047; 77.12.150; and 77.12.240

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: January 23, 2013
TIME: 11:05 AM

WSR 13-03-152

DATE
January 23, 2013

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

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

When filing the permanent rule-making order (CR-103P), the WAC sections containing rule amendments will be consolidated into one or two Order Typing Service (OTS) documents.

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..... Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2693
Implementation.... Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2693
Enforcement..... Bruce Bjork	Natural Resources Building, Olympia	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal 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 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: This proposal is not related to hydraulics rules.

ATTACHMENT A

WAC 232-12-021 Importation and retention of dead nonresident wildlife.

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

The states and provinces listed in this WAC have confirmed chronic wasting disease (CWD) in their wild, free-ranging populations of cervids. This proposal would add the states of Texas and Missouri to those states where additional processing of deer, elk, and moose carcasses is required before they can be brought into Washington.

Reasons supporting proposal:

The proposal reduces the risk of CWD being imported into Washington State via carcasses of animals harvested in other states. Reducing disease risk helps in sustaining deer, elk, and moose hunting opportunities in Washington.

WAC 232-12-054 Archery requirements – Archery special use permits.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is intended to further the discussion on allowing illuminated nocks for archery equipment.

Reasons supporting proposal: This proposal facilitates public discussion of new technologies and consideration of acceptable fair chase and ethical standards for hunting.

WAC 232-28-248 Special closures and firearm restriction areas.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway. Anticipated effects are minimal; this project involves merely rewording and clarifying a rule already in existence.

Reasons supporting proposal: The department needs these changes to increase efficiency, functionality, and clarity of the rules within its Administrative Code.

WAC 232-28-273 2012-2014 Moose seasons and permit quotas.

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

This amendment clarifies that the exemption from the once-in-a-lifetime moose restriction is also applicable if the hunter applies in the future for a hunt in the permit categories of antlerless moose: raffle, auction, or master hunter. Additionally, this amendment reduces the number of master-hunter moose permits.

Reasons supporting proposal:

The proposed change in language reduces ambiguity regarding who may apply for a moose permit. The reduction in master hunter moose permits reflects the expected number of hunters needed in 2013 and beyond, based on the experience of recent years.

WAC 232-28-286 2013, 2014, and 2015 Spring black bear seasons and regulations.

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

The purpose for amending the 2013-15 spring black bear hunting seasons is to expand opportunity in the north Puget Sound. These spring seasons are mainly established to address damage caused by bears to commercially grown trees. The hunt utilizes recreational hunters to harvest black bears in areas where

chronic tree damage and other property damage has been documented and allows the department to disperse harvest geographically and target male bears. This strategy helps ensure long-term sustainability in the black bear population and provides recreational opportunity for hunters.

Reasons supporting proposal: Spring bear hunting helps address commercial tree damage issues and provides recreational hunting opportunity. In the past, most black bear damage was addressed using depredation permits where the landowner would contract with a hunter using dogs to kill multiple bears near areas with tree damage. Depredation permit hunters were taking an increasing number of bears each year, and over 150 bears were being killed annually. The spring black bear season allows recreational hunters to better target the areas receiving damage and allows hunters rather than contractors to harvest bears.

WAC 232-28-296 Landowner hunting permits.

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

The purpose of this proposal is to expand the number of special hunting opportunities available on private lands for hunters and to maintain the number of cooperating landowners.

Reasons supporting proposal: Several years ago, the Fish and Wildlife Commission developed a policy to expand the private lands available to the general public for hunting. One of the programs that was authorized is the Landowner Hunting Permit Program. This program encourages landowners to provide opportunity to the general hunter in exchange for customized hunting seasons and the ability to generate funding to offset the cost of providing public access.

WAC 232-28-334 Game management units (GMUs) boundary descriptions -- Region four.

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

This proposal changes the management area designation of the Puget Sound Islands from Deer Areas to Game Management Units (GMUs). The proposed amendments will allow the Department to better track harvest removals specific to the islands.

Reasons supporting proposal:

This proposal will allow the Department to better track harvest removals specific to the Puget Sound Islands rather than having those removals lumped with mainland GMUs.

WAC 232-28-336 Game management units (GMUs) boundary descriptions -- Region six.

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

The purpose of the proposal is to designate Anderson Island as a Game Management Unit rather than a Deer Area. The proposed language will allow the Department to better track harvest removals specific to the island.

Reasons supporting proposal:

The proposed changes will allow the Department to better track harvest removals specific to the Anderson Island rather than having those removals lumped with a mainland GMU.

WAC 232-28-337 Elk area descriptions.

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

The purpose of the proposal is to separate Elk Area descriptions from Deer Area descriptions. The proposal also removes one Elk Area that is no longer needed and adjusts the boundary of two other Elk

Areas to make them more effective in dealing with wildlife conflict. Additional language modifications have been made to improve clarity.

Reasons supporting proposal:

Elk Areas help direct hunters at a scale smaller than the GMU when needed. Elk Areas also help staff address local wildlife conflict problems. Some of the language modifications in this proposed amendment are part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway.

WAC 232-28-342 2012-13, 2013-14, 2014-15 Small game and other wildlife seasons and regulations.

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

The purpose of this proposal is to add GMU 145 to the late fall turkey season. This GMU was inadvertently omitted during the three-year season-setting process. This proposal also modifies bag-limit language pertaining to fall turkey permit seasons. The change to the bag-limit language clarifies that hunters who kill a turkey during the permit seasons may still participate in the other fall seasons open to all hunters.

References to the western Washington Dungeness pheasant release site are also removed under the western Washington pheasant seasons.

Reasons supporting proposal:

GMU 145 is surrounded by other GMUs open during the late fall season. The intent was to include this unit in the three-year proposal. The department supports providing opportunity in this unit.

Turkey populations are healthy or increasing in areas where fall general seasons are in place, and the department is encouraging additional harvest and recreational opportunity in these areas. Allowing harvest during the general seasons by those who draw permits poses no concern for the population.

Clallam County owns the Dungeness release site and has decided to no longer allow use of the area for upland bird hunting. For this reason, removing references to this site is appropriate.

WAC 232-28-357 2012-2014 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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when deer populations allow; and reduce opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: The proposed amendment provides recreational deer hunting opportunity and protects deer from overharvest. The amendment would maintain sustainable general deer hunting season opportunities for 2013; address deer damage problems; and provide for deer population control when needed.

WAC 232-28-358 2012-2014 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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when elk populations allow; and reduce opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposed amendment would maintain sustainable general elk hunting season

opportunities for 2013; address elk damage problems; and provide for elk population control when needed.

WAC 232-28-359 2013 Deer special permits.

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

The purpose of this proposal is to retain special-permit deer hunting opportunity. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when deer populations allow; and reduce opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational deer hunting opportunity and protects deer from overharvest. The proposed amendment would maintain sustainable deer special-permit hunting season opportunities for 2013; address deer damage problems; and provide for deer population control when needed.

WAC 232-28-360 2013 Elk special permits.

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

The purpose of this proposal is to retain special-permit elk hunting opportunity. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when elk populations allow; and reduce opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposed amendment would maintain sustainable elk special-permit hunting season opportunities for 2013; address elk damage problems; and provide for elk population control when needed.

WAC 232-28-622 Big horn sheep seasons and permit quotas.

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

Hunters may apply for a bighorn sheep permit even if they've previously harvested a bighorn sheep in Washington if the earlier harvest was a bighorn sheep killed under a ewe-only hunt permit, a raffle permit, or an auction permit. Language in this amendment clarifies whether the exemption from the once-in-a-lifetime bighorn sheep restriction is also applicable if the hunter applies in future for a hunt in these categories.

Rocky Mountain bighorn sheep populations in the Blue Mountains area of south-eastern Washington have been reduced in past years due to the lingering effects of pneumonia outbreaks. Pneumonia was detected in the Asotin herd in 2012, and biologists expect this herd to decline over the next few years, although a few older rams remain in this herd.

Reasons supporting proposal:

The change in language reduces ambiguity regarding who may apply for a bighorn sheep permit. The reduction in hunting permits for the Blue Mountain area will reduce pressure on a herd that is experiencing a disease problem, and increase the chances for a high quality ram taken from this herd by the winner of the Rocky Mountain bighorn sheep raffle.

WAC 232-28-623 2012-2014 Mountain goat seasons and permit quotas.

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

Language in this amendment clarifies whether the exemption from the once-in-a-lifetime mountain goat restriction is also applicable if the hunter applies in future for a hunt in these categories.

The proposed amendment also clarifies the names and descriptions of mountain goat hunt areas in Region 4, around Mt. Baker, and establishes legal descriptions of open mountain goat hunt areas.

Reasons supporting proposal:

Changes in language reduce ambiguity regarding who may apply for a bighorn sheep permit; remove inconsistency between the WAC, pamphlet, and instructional letters sent to permit holders; and clarify hunting unit boundaries for mountain goats in the Mt. Baker area.

WAC 232-28-624 Deer area descriptions.

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

The purpose of the proposal is to separate Deer Area descriptions from Elk Area descriptions to improve the clarity of these rules. The proposal also removes the Puget Sound Islands that were previously described as Deer Areas. The Department is proposing that those islands be described as Game Management Units (GMUs) in the future. Additional language modifications have been made to improve clarity.

Reasons supporting proposal:

Deer Areas help direct hunters at a scale smaller than the GMU and help staff address wildlife conflict problems. Some of the language modifications in this proposed amendment are part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway.