

HUNTING RESTRICTIONS WAC 232-12-242

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Summary

Meeting dates: March 7-8, 2014

Agenda item: Hunting Restrictions WAC 232-12-242-- Rule briefing and public hearing

Presenter(s): Dave Ware, Game Division Manager

Background summary:

During last year's hunting season setting process, provisions relating to hound hunting wild animals and hunting wildlife at night were inadvertently deleted out of WAC 232-28-342 during technical clean-up and reorganizing of several Wildlife rules. The outright deletion of the provisions was never intended. Instead, the department intended to move the provisions to a more general location where they would be easily located. The provisions were struck from the original location and never inserted elsewhere. The provisions need to be reinserted into rule to ensure proper regulation and enforcement.

Reference to hound permits (WAC 232-28-285) which are no longer in effect, have been removed and reference to WAC 232-12-243 has been replaced with a reference to RCW 77-15-245.

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

This rule is needed to avoid conflicts between hunters as well as dissuade unlawful use of dogs to pursue big game.

Public involvement process used and what you learned:

Notification was sent to over 9,000 organizations and individuals, informing them of the opportunity to provide comments on the proposed regulation. Additionally, these organizations and individuals were informed of the opportunity to provide testimony at the March 7-8, 2014 Commission Meeting.

Action requested:

Take public comment. Adoption is planned for the April 11-12, 2013 Commission Meeting.

Draft motion language:

N/A

Justification for Commission action:

This rule was inadvertently deleted last year.

Communications Plan:

Washington State Register
News Release
Hunting Pamphlet
Agency Website

AMENDATORY SECTION (Amending WSR 13-02-043, filed 12/21/12, effective 1/21/13)

WAC 232-12-242 Hunting restrictions. (1) It is unlawful to hunt wildlife during any modern firearm deer or elk season with any firearm 240 caliber or larger, or containing slugs or buckshot, unless the hunter has a valid license, permits and tags for modern firearm deer or elk seasons are in his or her possession.

~~((2))~~ (a) This ~~((section))~~ subsection does not apply to people hunting bear, cougar, mountain goat, mountain sheep, or turkey.

~~((3))~~ (b) A violation of this ~~((section))~~ subsection is punishable under RCW 77.15.410 or 77.15.430, depending on the circumstances of the violation.

(2)(a) It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a modern firearm deer or elk season. A violation of this subsection is punishable under RCW 77.15.430, Unlawful hunting of wild animals—Penalty.

(b) It is unlawful to use hounds to hunt black bear, cougar (EXCEPT as pursuant to RCW 77.15.245), coyote, and bobcat year-round. A violation of this subsection is punishable under RCW 77.15.410, Unlawful

hunting of big game—Penalty, or RCW 77.15.430, depending on the cir-
cumstances of the violation.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045,
and 77.12.047. WSR 13-02-043 (Order 12-290), § 232-12-242, filed
12/21/12, effective 1/21/13. Statutory Authority: RCW 77.12.040. WSR
93-04-074 (Order 593), § 232-12-242, filed 1/29/93, effective 3/1/93.]



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 13-14-015 on 06/21/13; and WSR 13-24-098 on 12/03/13; 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 deer and elk seasons and permits; cougar seasons and regulations; black bear seasons and regulations; mountain goat, bighorn sheep, and moose seasons, permits, and regulations; bighorn sheep marking requirements; game bird regulations; small game seasons; landowner hunting permit program; deer and elk area boundaries; game management units, special closures and firearm restriction areas; unlawful methods for hunting; hunting equipment rules; special hunting season permits, hunters with disabilities, and other hunting regulations. This rule making proposal also incorporates a CR-101 filed on June 21, 2013, regarding archery special use permits for people with a disability.

Hearing location(s):

Moses Lake Civic Center
401 S. Balsam
Moses Lake, Washington 98837

Date: March 7-8, 2014 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
Wildthing@dfw.wa.gov

Fax: (360) 902-2162 by (date) February 14, 2014

Assistance for persons with disabilities:

Contact Tami Lininger by February 21, 2014

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

Date of intended adoption: on or after April 11, 2014

(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: RCW 77.04.010, 77.04.055, 77.12.047, 77.12.150, and 77.12.240

Statute being implemented: RCW 77.04.010, 77.04.055, 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 22, 2014

TIME: 10:49 AM

WSR 14-03-135

DATE
January 22, 2014

NAME (type or print)
Joanna Eide

SIGNATURE

TITLE
Rules Coordinator

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.....	Steven Crown	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 apply to recreational hunting and do not affect 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 does not involve hydraulics.

ATTACHMENT A

Amendment to 220-55-040 - Recreational License tag, permit and stamp refund and exchanges

New Section 220-55-172 - Reduced Rate Combo deer hunting license

New Section 220-55-174 - Reduced Rate Combo elk hunting license

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

The purpose of this proposal is to clarify and expand the rationale for refunding, exchanging, and replacing licenses and tags. In addition, we have received several complaints regarding the price of second deer and elk licenses. This proposal creates discounts for combination licenses and tags.

Reasons supporting proposal:

This proposal will address the complaints about the cost of second deer and elk license and improve the Department's administration of permits and tags and facilitate much improved collection of harvest data.

Amendment to 232-12-047 - Unlawful methods for hunting

Amendment to 232-12-051 - Muzzleloading firearms

Amendment to 232-12-054 - Hunters with Disabilities

New Section 232-12-819 – Special Use Permits

New Section 232-12-825 - NEW SECTION: Definition of a person with a disability

Amendment to 232-12-828 - Hunting of game birds and animals by persons with a disability

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

Several rules (232-12-047, 232-12-051, & 232-12-054) are recommended to be amended to delete exceptions for hunters with disabilities from equipment regulations. Exceptions instead will be combined in a new rule (232-12-819) and by amendment to an existing rule (232-12-828). We are recommending that the Department be allowed to issue special use permits to provide reasonable accommodations for persons with a disability. The Department also recommends a change to the definition of a hunter with a disability.

Reasons supporting proposal:

In the past, any time the Department wanted to change the types of equipment necessary for a disabled hunter to participate in an agency hunting program, we needed to have a rule changed to accommodate the request. These changes will allow the Department to issue special use permits as needed to make those accommodations.

In addition, this change will address a petition to the Commission to amend rules to allow scopes on crossbows used by hunters with disabilities and a complaint filed with the Department of Interior. The essence of the complaint was similar to the petition. Nearly all crossbows available on the market today include scopes and modifying them required relatively expensive conversion kits which invalidated the warrantee. Therefore the claim was that the Department was discriminating by creating an economic hardship in not allowing hunters with disabilities to use a crossbow equipped with a scope.

WAC 232-12-242 - Hunting Restrictions

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

Reinstate restrictions on night hunting and hound hunting during deer and elk seasons which were inadvertently deleted from the small game seasons last year but not placed in a different section as planned.

Reference to WAC 232-28-285 is removed as it is no longer in effect and reference to WAC 232-12-243 is replaced with reference to RCW 77-15-245 which is the statute authorizing public safety cougar removals.

Reasons supporting proposal:

This rule is important in mitigating conflicts and the potential for unlawful use of dogs to pursue deer and elk and night 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:

The purpose of the proposal is to adjust the boundary of the Columbia River Restricted Hunting Area hunting closure to better reflect conditions on the ground and also to alleviate trespass on restricted federal lands. The proposal also provides for an exception to allow special permit hunting on the Parker Lake Restricted Hunting Area. In addition the proposal provides for an exception to the modern firearm restriction in the Kittitas firearm restriction area.

Reasons supporting proposal:

Special closures and firearm restriction areas allow the Fish and Wildlife Commission to restrict or close hunting activity in certain areas to optimize safety, discourage trespass on restricted lands, and protect sensitive species.

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:

Increase the current temporal, geographic, and gender scope of the Master Hunter permits in Region 1. Current rules limit Master Hunts permits for moose (10) to antlerless animals only, a season of Dec 1 through the following March 1, and GMUs 124, 127, and portions of 130 within Spokane County. The revision would allow for Master Hunt permits for any moose identified by WDFW as requiring removal, for a season extending from Aug 1 through the following March 1, and extend to area to include all of GMUs 124, 127, 130, 133, 136, 139, and 142.

Additionally, new, experimental archery-only and muzzleloader-only hunts are proposed in the Parker Lake area (within GMU 117) which had previously been closed due to potential conflicts with USAF survival school. This hunt is being coordinated with USAF.

Reasons supporting proposal: Master Hunter permits for moose are intended to provide hunter opportunity where moose are causing damage or are a threat to human safety (typically in or near urban and suburban settings), and these cannot be otherwise resolved. Current restrictions on these permits limit the effectiveness of implementing this objective. This revision will allow for needed flexibility in removing problem moose.

The experimental archery-only and muzzleloader permit hunts are being offered to provide additional hunter opportunity in any area where moose populations can absorb additional harvest.

WAC 232-28-283 2012-2014 . Big game and wild turkey auction, raffle, and special incentive permits.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Add to (18) Rocky Mountain Bighorn Sheep Raffle permit GMU 172, and remove GMU 181.

Reasons supporting proposal: Provide hunter opportunity where herd increase has allowed for increase harvest, while reducing permit levels where mortality must be limited.

WAC 232-28-296 Landowner hunting permits

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

This proposal modifies hunt dates and permit levels on properties enrolled in WDFW's Landowner Hunting Permit (LHP) program for the 2014 hunting season. These sites offer special hunting opportunities to the public through WDFW's special permit drawings, raffles, or selection by the landowner.

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.

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 modify the boundary of an existing Elk Area in Region 5 to better address wildlife conflict through special permit elk hunting. The proposal also creates an Elk Area in Region 1 to facilitate elk special permit hunting on newly acquired wildlife area lands.

Reasons supporting proposal:

Elk Areas allow the Commission to distribute hunters more favorably during quality hunts. The proposed language also helps delineate when state authorized elk hunting is and is not allowed at a smaller scale within a GMU. Elk Areas help direct hunters when a scale smaller than the GMU is needed. Elk areas also help staff address wildlife conflict problems at a smaller scale than the GMU when needed.

WAC 232-28-342: 2012-13, 2013-14, and 2014-15 Small game seasons

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

Changes proposed increase the possession limit to three times the daily bag for mourning dove (including falconry), band-tailed pigeon, and September Canada goose (except for the two day eastern Washington September season). Other changes include shifting season eastern Washington September goose season dates to occur on weekend days, and increasing the bag limit for the Pacific County September Canada goose season.

Reasons supporting proposal:

The proposed changes will standardize possession limits among all migratory bird seasons and allow increase recreational opportunity on resident Canada geese, while conserving these populations and providing agricultural damage control.

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. In addition the purpose is to increase opportunity when deer populations allow, and reduce the opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: This proposal provides for recreational deer hunting opportunity and protects deer from overharvest. The proposal would maintain sustainable general deer hunting season opportunities for 2014. The proposal also helps address deer agricultural damage problems and provides for deer population control when needed.

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 for 2014. The purpose is also to balance the elk hunting opportunity between user groups. The proposal also increases elk hunting opportunity when elk populations allow, and reduces elk hunting opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides for recreational elk hunting opportunity and protects elk from overharvest. The proposal would maintain sustainable general elk hunting season opportunities for 2014. The proposal helps address elk agricultural damage problems and provides for elk population control when needed.

232-28-359 2014 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 for 2014. The purpose is also to balance the hunting opportunity between user groups and increase hunting opportunity when deer populations allow. In addition the proposal reduces the deer hunting opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: This proposal provides for recreational deer hunting opportunity and protects deer from overharvest. The proposal would maintain sustainable deer special permit hunting season opportunities for 2014. The proposal also helps address deer agricultural damage problems and provides for deer population control when needed.

232-28-360 2014 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 for 2014. The purpose is also to balance the elk special permit hunting opportunity between user groups. In addition the proposal increases elk hunting opportunity when elk populations allow, and reduces the opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposal would maintain sustainable elk special permit hunting season opportunities for 2014. The proposal helps address elk agricultural damage problems and provides 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: 1) Increase permits in the Asotin herd from 0 to 1. 2) Increase permits in the Lincoln Cliff herd from 1 to 2. 3) Decrease permits in the Cleman Mountain herd from 10 to 8. 4) Increase permits in the Umtanum portion of the Umtanum/Selah herd from 2 to 3. 5) Initiate new ewe-only hunt in the Selah portion of the Umtanum/Selah herd, 5 permits.

Reasons supporting proposal: Provide hunter opportunity where herd increase has allowed for increase harvest, while reducing permit levels where mortality must be limited.

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:

1) Decrease mountain goat permits in the Methow (2-2) goat hunt unit from 1 to 0. 2) Increase mountain goat permits in the Naches Pass (3-6) goat hunt unit from 1 to 2; 3) Increase mountain goat permits in the Bumping River (3-7) goat hunt unit from 1 to 2; 4) Increase mountain goat permits in the Chowder Ridge (4-3) goat hunt unit from 1 to 2. 5) Initiate new conflict-reduction mountain goat hunt in Region 6, GMU 621, with 6 permits.

Reasons supporting proposal: Provide hunter opportunity where herd increase has allowed for increase harvest, while reducing permit levels where mortality must be limited. Reduce conflicts with hikers and possibility of dangerous confrontation on popular hiking trails in Region 6.

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 add a Deer Area in Pend Oreille County that would facilitate some special permit hunting opportunity on the USAF survival training facility where hunting access did not exist before. The proposal also adds a new Deer Area in Asotin County to facilitate special permit hunting opportunity on newly acquired wildlife area land.

Reasons supporting proposal:

The proposed language allows the Commission to distribute hunters more favorably during quality hunts. Proposed language also helps delineate when state authorized deer hunting is and is not allowed at a smaller scale within a GMU. Deer Areas help direct hunters when a scale smaller than the GMU is needed.

Deer areas also help staff address wildlife conflict problems when needed.