



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

**Agency:** Washington Department of Fish and Wildlife

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules 15-415**

- Immediately upon filing.
- Later (specify) January 1, 2016

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** This rule change will amend the cougar harvest rates in GMUs 101, 105, 108, 111, 113, 117, 121, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, 186, 204, 218, 231, 242, 243, 249, 251, 328, 329, and 335.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: 232-28-297  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.150

**Other authority :**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:  
Please see attachment A.

**Date adopted:**

November 4, 2015

**NAME (TYPE OR PRINT)**

James Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 04, 2015**

**TIME: 11:45 AM**

**WSR 15-22-108**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New		Amended	<u>1</u>	Repealed	
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## Attachment A

### Reasons for this finding:

During the April 2015 Fish and Wildlife Commission Meeting, the Washington Department of Fish and Wildlife (WDFW) proposed a 12-16 percent cougar harvest rate for the 2015-2016, 2016-2017 and 2017-2018 hunting seasons. After discussion, the Commission proposed and voted to adopt an amendment changing the harvest rate to 17-21 percent for all three hunting seasons in 14 hunt areas.

Following the April 2015 meeting, the Commission received two letters that requested it rescind the decision to increase the harvest guidelines for the 14 hunt areas and return to a 12-16 percent harvest guideline. During a May 1, 2015 conference call, the Commission discussed the request and reviewed its rule making process. The Commission concluded that the rule amendment in question was consistent with the Administrative Procedures Act, RCW 34.05, and the Commission's action was within its authority to adopt a final rule that was not substantially different from the proposed rule. Consequently, the Commission did not rescind its April decision. On May 1, 2015, the Department filed the rule amendment with the Code Reviser in the form approved by the Commission on April 10. However, given the controversial nature of the issue, the Commission directed WDFW to provide a recommendation for the 2016-2017 and 2017-2018 cougar hunting seasons at the March-April 2016 Commission meetings.

On June 30, 2015, the Fish and Wildlife Commission received a petition from the Humane Society of the United States, Conservation Northwest, Center for Biological Diversity, Mountain Lion Foundation, Wolf Haven International, The Cougar Fund, The Lands Council, Predator Defense, Kettle Range Conservation Group, and Gary Koehler, Ph.D. The petition requested that the Commission initiate rulemaking to reverse its decision to increase the cougar harvest guidelines in 14 hunt areas of Washington State to 17-21%, and change the harvest guidelines back to the 12-16% recommended by WDFW in April 2015.

During its August 21, 2015 conference call, the Commission voted to deny the petition. The Commission continued with the direction to WDFW staff to evaluate the harvest guidelines for the 2016-2017 and 2017-2018 hunting seasons for the March-April 2016 Commission meetings.

In September, the Humane Society of the United States appealed to the Governor the Commission's denial of the Humane Society's rulemaking petition. After reviewing the petition and the process followed by the Fish and Wildlife Commission, the Governor, on October 19, 2015, directed the Commission to amend WAC 232-28-297 and restore the harvest rate to the 12-16 percent harvest guideline. The Governor also directed the Commission to initiate rulemaking to address the harvest guidelines moving forward in permanent rule.

This emergency rule will return the harvest guideline to 12-16 percent for the 2015-2016 cougar hunting season as directed by the Governor. An emergency rule is needed because there is insufficient time to promulgate permanent rules for the 2015-2016 cougar hunting season. The Department plans to engage in permanent rulemaking, as directed by the Governor, with a public hearing anticipated in March 2016.

NEW SECTION

**WAC 232-28-29700S 2015-2016, 2016-2017, and 2017-2018 Cougar hunting seasons and regulations.**

Notwithstanding the provisions of WAC 232-28-297, effective January 1, 2016 until further notice, the cougar harvest guidelines for the Game Management Units listed below are as follows, provided that, unless otherwise amended, all other provisions of the permanent rule remain in effect:

<b>Hunt Area</b>	<b>Harvest Guideline</b>
GMU 101	7-9
GMU 105	2
GMUs 108, 111	5-6
GMU 113	4-6
GMU 117	6-8
GMU 121	5-6
GMUs 149, 154, 162, 163	4-6
GMUs 145, 166, 175, 178	3-4
GMUs 169, 172, 181, 186	3-4
GMU 204	6-8
GMUs 218, 231	4-6
GMUs 242, 243	4-6
GMUs 249, 251	5-6
GMUs 328, 329, 335	6-8