

Summary Sheet

Meeting dates: August 5, 2016

Agenda item: Petition To Change Rules - Decision

Presenter: Mick Cope, Deputy Assistant Director, Wildlife Program

Background summary:

The Department received a petition from Mr. Wagemann requesting that rules be changed to allow for point restoration in cases where Master Hunters are drawn for the opportunity to help the Department address damage issues, but were not called on during the applicable season.

The Department holds special permit drawings each spring for a variety of hunting opportunities. For each drawing category (e.g., Quality Deer, Quality Elk, Antlerless Elk, Master Hunter Elk) a hunter enters and is not drawn, one point is added to their Licensing Profile. These points accumulate over time and are used in a "weighted point drawing" where point totals are squared and the drawing system puts their name in the drawing based on the point total. Current rules state that, if you are drawn, your point total goes to zero.

Some hunt choices in the Master Hunter elk, deer, and moose categories are unique in that hunters are on an "on call" basis to help the Department address damage or nuisance issues. For these hunts, the hunting pamphlet states that "not all successful applicants will be contacted in any given year". This notice is available when hunters apply for these hunt choices. In 2016, 480 permits (175 deer, 295 elk, and 10 moose) were awarded that fit this description.

Mr. Wagemann is a Master Hunter who drew a moose permit, but didn't get called to participate. His point total went to zero after being drawn and he would like his points restored.

The Department is willing to evaluate point restoration for these situations and report back to the Fish and Wildlife Commission with recommended steps forward.

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

Special Permit point restoration.

Public involvement process used and what you learned:

The Department received a petition requesting the rule change.

Action requested:

Deny the petition for rule making.

Draft motion language:

I move to deny the petition and direct the Department to evaluate the issue of point restoration, discuss the issues with stakeholders, and recommend rule changes or provide the Fish and Wildlife Commission with report detailing the rationale for not recommending rule changes.

Justification for Commission action:

Point restoration is a complex issue that needs focused evaluation and stakeholder feedback to identify potential ramifications of a rule change.

Communications Plan:

Written response to the petitioner.



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Chris Wagemann
Name of Organization _____
Mailing Address 669 Modrow Road
City Kalama State WA Zip Code 98625
Telephone 360 673 2921 Email cww@teleport.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClis.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: WDFW

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: Retraining points if hunter is not allowed to participate in the hunt

The rule is needed because: After years of spending permit fees and acquiring points and then to finally get srwn only to never get called to particiapte in the hunt.

The new rule would affect the following people or groups: Master hunter moose depredation hunts and other "types"/lists of hunters who get drawn for a depredation hunts but never get/got called to participate.

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: WAC 220-55-040

I am requesting the following change: Refund points to all hunters that get/got drawn and put on a list BUT NEVER got called to participate in the hunt - usually depredation type hunts but also on a case by case basis.

This change is needed because: Example- After 17 years of putting in to get drawn for a particular hunt hunter gets drawn and put on that list but never gets the opportunity (Call) to go on the hunt But STILL looses out on all the points accumulated. This is an inequitable and unfair .

The effect of this rule change will be: Common sense dictates and hunters will at least feel compensated if they do spend the money to put in for these hunts and do not get to participate in the hunt because they are never got calledTHEY GET THEIR POINTS BACK and at least feel like the system is fair

The rule is not clearly or simply stated: There is no language currently in the Regulations that allow for this.

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): _____

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

(1) It is unlawful to fail to comply with the provisions of this section. A violation of this section is punishable under RCW 77.15.410, Unlawful hunting of big game—Penalty.

(2) Moose Permit Hunts**(a) Who May Apply:**

(i) **Any moose category:** An individual may only harvest one moose under the "any moose" category during his or her lifetime. Applications will not be accepted from hunters having previously harvested a moose in the "any moose" category.

(ii) **Antlerless only, youth antlerless, over-65 antlerless, disabled-antlerless, master-hunter any moose, hunter-education antlerless, auction moose, raffle moose:** Anyone may apply.

(b) **Bag Limit:** One moose.

(c) **Weapon Restrictions:** Permit holders may use any legal weapon.

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Any moose				
Kettle Range-East Okanogan		Oct. 1 - Nov. 30	GMUs 101, 105, 204	10
Douglas A - Early		Oct. 1-31	GMU 108	3
Douglas A - Late		Nov. 1-30	GMU 108	3
Aladdin A - Early		Oct. 1-31	GMU 111	3
Aladdin A - Late		Nov. 1-30	GMU 111	3
Selkirk		Oct. 1 - Nov. 30	GMU 113	15
49 Degrees North A - Early		Oct. 1-31	GMU 117	15
49 Degrees North A - Late		Nov. 1-30	GMU 117	15
Parker Lake A - Archery	e,W	Sept. 1-26	Moose area 3	2
Parker Lake A - Muzzleloader	e,X	Sept. 27 - Oct. 5	Moose area 3	2
Huckleberry A - Early	*	Oct. 1-31	GMU 121	6
Huckleberry A - Late	*	Nov. 1-30	GMU 121	6
Spokane West A	*	Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	1
Mt Spokane South A		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North A		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	8

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Hangman	*	Oct. 1 - Nov. 30	GMU 127 & 130	7
Antlerless only				
Douglas B		Oct. 1 - Nov. 30	GMU 108	2
Aladdin B		Oct. 1 - Nov. 30	GMU 111	2
49 Degrees North B		Oct. 1 - Nov. 30	GMU 117	2
Huckleberry B	*	Oct. 1 - Nov. 30	GMU 121	3
Spokane West B	*	Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	2
Mt Spokane South B		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North B		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	7
Mica Peak	*	Oct. 1 - Nov. 30	GMU 127	7
Cheney B	**	Oct. 1 - Nov. 30	GMU 130	2
Youth Only - antlerless	a			
49 Degrees North Y		Oct. 1 - Nov. 30	GMU 117	2
Mt Spokane South Y		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North Y		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	8
65 Year and over - antlerless	c			
49 Degrees North V		Oct. 1 - Nov. 30	GMU 117	2
Huckleberry V		Oct. 1 - Nov. 30	GMU 121	2
Disabled hunter - antlerless	b			
49 Degrees North D		Oct. 1 - Nov. 30	GMU 117	3
Mt Spokane North D		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	1
Hunter Education antlerless	d			
Selkirk HE	HEII	Oct. - Nov. 30	GMU 113	2
Master Hunter - Any moose				
Spokane District MH	HC	Aug. 1 - Mar. 31	GMUs 124-142	10

^aApplicants must be eligible to purchase a youth moose permit application. An adult must accompany the youth hunter during the hunt.

^bApplicants must possess a Disabled Hunter Permit.

^cApplicants must be eligible to purchase a 65 years of age or older permit application.

^dApplicants must be a certified hunter education instructor who meets program-defined eligibility criteria.

^eThe following special hunt is offered by the USAF Survival School on a trial basis and will be evaluated based on student safety each year for continuation.

^{HC}This is a damage hunt administered by a WDFW designated hunt coordinator. Only master hunters may apply, and any weapon may be used. Successful applicants will be contacted on an as-needed basis to help with specific sites of nuisance moose activity in designated areas. Not all successful applicants will be contacted in any given year.

(3) Moose Areas:

(a) Moose Area 1: South Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, S on Hwy 395 to Spokane River, E on Spokane River to Idaho-Washington state line, N on Idaho-Washington state line to Blanchard Rd and the point of beginning.

(b) Moose Area 2: North Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, N on Hwy 395 to Deer Park-Milan Rd, E on Deer Park-Milan Rd to Hwy 2, N on Hwy 2 to Idaho-Washington state line, S on Idaho-Washington state line to Blanchard Rd and the point of beginning.

(c) Moose Area 3: Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Rd (USFS Road 2489), north of Tacoma Creek Rd (USFS Road 2389), and west of Bonneville Power Administration power lines.

[Statutory Authority: RCW **77.04.012**, **77.04.055**, **77.12.047**, **77.12.150**, and **77.12.240**. WSR 15-10-048 (Order 15-101), § 232-28-273, filed 4/29/15, effective 5/30/15. Statutory Authority: RCW **77.12.047**, **77.12.240**, and **77.32.070**. WSR 14-10-019 (Order 14-95), § 232-28-273, filed 4/25/14, effective 5/26/14; WSR 13-11-078 (Order 13-94), § 232-28-273, filed 5/16/13, effective 6/16/13. Statutory Authority: RCW **77.12.047**. WSR 12-11-005 (Order 12-70), § 232-28-273, filed 5/2/12, effective 6/2/12; WSR 11-11-013 (Order 11-86), § 232-28-273, filed 5/6/11, effective 6/6/11. Statutory Authority: RCW **77.12.047**, **77.12.020**, **77.12.570**, **77.12.210**, **77.12.150**, **77.12.240**, **77.32.070**, **77.32.530**. WSR 10-10-061 (Order 10-94), § 232-28-273, filed 4/30/10, effective 5/31/10. Statutory Authority: RCW **77.12.047**, **77.12.020**, **77.12.570**, **77.12.210**, **77.12.150**, **77.12.240**. WSR 09-09-083 (Order 09-53), § 232-28-273, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW **77.12.047**, **77.12.020**, **77.12.570**, **77.12.210**. WSR 08-09-090 (Order 08-78), § 232-28-273, filed 4/18/08, effective 5/19/08; WSR 07-11-017 (Order 07-62), § 232-28-273, filed 5/3/07, effective 6/3/07. Statutory Authority: RCW **77.12.047**. WSR 06-11-032 (Order 06-92), § 232-28-273, filed 5/8/06, effective 6/8/06; WSR 05-11-022 (Order 05-89), § 232-28-273, filed 5/10/05, effective 6/10/05. Statutory Authority: RCW **77.12.047** and **77.12.020**. WSR 04-11-036 (Order 04-98), § 232-28-273, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW **77.12.047**. WSR 03-13-047 (Order 03-129), § 232-28-273, filed 6/12/03, effective 7/13/03. Statutory Authority: RCW

77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-28-273, filed 5/10/02, effective 6/10/02. Statutory Authority: RCW **77.12.040, 77.12.020, 77.32.070, 77.32.530.** WSR 01-10-048 (Order 01-69), § 232-28-273, filed 4/26/01, effective 5/27/01. Statutory Authority: RCW **77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780.** WSR 00-11-137 (Order 00-50), § 232-28-273, filed 5/23/00, effective 6/23/00. Statutory Authority: RCW **77.12.040.** WSR 99-10-102 (Order 99-40), § 232-28-273, filed 5/5/99, effective 6/5/99; WSR 98-10-005 (Order 98-58), § 232-28-273, filed 4/22/98, effective 5/23/98.]

WAC 232-28-291

Special hunting season permits.

The commission may establish special hunting seasons and may set the conditions for each category and hunt.

1. Deer, elk, cougar, or black bear special hunting season permit applications:

A. To apply for special hunting season permits for all categories of deer, elk, cougar, or black bear, applicants must have a valid Washington big game hunting license and a valid transport tag for the appropriate species. To apply for a particular hunt, each applicant for deer or elk must have the proper transport tag as identified in the special deer or elk permit regulations.

B. Multiple season deer and elk permit applications may be purchased without additional licenses or tags. Persons who are successfully drawn must purchase a multiple season permit for deer or elk and may also apply for archery, muzzleloader, or modern firearm special hunting season permits for the species drawn.

2. Mountain goat, moose, and bighorn sheep special hunting season permit applications:

A. Persons who have previously harvested a mountain goat, bighorn sheep ram, or bull moose in Washington are ineligible for a special hunting season permit for that category. This lifetime harvest restriction does not apply to individuals who harvested a mountain goat before 1999, raffle or auction hunt authorizations, ewe-only bighorn sheep hunts, or antlerless-only moose hunts.

B. Successful applicants under this section must purchase the appropriate hunting license by the deadline established by the department (a minimum of 15 days). Failure to purchase forfeits the permit to an alternate applicant.

3. Wild turkey special hunting season permit applications

A. To apply for wild turkey special hunting season permits, each applicant must have a valid small game hunting license.

B. Fall wild turkey special hunting season permit holders must have a valid turkey transport tag in possession to hunt turkeys in fall special hunting seasons.

4. Special hunting season permit applications:

A. Maximum group sizes are determined for each category. If a group application is drawn, all hunters in the group will receive a special hunting season permit and each hunter in the group can take an animal. If the number of permits available in a hunt category is less than the maximum group size, then the maximum group size is equal to the number of permits.

i. Maximum group size for deer categories is 8.

ii. Maximum group size for elk categories is 8.

iii. Maximum group size for bear categories is 2.

iv. Maximum group size for cougar categories is 2.

v. Maximum group size for mountain goat categories is 2.

vi. Maximum group size for bighorn sheep categories is 2.

vii. Maximum group size for fall turkey categories is 4.

viii. Maximum group size for moose categories is 2.

ix. Maximum group size for multiple season deer is 2.

x. Maximum group size for multiple season elk is 2.

B. An applicant may purchase only one application for a special hunting season permit for each category.

C. Permit applications will allow four choices for all categories except the quality category for deer and elk will allow two choices.

D. Permits will be drawn by computer selection using a weighted point selection system.

i. Applicants will receive one point for each application category purchased.

ii. Once drawn for a permit, the applicant's points will be reduced to zero in that category.

iii. An applicant's accumulated point totals, immediately prior to sales of the 2010 permit applications, will be replicated across all categories for that species. The point replication will only occur in 2010, during the transition from single species categories to multiple categories of the same species. Applicants for any new category added in the future will begin with the point awarded at the time of the initial application purchase.

E. Incomplete, ineligible, or inaccurate applications will not be accepted or entered into the drawing.

F. Permits will be voided if the applicant is found to be ineligible or to have provided an application based on inaccurate information.

G. The purchase of an application will result in one accrued point for the category purchased.

H. If an applicant makes a mistake, applies for the wrong hunt, and is successfully drawn, the special hunting season permit can be returned to the department of fish and wildlife Olympia headquarters before the opening day of the special hunting season. The applicant's points will be restored to the level prior to the permit drawing.

I. Anyone may apply for a special hunting season permit for deer, elk, bear, cougar, and wild turkey.

5. In addition to requirements for special hunting season permit applications, following are application requirements for:

A. Special hunting seasons for persons of disability: Only applicants with a Washington disabled hunter permit are eligible to apply for any special hunting season permits for persons of disability.

B. Special hunting seasons for youth: Only persons who are eligible to lawfully purchase a youth special hunt application are eligible to apply for special hunting season permits for youth.

C. Special hunting seasons for hunters age 65 and older: Only applicants sixty-five years of age or older on or before March 31 of the current license year will be eligible to apply for special hunting season permits for hunters age 65 and older.

D. Special hunting seasons for master hunter program graduates: Only persons who hold a valid certificate from the Washington department of fish and wildlife's master hunter program are eligible to apply for special hunting season permits for master hunters.

6. Citizen reward for reporting violations - bonus points: A person who provides information which contributes substantially to the arrest of another person for illegally hunting or killing big game or an endangered species as defined by Title 77 RCW is eligible to receive ten bonus points toward the special hunting permit drawing for one application category of deer or elk special hunting season permits.

A. Only ten bonus points can be awarded for providing information for each person charged regardless of the number of violations involved.

B. Selection of bonus points is in lieu of application for a cash award.

[Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240, 77.32.070, 77.32.530. WSR 10-10-061 (Order 10-94), § 232-28-291, filed 4/30/10, effective 5/31/10. Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150,

77.12.240. WSR 09-09-083 (Order 09-53), § 232-28-291, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW **77.12.047, 77.12.020, 77.12.570, 77.12.210.** WSR 08-09-090 (Order 08-78), § 232-28-291, filed 4/18/08, effective 5/19/08. Statutory Authority: RCW **77.12.047.** WSR 06-11-032 (Order 06-92), § 232-28-291, filed 5/8/06, effective 6/8/06; WSR 05-02-046 (Order 04-327), § 232-28-291, filed 1/3/05, effective 2/3/05; WSR 03-16-087 (Order 03-175), § 232-28-291, filed 8/5/03, effective 9/5/03; WSR 03-13-047 (Order 03-129), § 232-28-291, filed 6/12/03, effective 7/13/03; WSR 03-02-005 (Order 02-301), § 232-28-291, filed 12/20/02, effective 1/20/03. Statutory Authority: RCW **77.12.040, 77.12.020, 77.32.070, 77.32.530.** WSR 01-10-048 (Order 01-69), § 232-28-291, filed 4/26/01, effective 5/27/01.]