

**Game Damage ARMs Update
Environmental Quality Council
October 19, 2015**

The following is an explanation of the process, timeline, and rationale for the game damage rule amendments, addressing both the initial rule proposal and the final rule amendments to the game damage rules, as requested by the Environmental Quality Council (EQC) in its September 10, 2015 meeting. Under this timeline, the department plans to finalize and publish the final rule amendments with the Secretary of State as soon as possible after the EQC review.

Process & Timeline

FWP used standard ARM adoption timelines and procedures to propose these rule amendments. Specifically, the proposal notice was filed with Secretary of State on 7/6 and posted on FWP website. Press releases were released on 7/16 announcing public comment period extending from 7/16 – 8/21, and public hearings were scheduled for all FWP regions on 8/11 & 8/12. A total of 47 people submitted written comments, with 11 people also providing comment during public hearings. The following is an explanation of the initial proposal (as seen by the EQC in its September 10, 2015 meeting) and the additional amendments proposed for the final rule. Taken together, the following list of amendments would constitute the final proposed rules. Please refer to the attached rule language for specific rule language.

Initial ARMs amendments proposed

The initial ARMs amendments proposed, and the rationale for proposing those changes, are explained below.

12.9.804. Game Damage Hunts

Proposed changes to this rule reflect proposed amendments for the Hunt Roster and Management Season ARMS, and minor edits for gender neutrality and current license structure reference.

12.9.804A. Hunt Roster – 2 changes

1. Proposes to clarify that the Hunt Roster may be used to select some or all of the hunters eligible to participate in game damage hunts or management hunts, and adds as an additional means of hunter selection “lists of names supplied by landowners.”

Q) Why?

A) Game Damage Audit Report states: “...the department needs administrative rules that authorize it to conduct game damage hunts and management seasons that allow landowners to select hunters...” In addition, FWP field staff and landowners have indicated that in some situations, only utilizing hunters randomly selected from the hunt roster has not resulted in an effective response, whereas in some situations, utilizing hunters identified by landowners in addition to hunters selected from the roster has achieved a more efficient and effective response.

2. Proposes to strike the current dates established in ARM for the period in which hunters can sign up for the game damage hunt roster (June 15 – July 15) and replace them

with “dates specified by the department” annually. Also strikes the date by which the roster results are made available online (August 1) and replaces with “a date specified by the department” annually.

Q) Why?

A) The intent is to provide more flexibility for the department to adjust dates depending upon changes in licensing or permitting processes and timelines without having to go through the formal and time-consuming process for amending ARMs each time something changes. The current dates were adopted in 2006 based upon procedures and timelines at that time, and may not necessarily reflect the best dates for processes 9 years later.

12.9.805. Supplemental Game Damage Licenses – 1 change

1. Proposes to delete ARMs provisions which require hunters to surrender all other elk licenses in order to receive a supplemental game damage license.

Q) Why?

A) To bring the ARM into compliance with current statute, and show responsiveness to the Game Damage Audit Report that states “The department needs to amend administrative rules related to the issuance of supplemental game damage licenses.” Current ARM was adopted in 2002, when existing law limited a hunter to harvesting no more than one elk in a license year. Since that time, the law has changed to allow a hunter to harvest no more than two elk in any license year. Since 2002, FWP licensing statutes have changed to allow hunters to purchase a Class A9/B12 antlerless elk license, and no longer require a nonresident hunter to hold a B10 combination license as a prerequisite for purchasing an antlerless elk license.

12.9.1101. Management Season – 2 changes

1. Proposes to change the name from Management “Season” to Management “Hunt.”

Q) Why?

A) To clarify that this is actually a localized hunt approved by a district commissioner that is larger in scope than a site-specific game damage hunt, whereas “seasons” are set through biennial Commission process that incorporates public review, are approved by full Commission, and are published in annual regulations.

Q) Will changing the name change the way the season/hunt is approved?

A) No.

a) ARM defines what it is, “a proactive measure to prevent or reduce potential damage caused by large concentrations of game animals resulting from seasonal migrations, extreme weather conditions, restrictive public hunting access on adjacent of nearby properties, or other factors; and

b) ARM defines the approval process as “Upon receiving conditional approval from the director to proceed with a management season proposal, the regional supervisor must obtain the approval of the commissioner in whose district the management season is proposed prior to implementing the season.”

2. Proposes to delete the requirement to have director provide conditional approval.

Q) Why?

A) After 9 years of implementing these hunts, the department has determined that requiring pre- approval from the director inserts an unnecessary delay in implementation that is no longer necessary and may actually render the response less effective.

Changes proposed for Final ARMs adoption based on public comment

The department proposes to make additional changes to the proposed rules to help address some of the concerns voiced through public comment. Those changes, and the rationale for making them, are explained below.

1. Insert language that explains that if the department determines it may be effective in helping achieve the objectives of the hunt, the department may request a list of names supplied by a landowner to use in addition to selecting hunters from the hunt roster or other established means of selection.

Q) Why?

A) Public comment cited concerns asking why the department might use a list of names supplied by a landowner, rather than only selecting names from the hunt roster. Public comment also cited concerns that the department might ONLY use a list of names supplied by a landowner.

2. Insert language that if the department chooses to use a list of names supplied by a landowner, no more than 25% of the total number of hunters authorized to participate in the hunt may come from the list.

Q) Why?

A) Public comment requested a limit be specified in ARM regarding how many of the total hunters could be selected from a list of names submitted by a landowner.

3. Insert language that if harvest of antlered animals is authorized, lists of names supplied by landowner shall not be an authorized means of hunter selection.

Q) Why?

A) Public comment cited concerns that if hunters could shoot antlered bulls or bucks, only hunters selected by landowners might be allowed to harvest those animals. Public comment also cited concerns that if landowners could select hunters who were authorized to harvest antlered bucks or bulls, the landowners might charge those hunters fees, or those hunters might be more likely to pay fees to the landowners for the opportunity to be selected for the hunt.

4. Strike all language that suggests hunters need to surrender or return for refund any valid elk licenses prior to being issued a supplemental elk game damage license.

Q) Why?

A) Further review by FWP legal staff indicated that nothing in statute requires a hunter to surrender a valid elk license prior to being issued a supplemental elk game damage license.

5. Clarifying that for approval of a Management Hunt, if the district commissioner is not available, the regional supervisor **MUST** obtain approval from the chair of the commission, or in the chair's absence, any other commissioner.

Q) Why?

A) Draft language indicated that the regional supervisor "may" obtain that approval. Staff felt it was necessary to clarify that obtaining the approval of the chair or any other commission in the absence of the district commissioner was mandatory, not discretionary.