



Joe and Andy are both Land Use advocates and very affective at it. I suggest they get together on this one. This could be a combined effort between PSK and WSMC for some results, or at least clarification on this topic.

I know this has come up before at a combined WSMC East/West sides meeting in the past. I don't recall the results of it at that time. It seems, as I recall, a permit could be granted but there was no provision for it. However, my mind is getting grayer all of the time.

Bob, do you remember what resulted from that topic? It was during my first term as President, awhile back.

Ed

Goldendale

---

**From:** joseph wernex [mailto:jawernex@fairpoint.net]  
**Sent:** Tuesday, November 30, 2010 2:18 PM  
**To:** Jim Keffer; Kathy & Stu Earnst (wsmc); Ed Thomas; Brian Waters; Andy Johnson  
**Subject:** Fw: WDFW Commission

Please read the attachment below and pay particular attention to

**WAC 232- 12- 25 Removal of minerals, wood and artifacts from department lands sections 1 and 2.**

What this means is that if anyone collects rocks on state game department lands they will be arrested and fined.

We need to stop this and turn it around. We need to get legislation that specifically requires the game department to permit rock collecting on the state land it manages.

We will need to work with one or more state representatives and one or more state senators to introduce legislation that allows, supports and encourages collecting rocks on state lands.....And **requires** state agencies to permit and support collecting rocks.

I suggest we work to get wording to include something like:

" The Department of Fish and Wildlife shall permit individual persons to collect dig and remove agate, petrified wood and other minerals up to 50 lbs and one rock per individual person per day with a total not to exceed 250 lbs per calendar year. The department shall not require written permits for this activity."

If we are willing to do the necessary heavy lifting we can accomplish this, but it will take significant effort.

At one time in my career I used to write land use legislation for a state agency. I also know that there is a great deal of collectable rock on state lands. It would be a great benefit to the rock collecting community to obtain this legislation.

JW

Attention Small Scale Mineral Prospector and Miner and interested Legislators,  
Late last week because of a [WDFW Press Release](#), we found that this [Saturday, December 4, 2010, the WDFW Commission](#) will hear a [staff report \( see summary\)](#) by Enforcement Program Deputy Chief Mike Cenci, proposing amendments to [WAC 232-12-251 Removal of minerals, wood and artifacts from department lands](#). Following this report, the commission will hear public input. The commission will then consider adopting these amendments at their January 7, 2011 meeting.

This is the first instance that anybody from the Small Scale Mineral Prospecting and Mining community had heard of this proposed rule making. The [original notification of rule making \(CR-101\)](#) was filed January 5, 2010, with the subject of "***Making changes to permissible activities and use of resources on department-***

**owned and leased property.**" This is identified on [WDFW's Rules Information Center - Current Rule Making Activity website](#) as "**Cutting trees and snags on department-owned and leased property.**" The notice of [Proposed Rule Making \(CR-102\)](#) was filed October 20, 2010. Although the "**Title of rule and other identifying information**" became "**WAC 232-12-251 Removal of minerals, wood and artifacts from department lands**", it remains identified as "**Cutting trees and snags on department-owned and leased property**" on WDFW's [Current Rule Making Activity website](#).

The following is the text of the proposed Amendment; **WAC 232-12-251 Removal of minerals, wood and artifacts from department lands.** (1) Except as provided below, it is unlawful to cut down or remove dead standing timber, live trees, wood, soil, petrified wood, minerals, fossils, ((wood products)) plants, mushrooms, berries, or artifacts from department lands unless such ((removal)) activity is authorized by a permit issued by the director.

(a) Downed dead wood for camping on department lands may be collected without a department permit in a quantity not to exceed one-half cord. However, such wood may not be transported from department lands.

(b) Mushrooms or berries may be collected for personal use without a permit in quantities not to exceed the following limits:

(i) For wild edible mushrooms, five United States gallons; and

(ii) For berries, no limit.

(2) Unlawful cutting down or removal of dead standing timber, live trees, wood, soil, petrified wood, minerals, fossils, or plants constitutes theft under [chapter 9A.56 RCW](#).

(3) Unlawful removal or exceeding limits for downed dead wood, mushrooms, or berries is punishable under [RCW 77.15.230](#).

As you can see, there are a few issues with this proposal;

The primary one that effects our activity is that the removal of "soil, petrified wood, minerals, and fossils" constitutes theft under [chapter 9A.56 RCW](#). What this means is; that if you violate this rule, depending on the amount of material in your possession, you may be charged with either a gross Misdemeanor, a Class C felony or a Class B felony. This particular penalty is already allowed in part by Statute ([RCW 79.02.310](#)) but WDFW has neglected to use the words "willfully commits any trespass" and appears to be attempting to expand their authority. Another issue is that the regulation's for minerals on state lands fall under [RCW 78](#) and [RCW 79.14](#) which are administered by WDNR. This is echoed in the Statutes that govern WDFW ([RCW 77](#)). The department has already this year demonstrated their unwillingness to grant a permit to prospect on "Department Lands" by requiring one group who requested to do so, additional permits and costly requirements, to the point I do not believe they have a permit yet.

The Governor by [Executive Order \(10-06\)](#), Suspended Non-Critical Rule Development and Adoption on November 17, 2010. That same day, the Office of Financial Management issued a memo, [Implementation of Executive Order 10-06](#), to Agency Directors, Statewide Elected Officials, Presidents of Higher Education Institutions, Boards and Commissions which provided guidelines for agencies to use when determining whether rule making should proceed. Regardless, it appears that WDFW is continuing the process.

As the Public Comment period for this proposal ended November 24, 2010, Our only option at this time is to contact the WDFW Commission.

Mailing Address

600 Capitol Way N.

Olympia, WA 98501-1091

Phone: 360-902-2267

Fax: 360-902-2448

[commission@dfw.wa.gov](mailto:commission@dfw.wa.gov)

Inform them of your feelings towards the proposed amendments of WAC 232-12-251 and request that they suspend rule making and adoption until 1) January 1, 2012 as directed by the Governors Executive Order and 2) the department has coordinated this proposal with the Small Scale Mineral Prospecting and Mining community.

**Thank You**

**Bill Thomas**

**President**

**Resources Coalition**