

HUNTERS WITH DISABILITIES
WAC 232-12-047, 232-12-051, 232-12-054, 232-12-819,
232-12-825 and 232-12-828;

TABLE OF CONTENTS

	<u>Page</u>
Summary Sheet	<i>i</i>
WAC 232-12-047, 232-12-051, 232-12-054, 232-12-819, 232-12-825 and 232-12-828	1
Recommended Adjustments	24
Summary of Written Public Input.....	26
CR 102	28

SUMMARY SHEET

Meeting: March 7 & 8, 2014

Agenda Item : WAC 232-12-047, 232-12-051, 232-12-054, 232-12-819, 232-12-825, and 232-12-828; Hunters with Disabilities

Prepared By: Dave Ware, Game Division Manager, Wildlife Program

Presented By: Dave Ware, Game Division Manager, Wildlife Program and Dana Perez, U.S. Fish and Wildlife Service, Division of Diversity and Civil Rights

Background:

The Commission received a petition last May to change the rules and allow hunters with disabilities to use a crossbow equipped with a scope during the archery season. Since then, the Department has also been notified of a complaint filed with the Department of Interior. The essence of the complaint was similar to the petition.

Nearly all new crossbows available on the market today include scopes and modifying them requires relatively expensive conversion kits (over \$200) which also invalidate the warrantee. Therefore the concern is that the Department might be discriminating by creating an economic hardship in not allowing hunters with disabilities to use a crossbow equipped with a scope.

This is the second year of the current three year package (2012-14) with only minor changes scheduled to occur and the next three-year package will be considered in spring 2015. Generally, department staff recommends that the Commission deny petitions to change regulations outside of the three-year season setting process. However in this case, the department recognizes the sensitivity of the issue and recommended that the Commission accept the petition. The Commission did accept the petition at its conference call on June 21, 2013 and this proposal is in response to that petition.

The Commission adopted rules several years ago that allowed hunters with disabilities who wished to hunt during archery seasons to use a crossbow if they could not use adaptive archery equipment. The intent was to provide a reasonable modification to hunters whose disability would not allow them to draw back and shoot standard or adaptive archery equipment access to the archery hunting opportunity and season.

Since those rules were adopted, many hunters with disabilities have met the requirements for a special use permit and are authorized to use a crossbow during the archery season. Over time, the standards and technology in the crossbow industry have changed and few crossbows are currently produced that do not have a scope incorporated into the design.

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 grant exceptions through special use permits. We are also recommending a change to the definition of a hunter with a disability in WAC 232-12-825.

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

- This recommendation would allow the Department to provide special use permits to provide those modifications rather than amend rules each time a different modification is requested.

Public involvement process used and what you learned:

In the past, the archery community has expressed significant concerns about allowing crossbow equipment to be used during the archery seasons, even for hunters with disabilities. However, in December this proposal was brought before the Game Management Advisory Council which includes representatives from the Washington State Bow Hunters and the Washington State Archery Association. All were in support of the department's recommendation.

Action requested (identify the specific Commission decisions you are seeking):

The Commission will be provided a briefing by the Department and will take comment from the public.

Draft motion language:

None, this is a briefing and hearing only.

Justification for Commission action:

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 recommended changes will allow the Department to issue special use permits as needed to make those accommodations.

Communications plan:

News release
Agency web site
Hunting pamphlet

AMENDATORY SECTION (Amending WSR 12-11-005, filed 5/2/12, effective 6/2/12)

WAC 232-12-047 Unlawful methods for hunting. (1) It is unlawful to hunt any big game with:

(a) A fully automatic firearm.

(b) A centerfire cartridge less than 22 caliber for cougar.

(c) A centerfire cartridge less than 24 caliber for any other big game.

(d) A shotgun, provided that a 20 gauge, or larger shotgun, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer, bear, and cougar.

(e) A shotgun for any other big game, except that a 12 gauge or 10 gauge shotgun using slugs may be used.

(f) A handgun during a modern firearm season that does not meet the following criteria: Have a minimum barrel length of four inches, per manufacturer's specification, and fire a centerfire cartridge.

(g) Any rimfire cartridge.

(2) It is unlawful to hunt game birds with a shotgun capable of holding more than three shells.

(3) It is unlawful to hunt game birds or game animals, except bullfrogs, in a manner other than with a firearm, a bow and arrow, or by falconry, except in those designated areas where crossbows are allowed.

(4) Rules pertaining to crossbows:

(a) It is unlawful to hunt big game animals with a crossbow with a draw weight less than 125 pounds and a trigger safety that does not work properly.

(b) It is unlawful to hunt big game animals with any arrow or bolt weighing less than 350 grains.

(c) It is unlawful to hunt big game animals with any arrow or bolt that does not have a sharp broadhead and the broadhead blade or blades are less than seven-eighths inch wide.

(d) It is unlawful to hunt big game animals with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width and forming a smooth line toward the feather end of the shaft, and such line does not angle toward the point.

(e) It is unlawful to hunt big game animals with a retractable broadhead.

(5) (~~Hunters with disabilities may also use a crossbow during archery seasons with a special use permit as conditioned in WAC 232-12-054.~~

~~(6))~~) It is unlawful to hunt game animals or game birds with a shotgun larger than 10 gauge.

~~((7))~~) (6) It is unlawful to hunt game birds with a rifle or handgun, with the exception of blue grouse, spruce grouse and ruffed grouse.

~~((8))~~) (7) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted. [Statutory Authority: RCW 77.12.047. WSR 12-11-005 (Order 12-70), § 232-12-047, filed 5/2/12, effective 6/2/12. 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), § 232-12-047, 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), § 232-12-047, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047 and 77.12.020. WSR 04-11-036 (Order 04-98), § 232-12-047, filed 5/12/04, effective 6/12/04. 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), § 232-12-047, filed 5/23/00, effective

6/23/00. Statutory Authority: RCW 77.12.040. WSR 98-10-006 (Order 98-53), § 232-12-047, filed 4/22/98, effective 5/23/98; WSR 90-14-108 (Order 449), § 232-12-047, filed 7/5/90, effective 8/5/90; WSR 83-01-006 (Order 198), § 232-12-047, filed 12/2/82; WSR 82-04-034 (Order 177), § 232-12-047, filed 1/28/82; WSR 81-22-002 (Order 174), § 232-12-047, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-047, filed 6/1/81. Formerly WAC 232-12-130.]

AMENDATORY SECTION (Amending WSR 10-10-061, filed 4/30/10, effective 5/31/10)

WAC 232-12-051 Muzzleloading firearms. (1) Definitions.

(a) Muzzleloader: A firearm that is loaded from the muzzle and uses black powder or a black powder substitute as recommended by the manufacturer for use in all muzzleloading firearms.

(b) A muzzleloading firearm shall be considered loaded if a powder charge and a projectile, either shot or single projectile are in the barrel and the barrel or breech is capped or primed.

(2) It is unlawful to hunt wildlife using a muzzleloading firearm that does not meet the following specifications:

(a) A muzzleloading shotgun or rifle must have a single or double barrel, rifled or smooth-bored.

(b) A muzzleloading shotgun or rifle used for deer must be .40 caliber or larger. Buckshot size #1 or larger may be used in a smooth-bore of .60 caliber or larger for deer.

(c) A muzzleloading shotgun, rifle, or handgun used for all other big game must be .45 caliber or larger.

(d) Persons lawfully hunting small game with a double barrel, muzzleloading shotgun may keep both barrels loaded.

(e) A muzzleloading handgun must have a single or double barrel of at least eight inches, must be rifled, and must be capable of being loaded with forty-five grains or more of black powder or black powder substitute per the manufacturer's recommendations.

(f) A muzzleloading handgun used for big game must be .45 caliber or larger.

(g) A handgun designed to be used with black powder, including black powder percussion revolvers, can be used to hunt forest grouse, cottontail rabbits, and snowshoe hares.

(3) In addition to the above requirements, it is unlawful to participate (hunt) in a muzzleloading hunting season using a firearm that does not meet the following specifications for a muzzleloader. However, a modern handgun may be carried for personal protection. Modern handguns cannot be used to hunt big game or dispatch wounded big game during a big game hunting season for muzzleloading firearms.

(a) Ignition is to be wheel lock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the weather. "Exposed to the weather" means the percussion cap or the frizzen must be visible and not capable of being enclosed by an integral part of the weapon proper. Primers designed to be used in modern cartridges are not legal.

(b) Sights must be open, peep, or of other open sight design. Fiber optic sights are legal. Telescopic sights or sights containing glass are prohibited.

(c) It is unlawful to have any electrical device or equipment attached to a muzzleloading firearm while hunting.

(d) Those persons lawfully hunting big game with a double barrel muzzleloader may only keep one barrel loaded.

~~(4) ((Hunters with disabilities who meet the definition of being visually impaired in WAC 232-12-828 may receive a special use permit that would allow the use of scopes or other visual aids. A disabled hunter permit holder in possession of a special use permit that allows the use of a scope or visual aid may hunt game birds or game animals during muzzleloader seasons.~~

~~(5))~~ Muzzleloading firearms used during a modern firearm season are not required to meet ignition, sight, or double barrel restrictions.

~~((6))~~ (5) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted. [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), § 232-12-051, filed 4/30/10, effective 5/31/10. Statutory Author-

ity: 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), § 232-12-051, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047. WSR 06-11-032 (Order 06-92), § 232-12-051, filed 5/8/06, effective 6/8/06; WSR 03-13-047 (Order 03-129), § 232-12-051, filed 6/12/03, effective 7/13/03. 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), § 232-12-051, filed 5/23/00, effective 6/23/00. Statutory Authority: RCW 77.04.055 and 77.12.040. WSR 90-14-109 (Order 450), § 232-12-051, filed 7/5/90, effective 8/5/90; WSR 89-11-062 (Order 393), § 232-12-051, filed 5/18/89. Statutory Authority: RCW 77.12.040. WSR 84-18-013 (Order 234), § 232-12-051, filed 8/28/84; WSR 81-12-029 (Order 165), § 232-12-051, filed 6/1/81. Formerly WAC 232-12-135.]

AMENDATORY SECTION (Amending WSR 13-11-078, filed 5/16/13, effective 6/16/13)

WAC 232-12-054 Archery requirements—Archery special use permits.

(1) The following rules apply to all archery hunting seasons:

(a) It is unlawful for any person to carry or have in his possession any firearm while archery hunting in the field during an archery season specified for that area, except for modern handguns carried for personal protection. Modern handguns cannot be used to hunt big game or dispatch wounded big game during an archery big game hunting season.

(b) It is unlawful to have any electrical equipment or electric device(s), except for illuminated nocks, attached to the bow or arrow while hunting.

(c) It is unlawful to discharge a bow or crossbow from a vehicle or from, across, or along the maintained portion of a public highway(~~(, except that persons with a disabled hunter permit may shoot from a vehicle if the hunter is in compliance with WAC 232-12-828)~~).

(d) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position(~~(, except that persons with an archery special use~~

~~permit may hunt game birds or game animals using a device that stabilizes and holds a long bow, recurve bow, or compound bow at a full draw, and may use a mechanical or electrical release)).~~

(e) It is unlawful to hunt wildlife with a crossbow during an archery season. ~~((However, disabled hunter permittees in possession of a crossbow special use permit may hunt with a crossbow in any season that allows archery equipment.))~~

(f) It is unlawful to hunt big game animals with any arrow or bolt that does not have a sharp broadhead, or with a broadhead blade or blades that are less than seven-eighths of an inch wide.

(g) It is unlawful to hunt big game animals with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width and forming a smooth line toward the feather end of the shaft. The smooth line must not angle toward the point.

(h) It is unlawful to hunt big game animals with a retractable broadhead.

(i) It is unlawful to hunt wildlife with any bow equipped with a scope. ~~((However, hunters with disabilities who meet the definition of being visually impaired in WAC 232-12-828 may receive a special use permit that would allow the use of scopes or other visual aids. A dis-~~

~~abled hunter permit holder in possession of a special use permit that allows the use of a scope or visual aid may hunt game birds or game animals during archery seasons.))~~

(2) The following rules apply to long bow, recurve bow and compound bow archery equipment:

(a) It is unlawful for any person to hunt big game animals with a bow that does not produce a minimum of 40 pounds of pull measured at twenty-eight inches or at full draw.

(b) It is unlawful to hunt big game animals with any arrow measuring less than 20 inches in length or weighing less than 6 grains per pound of draw weight with a minimum arrow weight of 300 grains.

(3) ~~((Archery special use permits:~~

~~(a) An archery special use permit is available to a person who possesses a valid disabled hunter permit. An archery special use permit application must be signed by a physician stating that the person's disability is permanent and the person has a loss of use of one or both upper extremities, has a significant limitation in the use of an upper extremity, or has a permanent physical limitation, which loss or limitation substantially impairs the ability to safely hold, grasp, or shoot a long bow, recurve bow or compound bow. The loss or limitation may be the result of, but not limited to, amputation, paralysis,~~

~~diagnosed disease, or birth defect. The approved archery special use permit must be in the physical possession of the person while using adaptive archery equipment as described in subsection (1)(d) of this section to hunt game birds or game animals.~~

~~(b) A crossbow special use permit is available to a person who meets the requirements for an archery special use permit and is unable to use adaptive archery equipment. Adaptive equipment includes, but is not limited to: Cocking devices that hold the bow at full draw; trigger mechanisms that may be released by mouth, or chin, or hand supporting the bow; and devices that assist in supporting the bow. Information describing types of adaptive equipment will be provided to physicians for their assessment of the applicant's ability to utilize adaptive archery equipment. Muscle weakness, impaired range of motion, or unilateral hand weakness disability, of both hands or both arms or both sides of the upper extremity, may result in an inability to use adaptive archery equipment. Standard tests approved by the American Medical Association may be conducted to assess a person's abilities.~~

~~(4)) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.~~

~~[Statutory Authority: RCW 77.12.047, 77.12.240, and 77.32.070. WSR 13-11-078 (Order 13-94), § 232-12-054, filed 5/16/13, effective 6/16/13.~~

Statutory Authority: RCW 77.12.047. WSR 12-11-005 (Order 12-70), § 232-12-054, filed 5/2/12, effective 6/2/12. 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), § 232-12-054, 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), § 232-12-054, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047. WSR 06-11-032 (Order 06-92), § 232-12-054, filed 5/8/06, effective 6/8/06. Statutory Authority: RCW 77.12.047 and 77.12.020. WSR 04-11-036 (Order 04-98), § 232-12-054, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047. WSR 03-13-047 (Order 03-129), § 232-12-054, filed 6/12/03, effective 7/13/03; WSR 01-17-068 (Order 01-167), § 232-12-054, filed 8/15/01, effective 9/15/01. 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), § 232-12-054, filed 5/23/00, effective 6/23/00. Statutory Authority: RCW 77.12.040. WSR 90-03-092 (Order 427), § 232-12-054, filed 1/24/90, effective 2/24/90; WSR 88-13-012 (Order 310), § 232-12-054, filed 6/6/88; WSR 81-12-029 (Order 165), § 232-12-054, filed 6/1/81. Formerly WAC 232-12-140.]

NEW SECTION

WAC 232-12-819 Special use permits. (1) The director may develop conditions and criteria for administering and issuing special use permits to allow for reasonable accommodations for persons with disabilities.

(2) The hunters and fishers with disabilities advisory committee established in RCW 77.04.150 may assist the department in evaluating requests and criteria for issuing special use permits.

(3) Special use permits must be carried on the person acting under or using devices authorized by the special use permit.

(4) The terms for use granted by a special use permit, when provided as a reasonable ~~accommodation~~ modification, supersede department rules that conflict with the terms of the special use permit.

(5) Failure to abide by the conditions of a special use permit is punishable under RCW 77.15.400, 77.15.430, or 77.15.750, depending on the circumstances of the violation.

[]

NEW SECTION

WAC 232-12-825 Definition of a person with a disability. (1)

"Person with a disability" means a person who has a ~~developmental disability or a~~ permanent physical disability or permanent developmental disability which substantially impairs their ability to ~~hunt, fish, or view wildlife~~ participate in recreational activities or access department lands; and-

(a) "Lower extremity disability" means a person who has a permanent lower extremity impairment and is not ambulatory over natural terrain without a lower extremity prosthesis or must permanently use a medically prescribed assistive device every time for mobility including, but not limited to, a wheelchair, crutch, walker, or oxygen bottle; or

(b) "Upper extremity disability" means a person who has a permanent upper extremity impairment and is physically ~~incapable of~~ limited in their ability to holding and safely operating a legal hunting or harvesting device-; or

These definitions include, but are not limited to, persons with a permanent upper or lower extremity impairment who have lost the use of one or both upper or lower extremities, or who have a severe physical

limitation in the use of one or both upper or lower extremities, or who have a diagnosed permanent disease or disorder which substantially impairs or severely interferes with mobility or the use of one or both upper or lower extremities.

(2) "Blind" or "visually impaired" means:

(a) Blindness is a central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field does not exceed twenty degrees; or

(b) Low vision is a severe loss of visual acuity ranging from 20/70 to 20/200 while retaining some visual function; or

(c) Visual impairments may include, but are not limited to: ~~Albinism~~ albinism, aniridia, aphakia, cataracts, glaucoma, macular degeneration, or other similar diagnosed disease or disorder.

(3) "Developmental disability" means a cognitive intellectual disability such as: Cerebral palsy, down syndrome, epilepsy, autism, or another neurological condition of an individual found to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

AMENDATORY SECTION (Amending WSR 09-09-083, filed 4/15/09, effective 5/16/09)

WAC 232-12-828 Hunting of game birds and animals by persons with a disability. (1) Definitions:

(a) "Hunter with a disability" means a person with a permanent disability who possesses a disabled hunter permit issued by the department. ~~((A hunter with a disability must have all required licenses, tags, permits, and stamps before hunting.))~~

(b) "Disabled hunter permit" means a permit, card, or endorsement to a license issued by the department to any person with a permanent disability who applies to the department and presents such evidence as the director may require showing that the applicant is a person with a qualifying disability.

(i) Upon approval of the application, the department will issue a vehicle identification placard.

(ii) A designated hunter companion card will be issued to the holder of a disabled hunter permit along with the issuance of a hunting license.

(c) "Designated hunter companion" means a person who assists or acts on behalf of a hunter with a disability in the stalking, shooting, tracking, retrieving, or tagging of game birds and game animals.

(d) "Designated hunter companion card" means an identification card issued by the department to ~~((the))~~ a hunter with a disability for use by another person in assisting or acting on the behalf of the hunter with a disability while engaging in hunting activities ~~("Blind or visually impaired" means a central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field does not exceed twenty degrees.~~

~~((f))~~ "Accompany" means the hunter with a disability and the designated hunter companion are in the physical presence of each other, not to exceed a 1/4-mile separation. While stalking or shooting an animal, the hunter with a disability and the designated hunter companion must have a form of reliable and direct communication.

~~((g)) "Special use permit" means a permit issued by the department to a person with a specific permanent disability as a reasonable accommodation. The special use permit allows for a specific act or acts to include, but not be limited to, use of adaptive mechanical,~~

~~electrical, or specialty equipment or devices that aid the person in hunting.~~

~~(h) "Person with a disability" means:~~

~~(i) A person who has a permanent disability and is not ambulatory over natural terrain without a lower extremity prosthesis or must permanently use a medically prescribed assistive device for mobility, including, but not limited to, a wheelchair, crutch, cane, walker, or oxygen bottle; or~~

~~(ii) A person who has a permanent disability and is physically incapable of holding and safely operating a firearm or other legal hunting device.~~

~~This definition includes, but is not limited to, persons with a permanent upper or lower extremity impairment who have lost the use of one or both upper or lower extremities, or who have a severe limitation in the use of one or both upper or lower extremities, or who have a diagnosed permanent disease or disorder which substantially impairs or severely interferes with mobility or the use of one or both upper or lower extremities for holding and safely operating a firearm or other legal hunting device; or~~

~~(iii) A person who is blind or visually impaired.~~

~~(i) "Public highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel as defined in RCW 46.04.197.)~~

(2) It is unlawful for a hunter with a disability to fail to obtain all required licenses, tags, or stamps before hunting.

(3) It is unlawful for a designated hunter companion to assist a hunter with a disability unless the designated hunter companion has the designated hunter companion card on his or her person. A designated hunter ~~with a disability~~ companion must have a valid hunting license issued by Washington state or another state.

(a) The designated hunter companion must accompany the hunter with a disability when stalking or shooting game on behalf of the hunter with a disability. ~~((The hunter with a disability or the designated hunter companion must immediately cut, notch, or date any required tag. The tag must be affixed to the carcass of the game bird or animal as soon as is reasonably possible after killing the game.~~

~~(3))~~ (b) The designated hunter companion does not need to accompany the hunter with a disability while tracking an animal wounded by either hunter, or while tagging or retrieving a downed animal on behalf of the hunter with a disability.

~~(4) It is unlawful for ((a designated hunter companion to assist a hunter with a disability unless the designated hunter companion has the designated hunter companion identification card on his or her person.~~

~~(5) It is unlawful for a hunter with a disability to shoot from a motor vehicle, unless the vehicle is stopped, the motor is turned off and the vehicle is removed from the maintained portion of a public highway. If the roadway is not paved, and it is impossible for the hunter with a disability to completely remove the vehicle from the roadway, then the hunter may shoot from the vehicle if the vehicle is as far off the roadway as possible. A disabled hunter vehicle identification placard must be displayed.~~

~~(6) It is unlawful for any person to possess a loaded firearm in or on a motor vehicle, except if the person is a hunter with a disability and the vehicle is in compliance with subsection (5) of this section)) the hunter with a disability or the designated hunter companion to fail to:~~

~~(a) Immediately cut, notch, or date any required tag upon harvesting a game bird or animal; and~~

~~(b) Affix the tag to the carcass of the game bird or animal as soon as reasonably possible after killing the game.~~

(5) A violation of subsection (2), (3), or (4) of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750 or other statutes under chapter 77.15 RCW depending on the circumstances of the violation.

~~((7))~~ (6) Game birds or game animals killed, tagged or retrieved by a designated hunter companion on behalf of a hunter with a disability do not count against the designated hunter companion's bag or possession limit.

~~((8) A designated hunter companion shooting game for or who may be shooting game for a hunter with a disability must have a valid hunting license issued by Washington or another state.~~

~~(9) Special use permits.~~

~~(a) The director may develop conditions and criteria for administering and issuing special use permits.~~

~~(b) The hunters and fishers with disabilities advisory committee established in RCW 77.04.150 may assist the department in evaluating requests and criteria for issuing special use permits.~~

~~(c) Special use permits must be carried on the person acting under or using devices authorized by the permit.~~

~~(d) The terms for use granted by a special use permit, when provided as a reasonable accommodation, shall supersede other hunting or fishing rules and restrictions.))~~

[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), § 232-12-828, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047. WSR 07-04-087, § 232-12-828, filed 2/6/07, effective 3/9/07. Statutory Authority: RCW 77.12.047 and 77.12.020. WSR 04-11-036 (Order 04-98), § 232-12-828, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047. WSR 03-10-040 (Order 03-85), § 232-12-828, filed 4/30/03, effective 5/31/03. Statutory Authority: RCW 77.32.237. WSR 96-03-084 (Order 96-07), § 232-12-828, filed 1/18/96, effective 2/18/96.]

WAC 232-12-819 Special Use Permits

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page #14

- Under subsection (4) delete the term accommodation and replace it with the word modification. The term accommodation is related to employment and not to equipment used for hunting. This edit came from the Department of Interior.

WAC 232-12-825 Definition of a person with a disability

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 15

- Change subsection (1) to read: “Person with a disability” means a person who has a permanent physical or permanent developmental disability which substantially impairs their ability to participate in recreational activities or access department lands; and’

This language more accurately describes a person of disability in terms of their needs to participate in multiple types of fish and wildlife related recreational activities.
- Add the words “every time” after the term assistive device under the definition of “Lower extremity disability”. This better defines the level of disability that meets this definition.
- Modify the definition of an “Upper extremity disability” as follows: “Upper extremity disability” means a person who has a permanent upper extremity impairment and is physically limited in their ability to hold and safely operate a legal hunting or harvesting device; or’

This language better defines the level of impairment qualifying for this disability.

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

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page # 20

- Under subsection (3) the last sentence should read: “A designated hunter companion must have a valid hunting license issued by Washington state or another state.” The term “with a disability” is replaced with “companion”. This change just corrects an error made by the department.

SUMMARY OF WRITTEN PUBLIC INPUT
WAC 232-12-047, 232-12-051, 232-12-054, 232-12-819,
232-12-825 and 232-12-828:
HUNTERS WITH DISABILITIES

Comments	Agency Response
<p>I would respond to the ongoing drive to allow people with disabilities special privileges. A friend from work suggested I try shooting with my teeth. It worked great and over the last 30 years I have harvested many deer, elk and bear. In fact I got a nice 5x5 elk last year in Oregon with 3 friend with a combined age of 202(72+65+85). We have held 3D archery shoots for handicap archers in wheel chairs and they all shot standard bows. I'm not against helping the disabled but someday we all will not be able to do the things we love.</p>	<p>It sounds like you are enjoying hunting and have found a way to make it work for you. Congratulations and thank you for sending us your thoughts.</p>
<p>Please also additionally amend 'WAC 232-12-047 Unlawful methods for hunting' subsection 4d and remote subsection 4e regarding the use of expandable broadheads to allow the use of expandable broadheads in archery hunting seasons. Use of regular broadheads does not curb taking animals, it just allows for more animals to be lost in a given year and for other predators to be fed instead of the hunters (meaning greater population loss and greater predator activity). It is also no less humane in taking an animal and actually affords a more humane, and quicker, take of an animal. It allows a greater cut to penetrate and potentially cut main arteries or veins and greater blood loss for tracking the animal.</p>	<p>The changes recommended for 2014 are to address special needs for hunters with disabilities. Requests for changes to equipment regulations will come with the next three year package discussion in 2015. We know that expandable broadheads will be a part of the considerations for 2015-17.</p>
<p>WDFW should consider the option of changing to International Bowhunter's Association (IBO) safety standards, with regards to minimum grains per pound of pull. There is no more risk in IBO standards, than what is found in AMO safety standards. The weight of the arrow, and pounds per inch still maintain a safe and ethical means for harvesting game. The difference is definitely a tradeoff in kinetic energy, for speed. However, given the plethora of bows available on the market today, a hunter should be able to choose which bow works best for him/her and not have to be limited.</p>	<p>The changes recommended for 2014 are to address special needs for hunters with disabilities. Requests for changes to equipment regulations will come with the next three year package discussion in 2015.</p>

SUMMARY OF WRITTEN PUBLIC INPUT
WAC 232-12-047, 232-12-051, 232-12-054, 232-12-819,
232-12-825 and 232-12-828:
HUNTERS WITH DISABILITIES

<p>I am a Washington resident and have a disability permit to use a crossbow. I am writing to express my support to change the current regulations and allow the use of scopes (red dot or magnification) on crossbows, to allow us to use a crossbow without handicap. The requirement to rely on open or peep sights is difficult to do with a crossbow, especially those of us who are older and depth of field becomes a serious issue. Scopes are the only thing that will work effectively as a sighting tool on a crossbow, and we owe it to the animal to make an accurate and ethical shot. Crossbows are made by the manufacturer with a scope as an integral part of the design, and we should be allowed to purchase a sight for a crossbow that is readily available from a retail store.</p>	<p>Thank you for your support of this proposal.</p>
--	---



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.