## *19. HUNTING EQUIPMENT RESTRICTIONS – RULE ACTION*

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# "GREEN SHEET"

**Meeting:** April 3-4, 2009

**Agenda Item 19:** Hunting Equipment Restrictions – **Rule Action**

**Prepared By:** Jerry Nelson

**Presented By:** Jerry Nelson, Deer and Elk Section Manager, Wildlife Program

**Background:**

Department staff will provide a brief overview to the Commission on proposed amendments to the following WACs: 232-12-051 Muzzleloading firearms; 232-12-054 Archery requirements – Archery special use permits; and 232-12-047 Unlawful methods for hunting. This will include any changes resulting from the March 6-7, 2009 Commission meeting in Ellensburg.

The 2009-2011 hunting issues brought before the public this summer and fall included topics related to hunting methods and hunting equipment. They included:

- Muzzleloading equipment and definitions related to ignition systems, use of scopes, propellants, and projectiles.
- Addressing urban and suburban hunting and firearm restriction areas.

In addition groups represented on the Game Management Advisory Council provided input on a number of issues related to these WACs. The public encouraged the Department to make several changes that the Department could accommodate while sustaining the wildlife resource.

The following hunting equipment and hunting restriction WACs are presented for revision or clarification:

- "Muzzleloading firearms"- to clarify caliber and ignition system restrictions. New changes to the WAC propose allowing any type of projectile rather than restricting to lead-only bullets, allowing muzzleloader handguns for big game hunting, and not restricting the use of modern handguns for personal protection during a muzzleloader season for those who have a concealed pistol permit.
- "Archery requirements"- to allow the use of crossbows in designated areas (i.e., firearm restriction areas during modern firearm season), clarify some language and propose new language that does not restrict the use of modern handguns for personal protection during an archery season for those who have a concealed pistol permit.
- "Special closures and firearm restriction areas" to allow the use of crossbows in firearm restriction areas during modern firearm season and to clarify the intent of firearm restrictions in Whatcom and Skagit counties to only apply to big game hunting only.
- "Unlawful methods for hunting"- to clarify the distinction between modern handguns and muzzleloader handguns, and also to allow the use of crossbows during modern firearm seasons in firearm restriction areas.

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

- WAC 232-12-051 Clarify the muzzleloading rules while retaining the primitive nature of the firearm. Allow bullets made of any material to be used rather than just lead bullets. Allow persons with a concealed pistol license to carry a modern handgun during muzzleloader hunting season.
- WAC 232-12-054 Allow all modern firearm hunters to use crossbows in firearm restriction areas during modern season, to provide additional tools for deer and elk hunting in urbanized settings. Allow persons with a concealed pistol license to carry a modern handgun during an archery hunting season.
- WAC 232-28-248 Allow crossbows in firearm restriction areas during modern firearm season. Retain the original intent of firearm restrictions in Whatcom and Skagit counties to only apply to big game hunting.

- 232-12-047 Allow crossbows to be used during a modern firearm season in a firearm restriction area. Clarify when modern handguns can be used for hunting.

**Public involvement process used and what you learned:**

The Department conducted an extensive public involvement process to develop these three-year hunting season cycle recommendations. In June 2008, the Department received nearly 4,000 responses to a scoping survey that was developed to determine the major issues that were important to the public. After the initial scoping phase, the issues were refined and preferred alternatives to address those issues were developed. The alternatives were discussed at more than ten public meetings held throughout the state in August and September. Nearly 5,000 people commented on the Alternatives, which were presented at the public meetings and available online for approximately seven weeks. In early January, an email was sent to over 50,000 hunters announcing that the proposed recommendations were online and would be available for comment until February 20. A postcard was mailed to approximately 800 organizations and individuals informing them of the opportunity to provide comments on the proposed regulations. Oral public testimony (if any was received) from the March 6-7, 2009 Commission meeting is located at the end of this agenda item. Advisory groups were utilized throughout the process. The Game Management Advisory Council is in agreement with the proposed changes. Representatives from the archery groups would like to see crossbow language removed from the archery equipment WAC for philosophical reasons.

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

Amend WACs 232-12-051 Muzzleloading firearms; 232-12-054 Archery requirements – Archery special use permits; and 232-12-047 Unlawful methods for hunting, as presented.

**Draft motion language:**

I move to amend WACs 232-12-051; 232-12-054; and 232-12-047, as proposed.

**Justification for Commission action:**

Provide flexibility for management and hunting season structures. Provide clarification to equipment restriction rules and not infringe on 2nd amendment rights.

**Communications plan:**

- News Release
- Hunting Pamphlets
- Direct email to approximately 55,000 hunters

AMENDATORY SECTION (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

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

(a) Muzzleloader: A firearm which 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 ((~~carry or possess any firearm during~~)) hunt wildlife using a muzzleloading ((~~seasons~~)) firearm which does not meet the following ((~~specification for a muzzleloader. A muzzleloading firearm is loaded from the muzzle and uses black powder or a black powder substitute as recommended by the manufacturer for use in muzzleloading firearms~~)) specifications.

(a) A muzzleloading ((~~firearm has~~)) shotgun or rifle must have a single or double barrel ((~~of at least 20 inches~~)), 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 smoothbore 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 ~~birds, cottontail rabbits, and snowshoe hares,~~ 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 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 which does not meet the following specifications for a muzzleloader. A modern handgun may be carried for personal protection if that person possesses a concealed pistol license as defined in RCW 9.41.070. 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 ((~~elements~~)) weather. ((~~Shot shell and 209~~)) "Exposed to the weather" means the percussion cap or the frizzen must be visible and not capable of being ~~covered or closed~~ enclosed by an integral part of the weapon proper. Primers designed to be used in modern cartridges are not legal.

((~~(2)~~)) (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.

((~~Except~~)) (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.

((~~(3) A muzzleloading firearm used for deer must fire a single, nonjacketed lead projectile of nominal 40 caliber or larger, except that buckshot size #1 or larger may be used in a smoothbore of 60 caliber or larger.~~

~~(4) A muzzleloading firearm used for all other big game must fire a single, nonjacketed lead projectile of nominal 50 caliber or larger, or fire a single, nonjacketed lead projectile of at least 170 grains.~~

~~(5) This section shall not apply to the carrying of a handgun designed to be charged with black powder only.~~

~~(6) This section shall not apply to persons lawfully hunting game birds with a shotgun.~~

~~(7) Only one barrel of a double barrel muzzleloader may be loaded with powder or bullet or capped at any one time while hunting in a muzzleloading season except in specified firearm restricted areas.~~)) (5) Muzzleloading firearms used during a

modern firearm season are not required to meet ignition, sight, or double barrel restrictions.

[Statutory Authority: RCW 77.12.047. 06-11-032 (Order 06-92), § 232-12-051, filed 5/8/06, effective 6/8/06; 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. 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. 90-14-109 (Order 450), § 232-12-051, filed 7/5/90, effective 8/5/90; 89-11-062 (Order 393), § 232-12-051, filed 5/18/89. Statutory Authority: RCW 77.12.040. 84-18-013 (Order 234), § 232-12-051, filed 8/28/84; 81-12-029 (Order 165), § 232-12-051, filed 6/1/81. Formerly WAC 232-12-135.]

**WAC 232-12-051 Muzzleloading firearms**

## RECOMMENDED ADJUSTMENTS

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

***Page 1***

In the last sentence in section (1) (a), insert the word "all" between "in" and "muzzleloading". This change helps further clarify that weapons intended for modern smokeless powder have never been allowed under the restrictions.

In section (2) (d), insert the word "small" between hunting and game. Delete the words "birds", "cottontail rabbits", "and", and "snowshoe hares,". In this section related to muzzleloading shotguns, the term "small game" is more appropriate and less exclusionary.

***Page 2***

In section (2) (g), insert the word "percussion" between "powder" and "revolvers". This change clarifies the intent. The intent is to not disallow a current legal activity through the process of clarifying the WAC language.

In section (3) (a), replace the words "covered or closed" with the word "enclosed". Based on input provided by Enforcement, "covered or closed" would disallow some equipment that is currently allowed and that is not the intention of clarifying the WAC. "Enclosed" is better terminology.

**WAC 232-12-051 Muzzleloading Firearms**

## FINAL RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR-102) filing and are already included in your notebook language. These adjustments reflect any floor changes and additional supplemental recommended adjustments as a result of public testimony received at the March 6-7, 2009 Fish and Wildlife Commission meeting in Ellensburg.

***Page 2***

Under section 3, add after the word "protection" the following: "if that person possesses a concealed pistol license as defined in RCW 9.41.070." This change addresses the issue of a more limited approach to allowing handguns for personal protection to those who qualify for a concealed pistol license.

## SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-051 Muzzleloading firearms

| COMMENTS | AGENCY RESPONSE |
|---|---|
| I believe it would be beneficial to state exactly what type of projectile is legal instead of just getting rid of the projectile reference for the 2009 pamphlet only. There will be a lot of questions regarding this I am sure. Also, if you want traditionally modern firearm hunters to switch over to muzzle loader and given the aging demographic involved, a non-traditional scope of 1-2x may be beneficial for enticing these hunters into muzzle loading. That is about as far as I have read. It's too bad WDFW is getting rid of the muzzle loader deer/elk combo season! That would have been very nice to keep, BUT at least the season is longer. Thanks for that one! | The Department polled hunters extensively on these topics and the result is what you see in the proposed rules. Hunters did not want to allow scopes for muzzleloading. They also preferred a separation between deer and elk muzzleloader seasons. For those hunters that hunt both deer and elk in the same location we are proposing an overlap of a Saturday and Sunday that will still allow some of that. We will make it clear in the big game pamphlet what type of projectiles will be legal. |
| I noticed that the section WAC 232-12-051 Muzzleloading firearms. As amended had the rules about non-jacketed projectiles crossed out for clarification I would like to know if jacketed bullets or saboted projectiles are now going to be legal. (I hope so) and if so could we add a paragraph stating such. Thanks for listening to us. | By deleting the lead-only restriction the rule would allow all types of projectiles. To spell out every single type of product on the market that was available and allowed would be impossible. We will make it clear in the big game pamphlet that all types of projectiles will be legal. |
| I don't like making primitive hunts more modern. Primitive hunters used lead bullets in their muzzle loaders, iron sights and percussion caps. None of this sabot junk and shot gun primers, black powder substitutes. Whenever you make these primitive hunts less primitive, it is the "modern weapon" hunter who must give up hunting opportunity. Let's keep it primitive or modern. Hunters know and can decide. | The Department polled hunters extensively on these topics and the result is what you see in the proposed rules. Hunters did not want to allow scopes for muzzeloading, or changes to the ignition system restrictions, or further restrictions on propellants. They did however want all types of bullets to be allowed. We will make it clear in the big game pamphlet what type of projectiles will be legal. |
| My comments are limited to my review of the "Hunting Equipment" Regs for Archery, Muzzle Loader and Modern Fire Arm. As I read each of these sets of equipment rules I came away pleased with what has been proposed up to date and I want to say especially in agreement with the Archery and Muzzle Loading Equipment Rules. In both of those areas with the advance of technology it would be easy to lose the true essence of which these disciplines are supposed to be about. The weapons themselves in both of those categories are already so far advanced that any further technological assists begins to place them alongside that of modern firearms. We can make ourselves invisible in the woods, spray ourselves with concoctions that make us have no scent, and possibly no sense and fewer cents, we hide in the trees with all of our attractants designed to bring the game animal close enough to ambush and then claim a great victory. Anyway, as I stated above it pleases me that WDWF is trying to maintain a balance between style of hunting chosen and keeping the 'playing field' somewhat level. | Thanks for your support. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| After approximately 18 years of hunting the black powder season in the 550 unit I didn't think you could surprise with any of your decisions. Well I was wrong, last year you issued so many permits for cow elk in the 550 unit because you said you had to reduce the Mt Saint Helens herd and now you want to reduce the season. What the hell are you really trying to do? Not everyone gets vacation time to use for hunting and count on the Thanksgiving week as their time to be able to take their sons, daughters and grandkids out hunting and now you want to take that away. What you are going to do is make someone like me who has supported the Fish & Game Department by hunting & fishing and paying my share but I have just about had it and I'm seriously considering giving up hunting in Washington State and will start hunting elsewhere. | This was an error. We have proposed a resolution in the Recommended Adjustments that again increases the permit level. |
| Hi, it's probably worthless to even try, but I would really like to appeal the decision to prohibit the use of scopes on muzzleloaders. I know this issue was "voted" on last spring when you solicited comments last time, but "voting" on something like this is hardly fair. The issue I have with all this is I am 58 and I can no longer get my eyes to focus open sights in the same plane as the animal. This problem is very common in those over 55 who need bifocals and is not a "visual impairment" under WAC, but it sure effectively prevents me from hunting with my muzzleloader, that is if I want to do anything other than cripple animals. If you want to decide this with a "vote", limit the vote to those over 55. Or just allow those over 55 to use scopes. | The Department also polled hunters extensively on this topics and the result is what you see in the proposed rules. The majority of hunters did not want to allow a change sighting equipment. All styles of sighting equipment are allowed for muzzleloaders during the modern firearm season.<br><br>During the muzzleloader season we would recommend a high quality peep sight. These often help hunters correct for aging eyes. |
| If only 1100+ hunters reported hunting with a muzzleloader, why are there 2000+ votes cast, mostly for no improvement in seasons or equipment? Do votes from all hunter types apply to these issues There is much prejudice on behalf of the modern fire arms people against anything approaching equality for muzzleloader hunters. Let them use a single shot twelve gauge with open sights and then tell me muzzleloaders are akin to modern rifles. | We were able to sort respondents by the type of hunting they enjoyed, and muzzleloader hunters strongly supported the proposals we are presenting. |
| Thanks for the email on the purposed changes for the 2009-2011 hunting seasons, I have not yet had a chance to look at them all but there is one proposed rule change that I am very glad to see. I choose Black Powder for my deer hunting seasons and have not liked the idea of not being able to carry my usual pistol for personal protection. Following the past law, I have left my defensive pistol at home. Myself and the people that I hunt with hope this goes in effect for the 2009 and beyond hunting seasons. | Thank you for the input. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| The Commission should review the current rules regarding ignition systems used in modern day muzzle loading firearms. It is now difficult for muzzle loading hunters to purchase new muzzle loading firearms that utilize percussion caps, further, it is unreasonable to expect hunters to have to pay extensive gunsmithing costs to convert new guns to use of percussion caps. With the current rules in place, use of 209 primers is prohibited, it is near impossible to find new guns that don't use 209 primers. With this attitude toward 209 primers, the State of Washington will soon see a reduced number of muzzle loader tags purchased because new guns using percussion caps are so hard to find. If this stance remains regarding the use of 209 primers, the Commission may as well mandate that only swing hammer guns be used and do away with in-line guns all together because swing hammers, being the "traditional muzzle loader" are the only guns still readily available for use of percussion or musket caps. If the Commission is so dead set on "traditional" guns and methods, why not do away with percussion and musket cap ignition systems and mandate no ignition systems other than flintlock, after all flintlock would be the most primitive "traditional' ignition system still available today. I am not opposed to prohibiting the use of optics; however, use of jacketed projectiles that perform better in "killing" of game animals just makes good sense. The Commission should think about perception when setting rules, if the commission feels that inhumane injuring of animals by use of antiquated projectiles is better that solid, quick, humane, kills by utilizing modern projectiles, then the commission should keep the current rules in place. | We are proposing a change allowing any type of projectile made of any material. The issues related to ignition systems, scopes, and powder did not receive enough support from the public to result in a recommendation for change. The public and especially the muzzleloading community told us they wanted status quo on those three issues. |
| My recommendation is regarding muzzleloader season and equipment. I would like to see a separate season for "Flintlock" style ignition muzzleloaders. This would allow those who would like to hunt in the true primitive manner, a chance to harvest game by the traditional method which muzzleloaders were originally used by our forefathers.<br>A special season could be added for both early and late, or possibly a special permit application for flintlocks in a early or late season separate from percussion cap style muzzleloaders. | The Department has explored this topic in the past but it garnered very little favor. In addition, we have so many different user groups now that are looking for a unique time period to hunt that there isn't any more time left in the calendar. You can use the equipment you have described during the muzzleloading season. |
| Is the state ever going to consider the use of optics for muzzle loaders? As an older hunter my sight could use some help. Seems odd that rifle hunters have no restrictions on optics. | The Department also polled hunters extensively on this topics and the result is what you see in the proposed rules. The majority of hunters did not want to allow a change in sighting equipment. All styles of sighting equipment are allowed for muzzleloaders during the modern firearm season.<br>During the muzzleloader season we would recommend a high quality peep sight. These often help hunters correct for aging eyes. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| I agree with the elimination of all lead bullet. The hunter should be able to choose the projectile of choice provided it meets a minimum grain for the given animal. Some weapons shoot better and more accurate with a specific bullet. The traditional hunters who choose to use the most primitive methods can still do so but those who want to be a bit more accurate can also have their way. | Thanks for the support. |
| Do love the idea of letting muzzle loaders pick which kind of bullets to use, and do like the current other restrictions | Thank you for your comment. |
| I think that we should keep the lead projectiles rule. Because this is a traditional hunt. Therefore we must keep the hunt as traditional as possible. | The muzzleloaders polled on this topic overwhelmingly supported the change in bullet types. You can still use lead if you want to keep your hunt as traditional as possible. |
| I like the new definitions applied to muzzleloader. For years I have had to apologize to my Hunter Ed classes for the wording in the regulations. Whoever wrote the definitions didn't understand the difference between "charged" (powder and bullet in the barrel) and "loaded" (charged and primed). I strongly support elimination of the restriction on bullets to un-jacketed lead only. That was an ill-conceived restriction, almost impossible to enforce, and as such probably was commonly violated. | Thank you for your comment. |
| I also think you should keep the current rules of primitive blackpowder hunting in force. That is, no modern in-line ignition and no telescopic sights allowed. Keep it simple. Keep it primitive. | In-lines have been legal for many years and we are not proposing to change that. The ignition restrictions do disallow some in-lines that don't meet the exposed to weather criteria. We are not proposing a change to sighting systems. |
| I didn't see if you addressed scope and other "modern" issues for muzzleloaders, although you may have as I was not able yet to read all of the proposals. Anyway, I would like to weigh in on the side of making legal every available modern method for the muzzleloader hunter. In this way every hunter can make his/her choice as to how they would like to pursue their sport. I believe we owe it to the game animals to make every effort for a quick clean kill and a scope can certainly go a long way to insure this. If a man/woman would like to pursue their animals in buckskins and traditional gear that is fine, but why restrict the rest of us to less efficient front stuffers that are getting harder and harder to even purchase? In the end the gun must be loaded one shot at a time from the muzzle and capped somehow at the other end, so why put all these other silly restrictions on the sport that probably just cause more wounded and lost animals? It is just plain silly and most other states already realize this | The Department also polled hunters extensively on this topics and the result is what you see in the proposed rules. The majority of hunters did not want to allow a change sighting equipment. All styles of sighting equipment are allowed for muzzleloaders during the modern firearm season. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| It is unclear to me if a Revolver Muzzleloader Pistol is legal for Big Game hunting. If so, is it legal to have each revolver chamber loaded and capped? To be consistent with big game muzzleloader rifle regulations it should be stated that only one chamber at a time may be loaded and/or capped. Thank you for the opportunity to comment on the regulation changes. I can fully appreciate the labor that goes with such a document changes and generally give you high marks for the changes. I welcome most of them. Good luck in drafting the final version. | The black powder revolver would not be legal for big game. Only some types of small game. |
| Are we to assume that Jacketed Projectiles are now LEGAL for muzzleloaders?? It is not clear or expressly stated as far as I can see. | Yes, they would be legal under the proposed language. |
| I also believe a blackpowder hunter should be allowed to carry with him a modern handgun for safety purposes. This would include protection in cougar/bear areas and also for emergency signaling purposes. It is a very simple matter to determine if an animal was taken with a legal BP arm or a modern firearm. | As you can see in the proposed rule we have included that language. |
| Also, better restrictions on "traditional" muzzleloader equipment is needed. It is my opinion, that there are a lot of Washington muzzleloader hunters using 209 primer guns. This needs to stop or the regulations need to change. | Thank you for your comment. |
| WAC 232-12-047 Unlawful methods for hunting: Recommend also a removal of any language that restricts certain muzzleloader rifles from being used- those that are considered of modern design with 209 ignition should be allowed for hunting during the muzzleloader season. | This topic is not covered in the WAC that you reference, however we did ask this question of the public this summer and the majority of the muzzleloader hunters do not want a change to the ignition system restrictions. |
| My question is about muzzleloaders. I read the new language and I am confused. Can I use 209 caps in a muzzleloader? | You may not use 209 caps in a muzzleloader. |
| I believe that the recommendation to change the Muzzleloader rules to include the use of Copper bullets and 209 primers are a good change. Both environmentally and financially. | We are proposing to allow all types of bullets but we are not proposing to allow 209 primers. |
| **The following agency response pertains to all comments in this section** | |
| Embrace technological advancements in weaponry such as in-line muzzleloaders. | The Department polled hunters extensively on these topics and the result is what you see in the proposed rules. The majority of hunters did not want to allow a change in ignition systems. In-line muzzleloaders are currently allowed during muzzleloader season, if they use conventional percussion caps and are exposed to the weather in some way. All styles of ignition systems are allowed for muzzleloaders during the modern firearm season. |
| I wish you would allow in line muzzle loaders for muzzle loader season. | |
| Too, 209 primers need to be allowed as a viable and legal ignition method for muzzleloaders. Everything else looks fine. | |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| Re-considered the reason behind the exposed nipple to weather. You can hardly find a gun anymore w/exception to a Hawkins kit that doesn't have the nipple exposed to weather. Especially w/weather in Washington that is wet, why not allow for a closed breach to keep the percussion cap from getting wet & mis-firing. Imaging how many dry days we get in Washington during hunting season. I don't have to get the logic behind a weather exposed nipple & percussion cap. Consider allowing a 209 percussion cap. Wouldn't it make sense for a better ignition for the powder? I bought my son a gun to use that is a 209 primer & closed breach but unfortunately we can't use it in Washington (we hunt in Utah where it is authorized). Consider allowing a 1 power shot gun scope for muzzle load. My eyes aren't the greatest anymore & I put one on my gun this past year in Utah. It allowed me to focus better & provide a clearer shot. Not much advantage otherwise if that is the reason behind the Washington laws. I started muzzle loading w/my first gun in 1987 from a Thompson Center Hawkins Kit. Eventually the stock went bad & I bought a Thompson Center inline in 1998 that does have the open exposed nipple for a percussion cap & believe it would fit the criteria for a Washington State muzzleloading gun. However, to hunt here I would have to remove the 1X scope I put on last year & have to get another gun for my son because I would have wasted money on for the first gun. | |
| Under the muzzle loading rule change you can't find hardly any guns that will shoot no.11 caps why not make 209's legal in this state. A lot of other states allow these. If the traditionalists want a special season give them one. | |
| I don't understand why this state will not allow 209 ignitions. It is standard in most new inline muzzleloaders. It should be allowed! Thank you for allowing a modern handgun to be carried for protection. Long overdue! I think scopes should be allowed on muzzleloaders, especially for seniors! On a general note, maybe you should really consider cancelling the entire hunting season for 2009 due to the horrific winter/road kill the wildlife have had to endure. We all could stand a year off! | |

| COMMENTS | AGENCY RESPONSE |
| --- | --- |
| Dear Members of the Wildlife Commission,<br>I would like to start by thanking the commission for undertaking the task of rule changes. A lot of these rules are obsolete and have needed to be addressed for some time now. So my hat is truly off to you folks for doing what's needed to be done for some time now. With that said I would like to comment on a couple of separate issues related to the proposed rule changes.<br>My first comment is reference:<br>*WAC 232-12-051 Muzzleloading firearms* I would like to see the approval of 209 shotgun primers as approved ignition methods for muzzleloaders. This ignition method does not improve accuracy nor does it increase the maximum effective range of the gun. The 209 primer simply improves the chances that the gun will fire in wet conditions. It is like using a release in archery terms as opposed to shooting with fingers. A number of other states have already approved the 209 primers. As a result of the widespread use of 209 primers it is hard to find a "legal" muzzleloader for purchase. I agree that the "exposed to the elements" part should remain. I do not support a system that is like a break action shotgun that prevents rain and sleet from coming in contact with the primer. I would like to be allowed to use the 209 primer as a choice. Please take this into consideration. | |

AMENDATORY SECTION (Amending Order 06-92, filed 5/8/06, effective 6/8/06)

**WAC 232-12-054 Archery requirements--Archery special use permits.** (1) Rules pertaining to all archery:

(a) It is unlawful for any person to carry or have in his possession any firearm while in the field archery hunting, during an archery season specified for that area, except for modern handguns carried for personal protection if that person possesses a concealed pistol license as defined by RCW 9.41.070. 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) attached to the bow or arrow while hunting.

(c) It is unlawful to shoot a bow and arrow from a vehicle or from, across or along the maintained portion of a public highway, except 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 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, except in designated areas. ~~Disabled~~ 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, and the broadhead blade or blades are less than seven-eighths 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 forming a smooth line toward the feather end of the shaft and such line does not angle toward the point.

(h) It is unlawful to hunt wildlife with any bow or crossbow equipped with a scope. Except 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 archery seasons.

(2) Rules pertaining to long bow, recurve bow and compound bow archery:

(a) It is unlawful for any person to hunt big game animals with a bow that possesses less than 40 pounds of pull measured at twenty-eight inches or less draw length.

(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) Rules pertaining to crossbows:

(a) It is unlawful ((~~for a disabled hunter permit holder in possession of a crossbow special use permit~~)) to hunt big game animals with a crossbow with a draw weight less than 125 pounds, a limb width less than 24 inches, a draw length less than 14 inches, and a working trigger safety.

(b) It is unlawful ((~~for a disabled hunter permit holder in possession of a crossbow special use permit~~)) to hunt big game animals with any arrow or bolt measuring less than 16 inches in length and weighing less than 350 grains.

(c) It is unlawful ((~~for a disabled hunter permit holder in possession of a crossbow special use permit~~)) to hunt game animals or game birds with a crossbow that weighs more than 15 pounds.

(4) 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.

[Statutory Authority: RCW 77.12.047. 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. 04-11-036 (Order 04-98), § 232-12-054, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047. 03-13-047 (Order 03-129), § 232-12-054, filed 6/12/03, effective 7/13/03; 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. 00-11-137 (Order 00-50), § 232-12-054, filed

5/23/00, effective 6/23/00. Statutory Authority: RCW 77.12.040. 90-03-092 (Order 427), § 232-12-054, filed 1/24/90, effective 2/24/90; 88-13-012 (Order 310), § 232-12-054, filed 6/6/88; 81-12-029 (Order 165), § 232-12-054, filed 6/1/81. Formerly WAC 232-12-140.]

**WAC 232-12-054 Archery requirements – Archery special use permits**

## FINAL RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR-102) filing and are already included in your notebook language. These adjustments reflect any floor changes and additional supplemental recommended adjustments as a result of public testimony received at the March 6-7, 2009 Fish and Wildlife Commission meeting in Ellensburg.

***Page 14***

Under section 1.a., add after the word "protection" the following: "if that person possesses a concealed pistol license as defined in RCW 9.41.070". This change addresses the issue of a more limited approach to allowing handguns for personal protection to those who qualify for a concealed pistol license.

***Pages 14-15***

Under section 1.e., change the second sentence from:

Disabled hunter permittees in possession of a crossbow special use permit may hunt with a crossbow.

To:

~~Disabled~~ However, disabled hunter permittees in possession of a crossbow special use permit may hunt with a crossbow in any season that allows archery equipment.

This adjustment clarifies that disabled hunter permittees may hunt with a crossbow during any season that allows archery equipment.

## SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-054 Archery requirements – Archery special use permits

| COMMENTS | AGENCY RESPONSE |
|---|---|
| Please allow archery hunters to be able to carry a side arm while bow hunting. I have had cougars sneak around me a while out hunting and would feel better being able to carry. | The change you are requesting is in the proposal for the archery equipment and muzzleloader equipment WACs for those with a concealed pistol permit. |
| The side arm now for our personal protection I give you a big THANK YOU. I have been in many life threatening spots now just from cougars in my area (4 cougars and 1 bear) in 8 years, and at least having a hand gun would make me feel better about walking around on my own. | Thanks for your support. |
| Dear gentlemen; I am an archery hunter, and do love the sport for not only target shooting for score, but also to hunting game. I do like your latest modification under article WAC 232-12-054 archery equipment requirements----archery special use permits. I like this new common sense requirement for simply protecting one's self protection. | Thanks for your support. |
| I do not think that crossbows should be allowed during archery season, except by disabled people ONLY. I feel that crossbow hunters should be allowed to hunt in the muzzleloader and/or modern firearm season. Crossbows provide technological advantage over archery that is unfair because of the ability to maintain full draw for extended amounts of time with no effort by the hunter. Also, I believe that it must be clarified as to what the draw weights are for crossbows, similar to that of standard archery equipment. | The Department's proposal would allow crossbows in firearm restriction areas during modern firearm seasons, not during archery seasons. |
| I would recommend that archery hunters be allowed to carry a pistol if they have a concealed weapons permit. | The change you are requesting is being recommended in the final adjustments. |
| I don't like making primitive hunts more modern. Primitive hunters did not use compound bows, trigger releases, sighting glass, metal arrows. Whenever you make these primitive hunts less primitive, it is the "modern weapon" hunter who must give up hunting opportunity. Let's keep it primitive or modern. Hunters know and can decide. | The Department polled hunters extensively on these topics in the past and we work closely with the user groups on the Game management Advisory Council when it comes to best practices regarding equipment. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| My comments are limited to my review of the "Hunting Equipment" Regs for Archery, Muzzle Loader and Modern Fire Arm. As I read each of these sets of equipment rules I came away pleased with what has been proposed up to date and I want to say especially in agreement with the Archery and Muzzle Loading Equipment Rules. In both of those areas with the advance of technology it would be easy to lose the true essence of which these disciplines are supposed to be about. The weapons themselves in both of those categories are already so far advanced that any further technological assists begins to place them alongside that of modern firearms. Laser lights, scopes, flashing knocks, (on arrows – supposedly to enable retrieval of game animals, but most arrows do not remain in game animals), these types of aids ought not to be a part of a style of hunting that was envisioned for the early muzzle loading and bow hunting dedicated seasons and these things possibly begin to encourage a less than fair chase hunting of game than game animals deserve. We can make ourselves invisible in the woods, spray ourselves with concoctions that make us have no scent, and possibly no sense and fewer cents, we hide in the trees with all of our attractants designed to bring the game animal close enough to ambush and then claim a great victory. Anyway, as I stated above it pleases me that WDWF is trying to maintain a balance between style of hunting chosen and keeping the 'playing field' somewhat level. | Thanks for your support. |
| Embrace technological advancements in weaponry such as in-line muzzleloaders and mechanical broadheads. We should want to effectively dispatch animals. | The Department has explored this topic in the past but there was very little support for the idea. |
| I am strongly in favor of this change due to the marijuana grows that are being discovered. I have a concealed weapons permit, I would rather have my pistol with me than leave it in my truck for two reasons: 1) Added protection for me while in the woods, and 2) Less chance of being stolen. Prior to the marijuana grows, I never even considered taking my pistol. | Thanks for your comment. |
| Great job on WAC 232-12-054! I whole-heatedly support being able to carry a handgun for protection when bow hunting.<br><br>It was a bad forced choice between perhaps losing your life or limb by not having a firearm along to protect against larger predators, or losing one's hunting privilege for having a handgun along for protection. This change makes so much sense and doesn't compromise at all the integrity of hunting only with bow. | Thank you for your comment. |
| Do not like the introduction of crossbows under any circumstances, too much potential for poaching. Do not like letting archers carry handguns, there have not been enough "incidents", (zero?), to warrant this change. | We are proposing allowing crossbows in firearm restriction areas during modern firearm seasons only. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| I am happy to see that archery hunters will be able to carry a handgun for protection. I have had two close encounters with black bears in the last two years, one where the bear charged to within 40 yards of me. | Thanks for your input. |
| First, there is no reason to allow crossbows in any season except if they are being used by a handicap hunter. There are plenty of other weapons to use in firearm restriction seasons such as a shotgun, muzzleloader, or a bow. There is no reason to allow a crossbow during the archery season. It can only lead to less opportunity for archers. | We are proposing allowing crossbows in firearm restriction areas during modern firearm seasons, only. When we presented this idea to the public this summer it received a lot of support. |
| The second comment is regarding the ability to carry a modern pistol for personal protection. The woods are a different place today what with drug grows and illegal's poaching game out of season and without a permit. We never know what or who is around the next corner. It makes sense to be able to protect our person in these instances as well as in the event of a wild cat or other such confrontation. | Thanks for your support. |
| My first recommendation is to allow the use of lighted arrow nocks for archery hunting. There is no advantage to using these products prior to making a shot. The advantage would be seeing clearly where the arrow hits the animal allowing the hunter to make a better decision on how soon to begin tracking the animal. Tracking a marginal shot too soon usually results in pushing the animal and a non recovery. It seems clearly more ethical to be certain of the shot placement. I believe it makes the difference between recovering an animal or having it die unrecovered. | The Department has explored this topic in the past but there was very little support for the idea. |
| Have not noticed any archery changes. Such as the use of illuminox, and why are they not legal? Same as expandable broadheads? To my knowledge these things could help in making archery more ethnical. The ability to find the arrow after the shot as well as knowing exactly where the arrow entered. I believe this could result in better odds of finding your game after the shot, knowing how good the shot placement and how long to wait to avoid jumping the wounded animal. Finding the arrow in the heavy cover in most of Washington can prove to be quite a task. Thanks for your time and info. | The Department has explored this topic in the past but there was very little support for the idea. |
| WAC 232-12-054 Archery requirements--Archery special use permits:<br>Section A) please, please approve the exception for modern handguns to be carried for personal protection.<br><br>Section B) agree with electric devices in general for the aid of further accuracy; however, in recent months and into the future I do expect to see small digital cameras available to mount to the bow to help with personal filming AND (review of shot placement). I would like to see electric defined a bit clearer. | Thanks for your input.<br><br>Regarding your second comment, the Department has explored this topic in the past but there was very little support for the idea. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| My third recommendation is to NOT allow the carrying of hand guns while archery hunting. I feel the temptation to use a hand gun inappropriately may be too great for some archers. | Thank you for your comment. |
| I am very pleased to read the wording regarding the possession of modern handguns for personal protection during archery season. I have three grandsons who are becoming a part of the hunting tradition and even though we may never have a problem with the personal protection issue it is a bit more comforting to know I would have a better way of dealing with a bad situation. *I may never have a house fire either but it would be irresponsible not to carry fire insurance.* There are other issues not pertaining to personal protection. I have had a situation (not during archery season) where it was necessary to dispatch a horse because of a broken leg – I would hate to have only a bow and arrow to do that with. Fortunately I had a handgun with me. I am definitely in favor of this recommendation! | Thank you for your comment. |
| I strongly oppose and disagree with the recommendation to allow muzzle loader and archery hunters to carry a modern firearm weapon during their hunting season. I see the reasoning was for personnel protection. What do they need protection from gangs, outlaw motorcycle gangs, wildlife, PETA? I have spent over 35 years working in the woods every day in remote areas and have never had or heard of a situation that would have justified this recommendation. If we had grizzle bear populations I would consider it reasonable. But right now all I see this resulting in, is a means for making poaching easier for muzzle loaders and archers. This recommendation if passed would make it almost impossible for game wardens to do their job and convict poachers. | Thank you for your comment. |
| I am not keen on allowing archers and muzzleloaders to carry handguns. I carry pepper spray and feel just a safe. Allowing handguns will encourage the hunter to dispatch with the handgun. For a muzzleloader it is also almost impossible to enforce. | Thank you for your comment. |

| COMMENTS | AGENCY RESPONSE |
|---|---|
| My final comments to the WDFW concern the archery season firearm restriction. This regulation states and I quote, "It is illegal to carry or have in possession any firearm while in the field archery hunting, during the archery season specified for that area." I am at a loss to understand the basis for this rule. It is a second amendment right of all U.S. citizens to keep and bear arms. Currently, there is not even a national parks restriction involving this law. Of all places a person should be able to carry a firearm for personal protection is in the wilderness. I wonder what archers or fisherman in Alaska would think if the ADFW tried to adopt a similar law? It simply does not make sense. Not in Alaska, and not in Washington. I cannot find this regulation on the books for Montana, Idaho or Oregon either. It would be my guess that somewhere in the Washington poaching archives is a small collection of cases where an archer shot a deer or an elk with a firearm, then tried to make it appear as if they harvested the animal with their bow. Even if those events happened, any regulation set forth by the WDFW should not supersede the Bill of Rights. It should not be assumed that archery hunters would hunt with a firearm when in the field archery hunting. Archery hunters should be allowed to carry firearms for personal safety. I've had this conversation with a large number or archery hunters, as well as WDFW officials at regional meetings. Everyone I've talked to is in agreement. No one supports this regulation. No one knows exactly when or why this regulation was enacted. And no one seems to know how to repeal it. Please put this up for review in front of those who are in a position to amend or scrap it. If not, I will be happy to take up the cause if someone can point me in the right direction. | We are proposing a rule change that will allow modern handgun carry for personal protection if they have a concealed pistol permit. |

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

**WAC 232-12-047 Unlawful ((~~firearms~~)) 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 ((~~persons~~)) in those designated areas where crossbows are allowed.

(4) Hunters with disabilities may use a crossbow with a special use permit as conditioned in WAC 232-12-054.

((~~(4)~~)) (5) It is unlawful to hunt game animals or game

birds with a shotgun larger than 10 gauge.

((~~(5)~~)) (6) It is unlawful to hunt game birds with a rifle or ((~~pistol~~)) handgun, with the exception of blue grouse, spruce grouse and ruffed grouse.

[Statutory Authority: RCW 77.12.047 and 77.12.020. 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. 00-11-137 (Order 00-50), § 232-12-047, filed 5/23/00, effective 6/23/00. Statutory Authority: RCW 77.12.040. 98-10-006 (Order 98-53), § 232-12-047, filed 4/22/98, effective 5/23/98; 90-14-108 (Order 449), § 232-12-047, filed 7/5/90, effective 8/5/90; 83-01-006 (Order 198), § 232-12-047, filed 12/2/82; 82-04-034 (Order 177), § 232-12-047, filed 1/28/82; 81-22-002 (Order 174), § 232-12-047, filed 10/22/81; 81-12-029 (Order 165), § 232-12-047, filed 6/1/81. Formerly WAC 232-12-130.]

## SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-047 Unlawful methods for hunting

| COMMENTS | AGENCY RESPONSE |
|---|---|
| I think and many others I know would like the caliber size changed to 22 center fire for deer only. If it's legal to shoot a cougar why can't we use it for deer as well? I can see it wouldn't be good for elk but for deer. A 22 is probably the most used caliber that poachers use on deer. Am I right?? just consider it thank you | The Department has considered this recommendation in the past but will not propose it. There are far too many inappropriate firearms and ammunition types to loosen this restriction for big game. |
| Thank you for allowing crossbow hunting during the rifle, or any season. It will allow many hunter to harvest animals safely in urban environments and allow an another method of take to enhance our pursuits in the outdoors | Thanks for your input. |
| Outstanding proposal on the use of crossbows in firearm restriction areas. | Thanks for your input. |
| Crossbows should not be allowed to hunt during an archery season but modern firearm | Thanks for your input. As you can see by reading the rule language, that is what we have proposed. |
| I think that .22 caliber centerfires should be allowed for deer federal, Winchester, and Remington all make (and load) a bullet designed for deer hunting. Considering the fact that .22 caliber centerfire are legal for cougar (which weigh roughly the same as deer and are thin skinned) then they should be legal for deer. Idaho and Oregon and many other states allow the use of .22 caliber centerfires. | The Department has considered this recommendation in the past but will not propose it. There are far too many inappropriate firearms and ammunition types to loosen this restriction for big game. |
| I urge the committee to be very careful about crossbow usage and allowances for them. It is a very slippery slope and there is a lot of passion on both sides of the crossbow issue. | The proposed rule would allow crossbow use in firearm restriction areas during modern firearms seasons. In addition the proposal was presented to the public during the public meetings this summer and received strong support. |

**REVISED**
**2:22 pm, Mar 31, 2009**

# SUMMARY OF PUBLIC TESTIMONY RECEIVED AT THE MARCH 6-7, 2009 MEETING IN ELLENSBURG, WA

## Agenda 19

WAC 232-12-051 Muzzleloading firearms

WAC 232-12-054 Archery requirements – Archery special use permits

WAC 232-12-047 Unlawful methods for hunting

| COMMENTS | AGENCY RESPONSE |
|---|---|
| I would recommend that archery hunters be allowed to carry a pistol if they have a concealed weapons permit. | We have made that change. Thank you for your comment. |
| Don't change regulations on bullets for muzzleloaders. Jacketed bullets will extend the range for the muzzleloader. I don't support muzzleloader handguns either. | The vast majority of the respondents on the public surveys supported the proposed change to muzzleloader equipment. Over 70% of the muzzleloaders that responded wanted this change. The Department is moving forward with the recommendation. If success rates change substantially for muzzleloaders the hunting seasons will be adjusted accordingly.<br><br>Twenty-two other states allow muzzleloading handguns for deer and other big game. With the help of the Washington State Muzzleloader's Association and the Borderline Bass and Contenders, the Agency feels it has written appropriate restrictions to this rule that will make muzzleloader handguns a viable hunting tool. |
| I don't support the ability to carry a handgun during archery seasons. Too modern. | The current proposed language would only allow those people that possessed a concealed pistol license. The Agency has received a lot of requests for this allowance. |
| Give crossbows its own WAC and don't blend issues. | The Agency will likely propose a stand-alone WAC for crossbows over time. Given the complexity of the 3-year package as it is, we decided to leave the language in the archery equipment WAC for the time being. |
| Concerned that felons will carry handguns if our regulations allow them during archery seasons. | The Administrative Codes that the Fish and Wildlife Commission adopts do not supersede legislative statute or federal law. If a state law, a federal law, or a court action prevented an individual from possessing a handgun or a firearm, the codes in question would not reverse that. |
| Supports the Department's muzzleloader handgun proposal. | The testimony is consistent with the Department's final recommendation. |
| Supports the Department's muzzleloader projectile proposal. | The testimony is consistent with the Department's final recommendation. |
| Supports the Department's proposal for handgun carry by archers and muzzleloaders. | Based on other input received the Department's proposal has been modified so that only individuals with a concealed pistol permit may carry a handgun. |

# PROPOSED RULE MAKING

**CR-102 (June 2004)**
**(Implements RCW 34.05.320)**
Do **NOT** use for expedited rule making

**Agency:** Department of Fish and Wildlife

☐ **Preproposal Statement of Inquiry was filed as WSR** 08-10-108 & 08-24-103 **; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____**; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR** ____
☐ **Continuance of WSR** _____

**Title of rule and other identifying information:** (Describe Subject)
Hunting Rules – See Attachment A

**Hearing location(s):**
Ellensburg Quality Inn and Conference Center
1700 Canyon Road
Ellensburg, WA 98926
(509) 925-9800

Date: March 6-7, 2009 Time: 8:00 am

**Submit written comments to:**
Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North, Olympia WA 98501-1091
e-mail Wildthing@dfw.wa.gov
fax (360) 902-2162

By: Friday, February 20, 2009

**Assistance for persons with disabilities:**
Contact: Susan Yeager by March 1, 2009
TTY (800) 833-6388 or (360) 902-2267

**Date of intended adoption:** April 2-3-4, 2009
(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:** 77.12.047; 77.12.020; 77.12.570; 77.12.210; 77.12.015; 77.12.240; 77.12.040; 77.32.155

**Statute being implemented:** 77.12.047; 77.12.020; 77.12.570; 77.12.210; 77.12.015; 77.12.240; 77.12.040; 77.32.155

**Is rule necessary because of a:**

| | | |
|---|---|---|
| Federal Law? | ☐ Yes | ☒ No |
| Federal Court Decision? | ☐ Yes | ☒ No |
| State Court Decision? | ☐ Yes | ☒ No |

If yes, CITATION:

**DATE**
January 21, 2009

**NAME**
ori Preuss

**SIGNATURE** Lorena M Preuss

**TITLE**
Rules Coordinator

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER**
**STATE OF WASHINGTON**
**FILED**

**DATE: January 21, 2009**
**TIME: 11:44 AM**

**WSR 09-03-111**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**
None

**Name of proponent:** (person or organization)
Washington Fish and Wildlife Commission

☐ Private
☐ Public
☒ Governmental

**Name of agency personnel responsible for:**

| | Name | Office Location | Phone |
|---|---|---|---|
| Drafting..... | Dave Brittell | Natural Resources Building, Olympia | (306) 902-2504 |
| Implementation.... | Dave Brittell | Natural Resources Building, Olympia | (360) 902-2504 |
| Enforcement..... | Bruce Bjork | Natural Resources Building, Olympia | (360) 902-2373 |

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☐ Yes. Attach copy of small business economic 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 regulate recreational hunters and do not directly regulate 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: Not hydraulics rules.

# ATTACHMENT A

## *WAC 232-12-047 Unlawful methods for hunting*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
Amendments to this rule help clarify the title of the WAC which deals with more than firearms. The proposal clarifies language related to using handguns for hunting and also removes a conflict with the muzzleloading equipment WAC that proposes to allow muzzleloading handguns for hunting. The proposal would also allow crossbows to be used in firearm restriction areas as designated by the Fish and Wildlife Commission. Currently only hunters with disabilities that meet certain criteria are allowed to use crossbows.

**Reasons supporting proposal:**
To provide more flexibility in designing hunting seasons that address urban and suburban big game issues by allowing crossbows in some situations. The proposal also removes a conflict with a proposed change in the muzzleloading equipment WAC.

## *WAC 232-12-051 Muzzleloading firearms*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to clarify language related to lawful ignition systems for muzzleloading firearms. The proposal also no longer restricts projectiles to lead only. The proposal would allow muzzleloading handguns to be used for hunting big game and clarifies muzzleloading handgun use for small game. Also the proposal would allow modern handguns to be carried for personal protection during a muzzleloader season.

**Reasons supporting proposal:**
To help clarify what types of muzzleloader equipment is lawful for hunting; allow hunters more flexibility in the types of projectiles they are allowed to use; removes an unnecessary restriction related to using muzzleloading handguns for big game and clarifies other allowed uses for muzzleloading handguns; and allows muzzleloader hunters to carry handguns for personal safety as long as they are not in conflict with existing big game hunting season restrictions.

## *WAC 232-12-054 Archery requirements – Archery special use permits*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to allow modern handguns to be carried for personal protection during an archery season and allow the use of crossbows in firearm restriction areas as designated by the Fish and Wildlife Commission.

**Reasons supporting proposal:**
The proposal would provide more flexibility in designing hunting seasons that address urban and suburban big game issues by allowing crossbows in some situations. The proposal would also allow archery hunters to carry handguns for personal safety as long as they are not in conflict with existing big game hunting season restrictions.

## *WAC 232-12-055 Hunting – Hunter orange clothing requirements*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The proposed amendments help clarify which hunters are required to wear hunter orange clothing. The clarification is for hunting during modern firearm seasons and for modern firearm deer and elk permit holders.

**Reasons supporting proposal:**
In the past, it has not been very clear whether archery and muzzleloader deer and elk hunters were required to wear hunter orange clothing outside of general seasons for modern firearm hunters.

## *WAC 232-12-062 Party hunting*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
To develop a definition of party hunting and clarify that it is illegal to hunt for another person's big game animal or turkey.

**Reasons supporting proposal:**
To clarify that party hunting for big game and turkeys is illegal.

## ***WAC 232-12-068 Nontoxic shot requirements***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The rule will provide additional nontoxic shot selections for waterfowl, coot, and snipe hunters.

**Reasons supporting proposal:**
To improve recreational opportunity and protect waterfowl resources.

## ***WAC 232-12-227 Hunter education training program requirements***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose behind the proposal is to minimize confusion and avoid possible mistakes by license vendors.

Currently subsection (4) authorizes an individual who has a Washington hunting license from a preceding year to show that license and purchase a subsequent hunting license even if the initial license was not issued in compliance with the hunter education training requirement. The proposal will allow individuals to purchase a Washington hunting license only if they have a hunter education certificate *or* are identified as previous Washington hunters in the current license data system.

**Reasons supporting proposal:**
The proposal ensures that only hunter education graduates or individuals currently identified as hunting-license buyers within the WDFW license data system are eligible to purchase.

## ***WAC 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:**
The proposed amendment to this rule would authorize the Director to administer and issue special use permits to hunters with disabilities.

**Reasons supporting proposal:**
Accommodations that allow persons with disabilities to participate in Department programs are required by the Americans with Disabilities Act. Special use permits allow the Director to evaluate applications and provide accommodations where appropriate.

## ***WAC 232-12-840 Hunting and fishing opportunities for terminally ill persons***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
This proposal is to implement recently passed legislation authorizing the Commission to establish rules for providing special hunting and fishing opportunities for terminally ill persons. In the proposal, the Director is authorized to provide opportunities in a variety of ways at no cost.

**Reasons supporting proposal:**
To implement the legislation, which provides special hunting and fishing opportunities for terminally ill persons.

## ***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 proposed rule amendments add more weapon options in firearm restriction areas. The effect will maintain some limited hunting opportunity in these areas and also provide an effective level of harvest to help control deer and elk populations causing damage and nuisance problems especially in more developed areas.

**Reasons supporting proposal:**
The proposed language retains some limited level of hunting that is compatible with urban expansion. Also helps deal with deer and elk damage and nuisance problems.

## ***WAC 232-28-266 Damage prevention permit hunts***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The amendment to the rule adds 200 turkey permits in northeastern Washington. These permits will provide landowners and WDFW enforcement with additional tools to address property damage issues.

**Reasons supporting proposal:**
An increasing number of landowners are requesting the use of these permits to address damage. They have proven to be very effective in dealing with damage problems and reducing landowner complaints with deer. WDFW enforcement officers have requested they be available for turkeys as well.

## ***WAC 232-28-272 2009-2010, 2010-2011, and 2011-2012 Black bear and cougar hunting seasons and regulations***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The rule establishes hunting seasons for black bear and cougar from 2009 to 2012. The purpose of the recommended changes is to maximize recreational hunting opportunities for bear and cougar while maintaining sustainable populations.

The Department is recommending status quo bear seasons, with two exceptions: (1) For management units that open Aug 1, the Aug 1-31 period is limited to hunting on private lands only; (2) For management units that open in early September, change the opener from the day after Labor Day to September 1.

The Department's cougar season recommendations are: Statewide Sept. 1-25 archery only and Sept. 26-Oct. 16 muzzleloader only seasons; Oct. 17-Mar. 31 general season (any weapon) for zones where trends in female harvest are within our guideline; Oct. 17-Dec. 31 general season for zones where female harvest slightly exceeds our guideline; Oct. 31-Nov. 30 season for zones where female harvested is limited by a quota system and the management need is to adequately evaluate the pilot hunt with the aid of dogs; Change the statewide bag limit from 2 cougars to 1 cougar.

**Reasons supporting proposal:**
Maximize recreational opportunities for bear and cougar hunting, while maintaining sustainable populations.

The justification for the August black bear season on private lands only is to reduce conflict with other recreational users on public lands during the summer while still allowing bears to be harvest for damage reasons (e.g., orchard damage). The justification for the September 1 start date is consistency with the opening day of deer archery seasons.

~~The justification for the cougar season changes is consistency with concurrent deer/elk seasons and to limit~~ female harvest in those areas where harvest levels exceed our guidelines.

## ***WAC 232-28-273 2009-2011 Moose, bighorn sheep, and mountain goat seasons and permit quotas***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The proposed rule amendments include a status quo moose permit level of 130; creating a Master Hunter damage hunt in the Mount Spokane unit; adding ewe-only hunts in three herds; increasing bighorn sheep permit levels from 36 to 46; and reducing mountain goat permit levels consistent with the findings of our recent research.

**Reasons supporting proposal:**
Recommended adjustments in permit quotas are based on meeting population objectives for each species as indicated in the Game Management Plan.

## WAC 232-28-282 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:**
The proposed rule amendments include removing dated language; clarifying areas open for specific deer auction and raffle seasons; and changing the areas open to the Rocky Mountain bighorn raffle permit hunt to reflect the status of mature rams in various populations.

**Reasons supporting proposal:**
Provide a variety of different hunting opportunities and maximize revenue for auction/raffle program, all within biological sustainable limits.

## WAC 232-28-286 2010, 2011, and 2012 Spring black bear seasons and regulations

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The proposed rule amendments add a spring bear hunt in a portion of GMU 501 with 50 permits and close the spring bear damage hunt in Capitol Forest.

**Reasons supporting proposal:**
Spring black bear seasons are used to minimize damage to trees by reducing bear populations to a lower but sustainable level, reduce nuisance activity in northeastern Washington, and better distribute the harvest geographically in southeastern Washington.

## WAC 232-28-287 2009-2010, 2010-2011, 2011-2012 Cougar permit seasons and regulations

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
Establish fall permit hunts for 9 cougar zones around the state. Cougar permit hunts are designed to provide late season hunting opportunity for hunters without the use of dogs (i.e., spot and stalking in snow and/or calling). The anticipated effect is additional varieties of hunting opportunity with sustainable cougar populations.

**Reasons supporting proposal:**
Provide late season hunting opportunity for hunters without the use of dogs (i.e., spot and stalking in snow and/or calling).

## WAC 232-28-291 Special hunting season permits

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The amendments proposed are largely housekeeping in nature. Changes are recommended for multi-season permit application and group sizes. Changes are also recommended for deer and elk permit application group sizes and the late fall turkey permit application rules are eliminated. Fall turkey permit applications are consolidated into one set of rules.

**Reasons supporting proposal:**
The proposal would allow multi-season applicants to submit group applications; clean up turkey permit application language; and limit the number of deer and elk group applicants to better distribute permits.

## WAC 232-28-294 Multiple season big game permits

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
This proposal would shorten the amount of time successful applicants for a multi-season permit would have to purchase their permit to allow for the sale of all permits prior to the first general seasons starting in September. It would also provide 50 multi-season deer and 25 multi-season elk permits to qualifying hunter education instructors.

**Reasons supporting proposal:**
Shortening the purchase time for successful applicants would make sure that more hunters would be able to purchase permits. Providing hunter education instructors with multiple season permits would be an incentive to recruit and retain instructors.

## WAC 232-28-295 Landowner hunting permits

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The proposal identifies permit levels and season dates for Landowner Hunting Permit (LHP) program participants for the 2009 hunting seasons. Amendments to this rule include removal of the 4-O Cattle Company who requested not to participate and addition of the Pine Mountain LHP in Yakima County. The permits will result in general public hunter access on private property and will help mitigate deer and elk foraging on private agricultural lands.

**Reasons supporting proposal:**
Increase public hunting access to private lands and help landowners address game damage issues.

## WAC 232-28-333 Game management units (GMUs) boundary descriptions – Region three

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

**Reasons supporting proposal:**
Clarifies boundaries and facilitates hunting seasons for big game.

## WAC 232-28-335 Game management units (GMUs) boundary descriptions – Region five

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

**Reasons supporting proposal:**
Clarifies boundaries and facilitates hunting seasons for big game.

## WAC 232-28-336 Game management units (GMUs) boundary descriptions – Region six

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. Season dates, bag limits, antler restrictions, and other hunting season regulations are typically specified at the GMU scale.

**Reasons supporting proposal:**
Clarifies boundaries and facilitates hunting seasons for big game.

## WAC 232-28-337 Deer and elk area descriptions

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
Boundary adjustments are being proposed to better address current deer and elk damage issues.

**Reasons supporting proposal:**
The proposed rule amendment provides the means to reduce wildlife damage issues and direct deer and elk damage hunts by adjusting elk area boundaries.

## *WAC 232-28-342 2009-10, 2010-11, 2011-12 Small game seasons*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the new rule is to establish hunting season timing, hunting requirements, and applicable permit levels for the following species: bobcat, raccoon, fox, coyote, forest grouse, pheasant, chukar, gray partridge, mountain quail, California quail, bobwhite, wild turkey, Canada goose, band-tailed pigeon, mourning dove, cottontail rabbits, snowshoe hare, and crow. It also describes falconry and dog training seasons.

Amendments to this rule include: 1) Liberalize fall turkey hunting by establishing more general season opportunity, 2) Eliminate the use of dogs to hunt coyotes, 3) Eliminate the two-day September Canada Goose Season, shifting those dates to the regular goose season, 4) Increase the daily bag limit for forest grouse to four per day.

**Reasons supporting proposal:**
Proposals are consistent with conservation of wildlife populations and public sentiment.

## *WAC 232-28-351 2009-2011 Deer general seasons and definitions*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to retain general season deer hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when deer populations allow, and reduce opportunity when declining deer numbers warrant such a change.

**Reasons supporting proposal:**
Provides recreational deer hunting opportunity and protects deer from overharvest. The proposal maintains sustainable general deer hunting season opportunities for 2009-2011. Helps reduce agricultural damage and provides for population control of deer where needed.

## *WAC 232-28-352 2009-2011 Elk general seasons and definitions*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to retain general season elk hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when elk populations allow, and reduce opportunity when declining elk numbers warrant such a change.

**Reasons supporting proposal:**
Provides recreational elk hunting opportunity and protects elk from overharvest. The proposal maintains sustainable general elk hunting season opportunities for 2009-2011. Helps reduce agricultural damage and provides for elk population control where needed.

## *WAC 232-28-353 2009 Deer special permits*

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to retain special permit season deer hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when deer populations allow, and reduce opportunity when declining deer numbers warrant such a change.

**Reasons supporting proposal:**
Provides recreational deer hunting opportunity and protects deer from overharvest. The proposal maintains sustainable special permit deer hunting season opportunities for 2009. Helps reduce agricultural damage and provides for population control of deer where needed.

## ***WAC 232-28-354 2009 Elk special permits***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The purpose of the proposal is to retain special permit season elk hunting opportunity, balance the hunting opportunity between the three primary user groups, increase opportunity when elk populations allow, and reduce opportunity when declining elk numbers warrant such a change.

**Reasons supporting proposal:**
Provides recreational elk hunting opportunity and protects elk from overharvest. The proposal maintains sustainable special permit elk hunting season opportunities for 2009. Helps reduce agricultural damage and provides for elk population control where needed.

## ***WAC 232-28-516 Trapping seasons and regulations***

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**
The new WAC removes all superfluous regulations (e.g., area restrictions) that are no longer warranted given current trapping practices and low harvest levels. It recommends a standard trapping season for all furbearers from November 1 to March 31 and an increased annual bag limit for river otter from 6 to 12. WAC 232-28-516 replaces WAC 232-28-515.

**Reasons supporting proposal:**
To maximize trapping opportunity consistent with population objectives.