

3. HUNTING PRACTICES – RULE BRIEFING AND PUBLIC HEARING

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“GREEN SHEET”

Meeting: March 9-10, 2012

Agenda Item 3: Hunting Practices – **Rule Briefing and Public Hearing**

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Background:

Department staff will brief the Commission on the amendment of WAC 232-12-047 Unlawful methods for hunting, WAC 232-12-054 Archery requirements–archery special use permits, WAC 232-12-257 Use of decoys and calls, and WAC 232-12-264 Baiting of game birds–unlawful; and the proposed adoption of WAC 232-12-063 Hunting at night–regulations-penalties.

Several issues related to hunter ethics and fair chase were identified by hunters during the development of the 2009-15 Game Management Plan (Plan). In the Plan, we identified that there are differing opinions about the definition of fair chase and what is considered ethical. Many hunters were concerned about the public’s perception of hunting and that ethical standards may be compromised with the expanding use of technology. Other hunters suggest that each hunter should decide what ethical and fair chase means to them. Objective 3 of the Plan states that during each three-year season setting package, we will facilitate public debate on regulations concerning electronic equipment and baiting of wildlife for hunting purposes.

For the 2012-14 hunting season and regulation package, we have combined several issues into this agenda item related to lawful hunting equipment, hunting at night, and baiting of game birds for consideration by the Fish and Wildlife Commission. Because of the Governor’s rule moratorium, we are only asking the Commission to consider those issues that have been formally petitioned or suggested during the recent public review process. These potential amendments are presented for discussion purposes.

This package includes options for allowing illuminated nocks for archery equipment, allowing electronic decoys for waterfowl hunting, broadening what is allowed for crossbow use during modern firearm seasons, and clarifying methods of hunting small game and unclassified wildlife at night. The use of electronic devices for hunting continues to be debated as it relates to fair chase and hunter ethics. In addition, we have had several discussions with the Commission over the past several months related to baiting of waterfowl. This proposal would make Washington’s baiting rule consistent with federal baiting regulations.

With regard to hunting at night, Enforcement Officers often encounter hunters using spotlights at night and cannot easily determine what wildlife species are being hunted. Since most game animals must be pursued during daylight hours, hunting of raccoons, coyotes, and other small game or unclassified wildlife are generally the species being hunted after dark. This proposal would clarify how a hunter can hunt small game and unclassified wildlife at night and would complement existing night hunting rules. The result is greater certainty for officers in determining whether a hunter is lawfully hunting at night.

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

- Maintaining equipment and baiting regulations for hunting that also provide options for hunters within the context of fair chase and ethical hunting considerations.
 - Providing greater restrictions and clarity on lawful hunting at night.
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Public involvement process used and what you learned:

Regarding illuminated nocks for archery equipment, an informal online survey of archers in 2011 showed that there is significant support (greater than 85 percent) to allow the use of this new technology. However, Washington archery hunting organizations have taken positions opposed to this change.

Concerning electronic waterfowl decoys, the Commission prohibited the use of electronic decoys for hunting waterfowl in 2001, and added deer and turkey to the rule in 2006. A 2002 survey by a public opinion research firm (Responsive Management) showed that 48 percent of Washington waterfowl hunters and 66 percent of the general public agreed that increased regulation of hunting technology (e.g. motorized waterfowl decoys) was important. Informal surveys of waterfowl hunters indicate that many (46-57 percent) favor the use of electronic waterfowl decoys as long as seasons are not affected, a smaller group (29-40 percent) oppose their use, and the smallest group (11-20 percent) favor their use regardless of potential impacts on seasons. During the past 10 years, the Waterfowl Advisory Group voted twice to support the electronic decoy restriction and twice to remove it, most recently voting 8-5 to remove it during an unsolicited vote in July 2011. In February 2012, the Game Management Advisory Council voted 14-4 to continue the current prohibition on electronic waterfowl decoys.

The Department conducted an extensive public involvement process to develop the 2012-2014 hunting season recommendations. In early August, an email was sent to over 50,000 hunters announcing that the Department was beginning the development of the 2012-2014 hunting season package. The email also informed them of the opportunity to provide their comments via an online issue scoping survey and invited them to attend one of the public meetings being held statewide. Six public meetings were held with approximately 150 people in attendance, and nearly 4,000 responses were received on the scoping survey. In February, a postcard was mailed to approximately 600 organizations and individuals informing them of the opportunity to provide comments on the proposed regulations. These issues have been discussed with the Game Management Advisory Council and several have been modified based on their suggestions. These organizations and individuals were also informed of the opportunity to provide public testimony at the March Commission Meeting in Moses Lake.

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

Take public input for consideration of amendments during the April 13-14, 2012 Commission Meeting.

Draft motion language:

N/A

Justification for Commission action:

These changes meet the approved criteria established by OFM as a result of the Governor's Executive Order 11-03 Extending Executive Order 10-06 Suspending Non-critical Rule Development and Adoption by satisfying one or more of the following conditions:

- Required by federal or state law or required to maintain federally delegated or authorized programs.
- Necessary to protect public health, safety, and welfare or necessary to avoid an immediate threat to the state's natural resources.
- Beneficial to or requested or supported by the regulated entities, local governments, or small businesses that it affects.

Communications plan:

WDFW Website
News Releases
Hunting Pamphlet

AMENDATORY SECTION (Amending Order 10-94, filed 4/30/10, effective 5/31/10)

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:

2/29/12 5:30 PM[1] OTS-4568.1

(a) It is unlawful to hunt big game animals with a crossbow with a draw weight less than ~~((125))~~ 150 pounds~~((, a limb width less than 24 inches, a draw length less than 14 inches,))~~ and a trigger safety that does not work properly.

(b) It is unlawful to hunt big game animals with any arrow or bolt ~~((measuring less than 16 inches in length and))~~ weighing less than ~~((350))~~ 400 grains.

~~((c))~~ ~~((It is unlawful to hunt game animals or game birds with a crossbow that weighs more than 15 pounds.~~

~~((d))~~ 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.

~~((e))~~ (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.

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

(5) Hunters with disabilities may use a crossbow 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) It is unlawful to hunt game birds with a rifle or handgun, with the exception of blue grouse, spruce grouse and ruffed grouse.

(8) 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. 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. 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. 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
<p>Thank you for putting the changes to regulations online for public review. My concern is related to optical sights on muzzleloaders. I can no longer see well and have difficulty with “iron sights.” I would like to see a regulation that allows older hunters to use scopes on muzzleloaders, as it would not significantly change the primitive nature of this muzzleloader hunting.</p>	<p>Thank you for your comments about the ease of providing your thoughts. We also appreciate your concern about aging hunters and vision issues and the ability to use open sights on muzzleloaders. While most equipment issues did not fit the rationale for the Governor’s moratorium on rule making, aging hunter demographics is a longer term issue that we must address. The department will need to consider greater flexibility on these issues in the near future.</p>
<p>You should allow exposed primers for muzzleloaders as well as scopes. Over 40 states allow it and it would help with license sales and participation. It would also reduce crippling of game.</p>	<p>The intent of the muzzleloader season is to provide some opportunity for using “primitive” equipment for hunting. The timing of seasons and other restrictions are based on the Department’s estimate of what harvest level would result. If the equipment becomes too effective, other restrictions would be needed. However, exposed primers and scopes may be used during the modern firearm seasons.</p>
<p>The 223 caliber is an effective deer load and many other states allow its use. Would you consider allowing its use?</p>	<p>This has been debated many times over the past several years and most have suggested that we limit the caliber to .240 or larger for deer.</p>
<p>I would like to see you allow red dot sights for muzzleloaders. As I have aged, it has gotten harder to use traditional sights. The red dot sight is not magnifying.</p>	<p>We appreciate your concern about aging hunters and vision issues and the ability to use open sights on muzzleloaders. While most equipment issues did not fit the rationale for the Governor’s moratorium on rule making, aging hunter demographics is a longer term issue that we must address.</p>
<p>We do not support the use of crossbows during the modern firearm season at all.</p>	<p>Thank you for your comment; we are trying to provide some additional options for hunting in firearm restricted areas.</p>

AMENDATORY SECTION (Amending Order 10-94, filed 4/30/10, effective 5/31/10)

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

(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. 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 except for illuminated nocks.

(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 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, 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 and 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 big game animals with a retractable broadhead.

(i) It is unlawful to hunt wildlife with any bow (~~(or crossbow)~~) 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 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 does not produce a minimum of 40 pounds of pull measured at twenty-eight inches or ~~less~~ at full 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) 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, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240, 77.32.070, 77.32.530. 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. 09-09-083 (Order 09-53), § 232-12-054, filed 4/15/09, effective 5/16/09. 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.

RECOMMENDED ADJUSTMENTS

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

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- The language under 2a was changed to read as follows:

(2)(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 ~~((less))~~ at full draw ~~((length))~~.

The reason for the change is to clarify that 40 pounds of pull is required at whatever length full draw occurs for a hunter.

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-054 “Archery requirements – archery special use permits”

COMMENTS	AGENCY RESPONSE
<p>I would like to voice my support in favor of allowing illuminated nocks for archery in the coming hunting seasons. I see this as a tool to aid in the recovery of game animals; I do not believe illuminated nocks would increase the instance of illegal hunting after dark. I believe there are too many other obstacles with archery to allow for using a bow in the dark (seeing through sights, peep sight, etc). Further, an illuminated nock only aids in seeing the arrow's trajectory and where the arrow came to rest. Since both of these benefits (seeing the trajectory and arrow location) happen after the shot, they would not logically be an instigating factor for a poacher to decide to take the shot in the first place.</p>	<p>Thank you for your support of the recommendation.</p>
<p>I am opposed to the approval of lighted nocks. The temptation to extend one's hunting day is strong, but even a lighted nock can be obscured by passing into or through the animals' body. Tracers are not allowed for a variety of reasons, checking your trajectory with lighted nocks is similar to a couple of them. Furthermore, adding electronics to "primitive" methods is a "slippery slope" which undermines the rationale behind these less lethal hunting methods.</p>	<p>These concerns are some of the main reasons that the archery community has not supported the use of any electronics in the past. However, the vast majority of archers surveyed by the Department were in support of this exception.</p>

<p>An electronic nock is not necessary to bowhunting. Nor have they proved to be helpful in the retrieval of lost game. It will encourage risky, and at worst illegal, shots. Bowhunting is a close-range sport, and from up close with adequate light the things that are legal now to enhance arrow visibility work just fine.</p> <p>All that an electric nock will do, besides looking cool on video, is allow those who take long shots to find their arrow. If a person isn't willing to lose an occasional arrow then they aren't cut out to be a bowhunter. Locating downed game is one of the most important things we as conscientious individuals can do while in the field bowhunting. But arguably equal in importance is taking reasonable shots; those in good light and from short distances. I believe, although we will never know, that any device which may encourage some individuals to change their intelligent self-imposed shot limitations will lead to bad hits that wouldn't have occurred had there been no electric nock on their arrow. It only stands to reason that this will happen. And so there will be, if I am correct about human nature, more poorly hit and lost animals because the technology will give some people a false sense of security.</p>	<p>We understand the concern and recognize that the issue has been debated within the archery community. Our recommendation to allow illuminated nocks is largely driven by the number of archery hunters who support them.</p>
<p>Will the state have more options hunting with a crossbow? Not just in firearm restriction areas.....Thank you</p>	<p>We are not proposing any expansion with this 2012-14 hunting season package.</p>
<p>Wondering why the rule for crossbows containing scopes in firearm restricted areas has not been changed and permitted. During the modern firearm season in firearm restricted areas I am permitted to use a shotgun or muzzleloader with a scope on it but am not permitted to use a crossbow with one on it. Wondering why this rule has not been changed since crossbows has been added to the use in shotgun restricted areas. I am hoping that this one of the rules that are being considered and what further action I must take to help this rule be added. Thanks you.</p>	<p>We are recommending that scopes be allowed on crossbows used during the modern firearm seasons in firearm restricted areas. Your explanation hits the mark.</p>

<p>I see that you are considering illuminocks. That's great. I think you should allow the new range finder (leapold) that mounts on the bow. It would take the guessing out of the distance and create more humane kills, and less wounded game that does not get recovered. I realize that hand held rangefinders are allowed, but there is not always time to use them on any given encounter. Please consider allowing this ethical advantage.</p> <p>Also, there is no good reason at all we cannot mount the little "hi-tech" video cameras onto our bows. They are great for memories, and can be used as a tool (you can look back at your shot and determine how long to wait to retrieve your animal, without needlessly pushing it all over the country.</p>	<p>The proposal being considered at this time is strictly related to illuminated nocks. No other electronic devices may be attached to the bow.</p> <p>The fact that other electronic devices would be requested if we allowed illuminated nocks is what folks have referred to as a slippery slope. Please see the comment expressed above.</p>
<p>A correction needs to be made to verbiage appearing in WAC 232-12-54, 2, (a). Unintentionally the words "or less" makes all bows, regardless of peak weight, illegal because any bow when only partially drawn will measure less than forty pounds of pull.</p> <p>I suggest this be cleaned up before it causes a legal hassle. The simplest way would be to drop the last four words entirely. But if the intent is to make certain that there is forty pounds of force behind any arrow (man's, woman's or youth's), then that would be accomplished by replacing the word "less" with the words "at full draw".</p>	<p>We have incorporated your suggestion for clarity.</p>
<p>I feel that mechanical broad heads should be allowed. The reason I have heard for non use is the reliability factor. I would agree except the styles today are sold as reliable openers since the majority do not use the rubber band to hold blades in place. We have grown into the equipment we use today and really why not mechanical?</p>	<p>The archery community still does not feel that mechanical broad heads function reliably enough to recommend their use. Even if they are 95 percent reliable, that would mean that 5 percent might inflict a less than lethal arrow into an animal.</p>

<p>I feel that the requirement for disabled hunters to get a vision disability permit is not warranted. This is my rationale:</p> <p>According to proposed crossbow use in firearm restricted areas during modern firearm season a crossbow with scope would be permitted. That is great a positive change for our state.</p> <p>Crossbows are sold with a scope or red dot sight as a complete package or system. The scope/sight is specific to the crossbow it is mounted on and designed for the speed of that crossbow. Crossbow scopes/sights are low/no magnification typical 3x, 4x as high magnification would not allow for good view of game to be taken at the ethical yardage of up to 40 yds..</p> <p>There are only three companies that might have peep/pin sights and one company that makes a fiber optic sight accessible for sale. Why should one have to buy something extra?</p> <p>People with disabilities already have a financial burden so I feel it is unwarranted to require them to go to the additional expense of finding a peep/pin system, have a machinist modify their crossbow, or buy a crossbow that may or may not have a peep/pin sight to fit, or buy a fiber optic sight at additional expense.</p> <p>I understand that the definition of scope for the state is roughly two pieces of magnifying glass held together by a tube. But an exception could be written to specifically state. A crossbow scope/sight designed for crossbows can be used by disabled hunters during archery season. Battery augmented crossbows scopes/sights not permitted.</p>	<p>We appreciate your support for our recommendation to allow scopes on crossbows used during the modern firearm season.</p> <p>The archery community does not consider crossbows as archery equipment for hunting. We are allowing hunters with disabilities to use a crossbow during archery seasons as an accommodation for specific disabilities that would prevent them from even using a specially equipped bow.</p> <p>Allowing the use of a scope goes beyond what is generally applied as an accommodation unless the person also has a qualifying vision impairment.</p> <p>We understand that sometimes it is difficult to convince equipment manufacturers to produce what is desired, but since there are options available and even your company sells one, it is still a reasonable accommodation for disabled archery hunters.</p>
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NEW SECTION

WAC 232-12-063 Hunting at night--Regulations--Penalties.

(1) It is unlawful to hunt small game animals or unclassified wildlife at night, unless all of the following requirements are met:

(a) Artificial lights used in the hunting activity are not attached to or projected from any motor vehicle.

(b) Shooting occurs at least fifty feet from a motor vehicle.

(c) Firearms are restricted to .22 caliber rifles and handguns, and shotguns are restricted to no. 6 shot or smaller. Hunting with bow and arrow is allowed.

(d) During the months of September, October, or November hunting does not occur in areas closed to hunting for deer or elk with centerfire rifles.

(e) Hunting activity is further than five hundred yards from any structure or temporary habitation located on public land.

(f) The hunting activity occurs within published open seasons.

(2) Private landowners or their designees that possess a valid depredation permit issued by the department are exempt from the above requirements while hunting on the permit designated property. Nothing in this section removes the right of property owners, their immediate family members, their documented employees, or tenants of real property, pursuant to RCW 77.36.030, to trap or kill wildlife that is threatening human health and safety or causing property

damage on that property, without the licenses required under RCW 77.32.010 or authorization from the director under RCW 77.12.240.

(3) A violation of this section involving killing, hunting, taking, holding, possessing, or maliciously injuring or harming unclassified wildlife is an infraction punishable under RCW 77.15.160. A violation of this section involving killing, hunting, taking, holding, possessing, or maliciously injuring or harming big game animals, small game animals, protected wildlife, or endangered wildlife is a crime punishable under RCW 77.15.410, 77.15.430, 77.15.130, or 77.15.120, depending on the animal or wildlife killed, hunted, taken, held, possessed, or maliciously injured or harmed.

[]

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-063 “Hunting at night”

COMMENTS	AGENCY RESPONSE
<p>With regard to the proposals about spotlight regulations, I understand that spotlighting can be an irresponsible activity that is sometimes linked with illegal activity. However, it will now be ruined for those of us who practice it responsibly. The proposed rules will render spotlighting not only challenging but near impossible. I feel the restrictions on distance away from a vehicle are somewhat outrageous and the caliber sizes and shotgun shot size regulations will only create more wounded suffering animals and end up making us hunters look bad.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p> <p>The caliber restrictions were designed to make it possible for legitimate predator and raccoon hunters to continue their hunting. It was also our intent that the distance from a vehicle restriction would balance the legitimate predator hunter’s needs while creating a greater impediment for deer and elk spot lighters.</p>
<p>As a night hunter I love to hunt bobcat throughout western WA. I often spotlight from the road to locate bobcats and then go after them with a portable light. This had been the most productive way I have found to hunt bobcats.</p> <p>I feel there is a better way to go about controlling legitimate spotlighting. You could better control spot lighting by selling a permit for it. You would have a record of everyone who is legal to be out hunting.</p> <p>I respect the laws and the land owners. In fact I spotlight a lot of private property that I get permission for and help ranchers with their coyote problems. I would really be disappointed with the WDFW if this law passes. Spotlighting is the only way I can kill bobcats and its one of my favorite animals to hunt. Please consider a permit system instead of the current proposal I feel the additional funding would also help the WDFW.</p>	<p>We appreciate your thoughtful consideration of our concern and the intent of this regulation. Your idea has merit and will be considered as we look to refine this regulation and address our concerns in the future.</p>

<p>I would like comment on the proposed changes to night hunting in Washington State (WAC 232-12-063). There are several things that concern me.</p> <p>(1) (b) Shooting occurs fifty feet from motor vehicle.</p> <p>This regulation doesn't work for hound hunters. Raccoons can be treed close to vehicles. In no way should this be an indication that a hunter is illegally spotlighting game from their vehicle.</p> <p>(e) Hunting activity is done more than 500 yards from any structure.</p> <p>This regulation further handicaps hound hunting in this state. This regulation would eliminate most of the spots left to participate in Raccoon hunting with hounds.</p> <p>It appears to just be new regulations to give game wardens more opportunities to harass law abiding hound hunters. The new regulations would make legal Raccoon hunting with hounds almost impossible.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>
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Creating laws to prevent people from breaking other laws only effects law abiding hunters.

Law Enforcement Officers having to approach hunters who may or may not be legal is the right way to address the problem. Rules that restrict caliber or shot size or distance from a vehicle are not the right way. Most predator calling stand only last about 20 minutes. If an officer wants to check legit hunters he only has to wait a short time until the stand is over. If a guy wanted to hunt from a platform attached to the bed of his truck he is most likely not a poacher because of his high visibility. Poachers don't give a rip about the rules to begin with. You guys really need to stop treating every hunter as a criminal. A hunter is not a poacher until they actually shoot at an animal that is not legal to hunt. I wish we had many more Law Enforcement Officers out in the field to stop poaching but the WDFW creating all these laws is not going to fix poaching at all. I sometimes go years without running into a game officer in the field. The poachers know the odds and are VERY good that they will never get caught. All these new rules don't change that at all.

Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.

While I do not hunt at night, I am concerned about the lack of clarity in the proposed regulation to oppose it in its current form. It fails in its attempt to provide enforcement personnel with useful guidelines while exposing even responsible hunters to arbitrary or unclear standards for action.

First, I have to question the restrictions on shot and what many believe is a mandate to use .22 rim-fire ammunition. The mandate would mean far more wounded animals in the field. The rim fire cartridge and size 6 shot are inappropriate selection for coyotes and similar-sized quarry. The proposal should be dropped on that basis alone.

The artificial lights prohibition as written would easily be applied to lights on a car used to move to a hunting area unless the rule expressly allows lights to be used to travel to a location.

“Hunting activity” would be prohibited within 500 yards of a “temporarily inhabited” area or “structure” on public land, meaning that a responsible hunter could be charged simply for hunting within 500 yards of a campsite or department outbuilding of which the hunter was unaware even if no shot is fired.

Further, a hunter separated by hills or other terrain from a camp or structure would still be subject to charges by being within the prohibited zone on a linear basis even though the camp and hunter are separated by the type of steep, high hills found in eastern Washington.

Unclear and burdensome regulations undercut the Department’s expressed desire to make this a hunting destination state. The proposed rule would add to existing confusion without seeming to provide other value.

Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.

Hunting at night, specifically coyotes, is something that my hunting partners and I particularly enjoy. I have a .223 rifle set up for this hunt. I have a light mounted on it that allows me to shoot out to 200 yards. We have had very good luck helping thin out the coyote population. We are very responsible and respectful.

If you limit night hunting to .22 rim fire rifles and No. 6 or smaller shot I can no longer participate. Neither of these carries to a range effective for the areas that we hunt, not to mention I do not believe them to be a humane way to harvest coyotes.

If curbing illegal take of other animals is the concern I question specifically the #6 shot requirements. It is just as illegal to shoot a big game animal with #2 shot as it is with #6 shot, so where does this restriction come from? Furthermore, if you are concerned about illegal rifle take of big game at night, why the .22 rim fire restriction? The currently legal rounds are illegal for big game anyway and people using them should not be assumed to be pursuing big game, as doing so would already be illegal.

If you want to end night hunting, then I'd prefer that you just end it, in lieu of making it impossible to hunt effectively.

Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.

These Hunting at Night rules were never discussed during public meetings nor are they within the scope of rules that were to be considered according to WDFW's own issue scoping guidelines.

These rules are simultaneously redundant and restrictive, demonstrating the worst kind of narrow and shortsighted rules making.

Without the collection of metrics WDFW cannot claim any sort of scientific management and by extension the impact of these rules on raccoons as a game species is completely unknown, although not by any means insignificant.

The published rules already state it is unlawful to use artificial light (spotlighting) when hunting Big Game, as is hunting ANY game at any time other than legal hunting hours with the exception of Raccoons, Bobcats, Coyotes and unclassified animals. Any person suspected of hunting ANY game animal illegally should be investigated by an enforcement officer.

Most raccoon hound hunters spend a great deal of time training 'rig dogs' that detect or 'strike' upon the scent of their quarry from a moving vehicle. Once the rig dog has struck the dog(s) are unloaded to pursue the raccoon(s). Raccoon generally will tree at the first opportunity when pursued. This can easily be (or end up being) within 50 feet of a motor vehicle.

Safety buffers of 150 feet around buildings are common. 500 yards is nearly one third of a mile and would create a buffer around any structure or 'temporary habitation' over 162 acres in size. I doubt most public agencies, including WDFW, can even provide the public with detailed locations of all the structures on the land they manage.

Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.

<p>Night hunting- Please change to read... .22 cal. and/or smaller... Many WA hunters have transitioned from the .22 to the .17 cal.. Please join us in this new century. It will allow more humane handling of coyotes and should allow poachers no more advantage over larger game than a .22</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>
<p>As an officer in both the Washington State Hound Council and Olympic Tree Hound Association, I am disappointed to see this proposal was created without contacting the people it would affect the most. We hunt within the law, if these proposed changes are intended to reduce illegal night hunting, it would benefit the WDFW more to speak to us who are out at night rather than keep us out of the woods.</p> <p>WAC 232-12-063 should be thrown out. The changes are unnecessary and uninformed.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>
<p>Normally, night hunting in Eastern Washington involves driving through areas of sagebrush and wheat fields, using lights to see coyotes. We use .22 caliber center fire rifles (.223, .22-250, etc) to effect quick, humane kills and preserve pelt value.</p> <p>As proposed, the changes would eliminate this activity entirely. Hunters need to cover a great deal of ground to find coyotes, which involves vehicles of some sort. Not being able to use a mobile platform will severely restrict the amount of area covered and thus reduce harvest.</p> <p>A greater concern is the weapon restriction to .22 caliber or #6 shot or smaller. Neither of these will humanely kill a coyote, unless at very close range on a stationary animal, under ideal circumstances.</p> <p>As an aside, if people are poaching deer they are already breaking several laws. Passing more laws will not affect this.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>

<p>It would seem that imposing such restrictions would harm instead of help legal night hunting. It states in the regulations that it helps officers identify whether hunters are doing so lawfully at night. The regulations already clearly state what hunting legally at night consists of. So the change in Regulation seems un-needed. Also this is an ethical issue as hunting with no. 6 shot seems inadequate as no. 2 shot is often a standard for predator hunting. I personally don't own a 22 caliber rifle and hunt coyotes with a 308 win. So you expect everyone like myself to go out and buy a different rifle just to hunt coyotes? In this economy that seems ridiculous, and irresponsible.</p> <p>Another issue is why no spotlighting from a vehicle? Our regulations already govern where and how we can shoot at night, now you feel it necessary to regulate how we can find animals? the restriction in regards to lights powered by motor vehicles will only further restrict the majority, whom are lawful hunters, leaving those who choose to break the already existing laws to continue to do so without regard to these new restrictions. What about disabled hunters? Can they spotlight from their vehicles? The existing laws are sufficient and these new proposals will more negatively effect law abiding hunters than it will ever do to help us. It seems as though this legislation is needless and promotes some agenda to further restrict our hunting privileges.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>
<p>I cannot see how these rules will make an Enforcement Officer's anti-poaching task any easier (and that seems to be the only intent of the rules) since I'm doubtful an Officer will be able to recognize the caliber of a weapon or the shot size in a shell without examining it.</p> <p>This rule seems to be targeting mesopredator hunters, in particular: hound hunters, unfairly, which is ironic as WDFW enforcement contracts with several hound hunters.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>

<p>On behalf of the sportsmen on the East side of the state who hunt coyotes at night, I'd like to put in my disapproval of this added section. Many of us use calibers larger than .22 for the simple reason that they make a more humane kill on the coyotes. Also, most spotlights for this type of hunting are best powered from a vehicle (or ATV) and not allowing that would mean that we'd be utilizing illumination that wouldn't allow us to identify our target as clearly. What you are proposing essentially eliminates the humane harvesting of predators at night, which is the most effective time for hunters.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>
<p>I am afraid that this will give probable cause for needless citations. If I am returning from a day of coyote hunting with any center fire rifle, and stop for some night hunting, according to your proposed changes the officer could write me up for the .223 in the truck. If your officers need probable cause to cite someone for jack lighting deer, that's one thing, and an entirely separate issue from calibers and shot size.</p> <p>I'm also concerned about the restriction on lighting. Have any of you ever gone coyote hunting at night? In Eastern Washington, that's how we do it, we cruise through likely areas, away from houses and people, and watch for coyote or bobcat eyes to reflect back to us.</p> <p>When we see them, we're out of the truck and the chase is on.</p> <p>I firmly believe that this unnecessarily restrictive rule change is due to your enforcement officers difficulty with probable cause for nighttime deer poaching citations.</p> <p>That is a separate issue, and lawful nighttime hunters should not be restricted to caliber restrictions that will only result in lost, and suffering, game. Please delete these proposed changes.</p>	<p>Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.</p>

This restriction basically says that law abiding citizens who are legally hunting game at night will be put at a disadvantage by being forced to use lower caliber firearms so it's easier for law enforcement to identify criminals. This is a bad proposal and should be scrapped. The reasoning for this has no basis in reality.

A poacher basically must be caught in the act of shooting an animal (or decoy) to be successfully prosecuted. Because it's not illegal to possess any caliber of loaded weapon at any time while in the woods, a law breaker must be caught doing the illegal deed. This makes it unnecessary to restrict the rest of us law-abiding citizens from being able to use a larger caliber firearm for legally hunting animals at night.

Please eliminate this restriction from the proposed game laws. Penalizing the legal hunters to make it easier to bust poachers makes no sense, especially when it really doesn't make it any easier to prosecute them.

Thank you for your thoughts. We received a significant amount of comment on this regulation, and as a result, we have modified our recommendation. We are no longer recommending this proposal even though we continue to have significant concerns. It is just too easy for a deer or elk spot-lighter to claim they are hunting something else.

AMENDATORY SECTION (Amending Order 07-255, filed 10/17/07, effective 11/17/07)

WAC 232-12-257 Use of decoys and calls. (1) It is unlawful to hunt (~~(waterfowl)~~) wild turkeys(~~(r)~~) or deer with the use or aid of battery-powered or other electronic devices as decoys.

(2) It is unlawful to hunt waterfowl, wild turkeys, or deer with the use or aid of electronic calls.

(3) Except as otherwise authorized by rule of the commission or by contract or agreement with the department, any person placing waterfowl decoys on any area (including water, access areas, roads, and trails) under the ownership, management, lease, or control of the department, shall not:

(a) Place waterfowl decoys prior to 4:00 a.m.;

(b) Allow or permit waterfowl decoys to be unattended or not in their immediate control for a period greater than one hour;

(c) Fail to remove waterfowl decoys within two hours after the close of established daily hunting hours; or

(d) Place waterfowl decoys on days closed to waterfowl hunting.

(4) This regulation shall be enforced under RCW 77.15.400.

[Statutory Authority: RCW 77.12.047. 07-21-085 (Order 07-255), § 232-12-257, filed 10/17/07, effective 11/17/07; 06-11-032 (Order 06-92), § 232-12-257, filed 5/8/06, effective 6/8/06. Statutory Authority: RCW 77.12.040. 01-17-092 (Order 01-157), § 232-12-257, 2/29/12 4:43 PM[1] OTS-4571.1

filed 8/20/01, effective 9/20/01. Statutory Authority: RCW
77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. 00-11-137
(Order 00-50), § 232-12-257, filed 5/23/00, effective 6/23/00.
Statutory Authority: RCW 77.12.040. 81-12-029 (Order 165), §
232-12-257, filed 6/1/81. Formerly WAC 232-12-630.]

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-257 Use of decoys and calls

COMMENTS	AGENCY RESPONSE
Spinning-winged decoys promote wastage and inefficient harvest of waterfowl.	Electronic decoy studies have not shown effects on wounding loss rates.
Allow only electronic decoys that do not simulate wing motion.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
The WDFW internet survey was biased.	Participants in WDFW internet surveys were not selected at random from the hunting population, but results of the electronic decoy survey only considered responses from waterfowl hunters.
Allowing electronic decoys will add revenue for WDFW and waterfowl related sales.	Electronic decoy studies have not shown effects on hunter recruitment rates or revenue.
Motorized decoys take the skill out of hunting, provide an unfair advantage against the ducks, and are not “fair chase.”	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
Retaining the existing prohibition on electronic decoys will help to preserve waterfowl hunting tradition and heritage.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
Electronic decoys will not make a significant difference in the amount of birds harvested over the duration of the season.	Studies have shown that electronic decoys increase kill rates by 1.3 to 33 times over traditional decoying methods, but effects on overall population harvest rates are not currently known.
Electronic decoys are no different than other ways to create motion in decoys, and make it easier for older hunters.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.

Electronic decoys have the potential to adversely impact locally breeding waterfowl, with evidence suggesting that immature females may be the component of the population that will be adversely affected.	Recent information has shown increased vulnerability of immature female mallards to harvest relative to adult female mallards, coincidental to the advent of electronic waterfowl decoys.
Electronic decoys are legal in most states already and are just another tool that can be used on days when nothing else works.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
Allowing hunters to use electronic decoys will require other hunters to use them to be successful.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
Electronic decoys reduce wounding loss.	Electronic decoy studies have not shown effects on wounding loss rates.
Electronic decoys should not be allowed because they are no different than baiting, use of live decoys, or recorded calls.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
Allowing electronic decoys would do little to increase waterfowl hunting participation or license sales.	Electronic decoy studies have not shown effects on hunter recruitment rates or revenue.
Electronic decoys only benefit guides seeking to maximize successful hunts	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.
The proposed rule would enable purchase of controllers designed to operate up to 24 units off of one 12 volt battery. New technology that may soon become available would further enable hunters to abuse electronic decoys.	Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.

<p>Surveys show that the hunting public likes the idea of battery operated decoys.</p>	<p>A 2002 survey by a public opinion research firm (Responsive Management) showed that 48 percent of Washington waterfowl hunters and 66 percent of the general public agreed that increased regulation of hunting technology (e.g. motorized waterfowl decoys) was important. Informal surveys of waterfowl hunters indicate that many (46-57 percent) favor the use of electronic waterfowl decoys as long as seasons are not affected, a smaller group (29-40 percent) oppose their use, and the smallest group (11-20 percent) favor their use regardless of potential impacts on seasons.</p>
<p>Of the lower 48 states, 46 allow electronic waterfowl decoys.</p>	<p>Of the lower 48 states, 43 have no restrictions on electronic waterfowl decoys. Of the 5 states that have restrictions, 2 have partial restrictions and 3 have complete restrictions.</p>
<p>Electronic decoys are helpful for new hunters.</p>	<p>Electronic decoy studies have not shown effects on hunter recruitment rates or revenue.</p>
<p>There is no scientific data from the U.S. Fish & Wildlife Service that demonstrates that the use of battery operated decoys is detrimental to waterfowl.</p>	<p>Studies have shown that electronic decoys increase kill rates by 1.3 to 33 times over traditional decoying methods, but effects on overall population harvest rates are not currently known.</p>
<p>The use of this device should be the hunter's choice.</p>	<p>Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.</p>
<p>There is an ethical issue in not allowing the use of these decoys, in that the vast majority of states already allow them.</p>	<p>Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.</p>
<p>One of the greatest rewards of participating in the sport of waterfowl hunting is that even on days with no birds taken, one can count on having an enjoyable day viewing wildlife present in the marsh. Having multiple electronic decoys operating in every direction would detract from this experience.</p>	<p>Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.</p>

<p>States that allow electronic decoys have more restrictive seasons, and these decoys jeopardize liberal seasons in the West.</p>	<p>Studies have shown that electronic decoys increase kill rates by 1.3 to 33 times over traditional decoying methods, but effects on overall population harvest rates are not currently known. If electronic decoys cause harvest rates to increase as populations decrease, conservative seasons would occur more frequently.</p>
<p>Washington's continued prohibition on electronic decoys would retain more uniformity in the three states that contribute the most harvest in the Pacific Flyway.</p>	<p>Thank you for your comments. WDFW is asking the Fish and Wildlife Commission to consider appropriate limits on technology for hunting and effects on ethical standards/fair chase considerations.</p>
<p>Spent shot shells are a litter problem on many public hunting areas and discarded batteries would contribute to this problem.</p>	<p>Litter is a constant problem on many areas and littering is not allowed under wildlife area rules. The potential effect of discarded electronic decoy batteries on wildlife area litter problems is difficult to predict.</p>
<p>Allow electronic calls for waterfowl hunting.</p>	<p>Electronic calls for waterfowl hunting are not permitted under federal regulations, except during certain late seasons in other flyways.</p>

AMENDATORY SECTION (Amending Order 99-118, filed 8/11/99, effective 9/11/99)

WAC 232-12-264 Baiting of game birds--Unlawful. It is unlawful to hunt game birds by the aid of baiting, ~~((or in a))~~ on or over any baited area, or on or over any area posted as an upland bird feeding site, where a person knows or reasonably should know that the area is or has been baited. As used in this section, the following definitions apply:

"Baited area" means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

"Baiting" ~~((or "baited area"))~~ means the direct or indirect placing, exposing, depositing, distributing or scattering of ~~((corn, wheat or other))~~ salt, grain, or other feed ~~((so as to constitute for such birds))~~ that could serve as a lure or attraction for game birds to, on or over areas where hunters are attempting to take them. ~~((Any such area will remain a baited area for ten days following the complete removal of all such grain or other feed.))~~

"Manipulation" means the alteration of natural vegetation or agricultural crops by activities that include, but are not limited to, mowing, shredding, discing, rolling, chopping, trampling,

flattening, burning, or herbicide treatments. The term manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

"Natural vegetation" means any nonagricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. The term natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered natural vegetation.

"Normal agricultural operation" means a normal agricultural planting, harvesting, post-harvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal agricultural planting, harvesting, or post-harvest manipulation" means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal soil stabilization practice" means a planting for agricultural soil erosion control or postmining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture for agricultural soil erosion control.

Nothing in this section shall ((not)) prohibit hunting of game birds((r)) on or over the following lands or areas that are not otherwise baited areas:

(1) Standing crops, or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested crop lands((, grain crops properly harvested on the field where grown)); or lands or areas where seeds or grains ((found)) have been scattered solely as the result of normal agricultural planting ((or)), harvesting, post-harvest manipulation, or normal soil stabilization practice;

(2) From a blind or other place of concealment camouflaged with natural vegetation;

(3) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(4) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

Nothing in this section shall prohibit hunting of any game bird, except waterfowl and coots, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

[Statutory Authority: RCW 77.12.040. 99-17-034 (Order 99-118), § 232-12-264, filed 8/11/99, effective 9/11/99; 81-12-029 (Order 165), § 232-12-264, filed 6/1/81. Formerly WAC 232-12-650.]

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-264 Baiting of Game Birds

COMMENTS	AGENCY RESPONSE
<p>Prohibit waterfowl hunting over flooded corn fields.</p>	<p>The proposed rule is intended to align state and federal baiting regulations. Expanding the scope of the amendments might violate criteria of the Governor’s rule making moratorium.</p>
<p>Also something needs to be done about the baiting regulations for waterfowl. I read the proposed "clarifications" and am more confused than ever. Even my lawyer can't figure out what is legal. I have called for wardens to check on a field to see if it is a legal to hunt over and the ones who have checked give different opinions. This past year we have quit hunting a field that has been hunted for 20 years because over confusion on the baiting issue.</p>	<p>The proposed rule is intended to align state and federal baiting regulations. Asking for clarification from field staff is the best way to determine if you are operating within the regulations.</p>
<p>I think that having flooded corn ponds should be illegal. Those four to five main guys that have all these flooded corn ponds in the Othello, Basin City and Royal City area have totally changed the pattern of the ducks. The ducks totally skip where they used to go and head strait for the flooded corn. Its an unfair advantage. It doesn’t give us public land hunters much of a chance to have good duck hunting when there are no ducks in those areas since they are getting water and food at the same time.</p>	<p>The proposed rule is intended to align state and federal baiting regulations. Expanding the scope of the amendments might violate criteria of the Governor’s rule making moratorium.</p>



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 11-24-102 on 12-07-11 ; 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 Seasons and Regulations – See Attachment A

Hearing location(s):
Moses Lake City Hall
321 S. Balsam
Moses Lake, WA 98837
(509) 764-3701

Date: March 9-10, 2012 Time: 8:30 a.m.

Date of intended adoption: April 13-14, 2012
(Note: This is NOT the effective date)

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: Tuesday, February 21, 2012

Assistance for persons with disabilities:

Contact: Tami Lininger by March 5, 2012

TTY (800) 833-6388 or (360) 902-2267

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

Statute being implemented: 77.12.047

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:
CFR Part 20.21

DATE
February 1, 2012

NAME
Lori Preuss

SIGNATURE
Lori Preuss

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 01, 2012
TIME: 11:43 AM

WSR 12-04-098

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..... Nate Pamplin	Natural Resources Building, Olympia	(306) 902-2693
Implementation....Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2693
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 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: This proposed amendment is intended to further the discussion on what should be allowed for crossbow use during modern firearm seasons.

Reasons supporting proposal: This proposal facilitates public discussion of new technologies and consideration of acceptable fair chase and ethical standards for hunting.

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

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is intended to further the discussion on allowing illuminated nocks for archery equipment.

Reasons supporting proposal: This proposal facilitates public discussion of new technologies and consideration of acceptable fair chase and ethical standards for hunting.

WAC 232-12-063 Hunting at night – regulations – penalties.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal would clarify how a hunter can hunt small game and unclassified wildlife at night and would complement existing night hunting rules.

Reasons supporting proposal: The proposal would provide greater certainty for officers in determining whether a hunter is lawfully hunting at night.

WAC 232-12-243 Public safety cougar removals.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed WAC amendment is to identify when public safety cougar removals are warranted for the protection of public safety and private property. The proposed WAC changes remove the use of “cougar sighting events” or “nuisance behavior” to trigger a public safety cougar removal. The proposed WAC also renames the program from “cougar management removal” to “public safety cougar removal.”

Reasons supporting proposal: This proposal better aligns the WAC language and actions with the terms used in the RCW authority.

WAC 232-12-257 Use of decoys and calls.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is intended to further the discussion on the use of electronic technology for waterfowl hunting.

Reasons supporting proposal: This proposal facilitates public discussion of new technologies and consideration of acceptable fair chase and ethical standards for hunting.

WAC 232-12-264 Baiting of game birds – Unlawful.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is intended to clarify the existing rule on baiting of game birds, and align the rule with current federal regulations on baiting of migratory game birds.

Reasons supporting proposal: This amendment was requested by the Washington Fish and Wildlife Commission, subsequent to a Commission presentation in September 2009, to facilitate consistent enforcement of state and federal baiting rules by the Department and U.S. Fish and Wildlife Service.

WAC 232-28-273 2012-2014 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 WAC changes amend seasons for moose, bighorn sheep, and mountain goat. Winter surveys indicate moose populations are stable. The Department recommends minor permit level adjustments based on recent survey results. The Department also recommends redefining Mt. Spokane moose hunts in GMU 124 into two moose areas, Mt. Spokane North and Mt. Spokane South, and increasing permit levels slightly in those areas to control population levels. Based on the recommendation, statewide permit levels would change from 140 to 152. The anticipated effect is stable moose populations in core areas with more control on moose population growth in areas surrounding Spokane. Hunter opportunity will increase slightly.

All bighorn sheep populations that we are currently hunting either meet or exceed total population objectives. However the number of adult rams fluctuates and we are recommending reductions in ram harvest for several units consistent with the population thresholds in the Game Management Plan (2008). Based on the recommendation, statewide permit levels would change from 41 to 31. The anticipated effect is stable bighorn sheep populations in all hunted areas. Hunter opportunity will decrease slightly.

Mountain goat populations are managed for stable-to-increasing populations in all hunted areas. Changes in permit levels are based on annual survey counts and tend to be conservative, given the sensitivity of goats to overharvesting. The Department recommends status quo delegated authority for existing hunt area permit levels, plus the addition of two hunt areas each with 1 permit. Under that authority the Department will be rotating and reducing hunting pressure in the goat units surrounding Mt. Baker, based on recent survey results. With the delegated authority, statewide permit levels would change from 15 to 17. The anticipated effect is stable mountain goat populations in all hunted areas. Hunter opportunity will increase slightly.

Reasons supporting proposal: This proposal incorporates permit level changes based on the population thresholds and criteria in the Game Management Plan (2008).

WAC 232-28-286 2013, 2014, and 2015 Spring black bear seasons and regulations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule amendments establish the 2013, 2014, and 2015 spring black bear seasons. The purpose is to: 1) reduce tree damage by bears in western Washington; 2) disperse harvest geographically and reduce female harvest in southeastern Washington; and 3) reduce nuisance and damage activity in northeastern Washington, while maintaining long-term sustainable populations in each Black Bear Management Unit (BBMU) --except Puget Sound and Columbia Basin BBMUs. The anticipated effects of the rule are continued recreational harvest opportunities similar to 2009-2011 levels and long-term sustainable bear populations.

Reasons supporting proposal: Spring bear opportunity is provided to address management needs rather than solely for the purpose of providing recreational opportunity. This is due to the public's sensitivity to hunting bears while adult females are accompanied by the young of the year. The Department did not receive any requests for additional spring bear harvest to address the management needs listed above, except for additional bear harvest in northeastern Washington to address nuisance bear issues. Based on the population thresholds outlined in the Game Management Plan, hunting may be impacting the bear population in northeastern Washington; that is, the "median age of harvested females" indicator suggests bear harvest may be impacting the regional bear population. As such, any additional spring bear harvest in the area would require equivalent reductions to fall bear harvest to offset any additional population impacts. During the scoping phase of this WAC, survey data indicated

respondents preferred status quo spring seasons rather than adding harvest opportunity in the spring coupled with reductions in the fall season.

WAC 232-28-288 2012-2014 Fall black bear hunting seasons and regulations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule establishes the 2012, 2013, and 2014 fall black bear seasons. The purpose is to provide recreational harvest opportunities for black bear, while maintaining long-term sustainable populations in each BBMU --except Puget Sound and Columbia Basin BBMUs. The anticipated effects of the rule are to maintain recreational harvest trends similar to 2009-2011 levels. The anticipated effect to the bear population is a long-term sustainable bear populations statewide.

Reasons supporting proposal: The parameters used as population indicators by the Department to evaluate the impacts of hunting on the bear populations are either stable or trending in the right direction. Therefore, no significant changes are recommended at this time.

WAC 232-28-296 Landowner hunting permits.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to expand the number of special hunting opportunities available on private lands for hunters. The recommended changes would add two additional cooperators in eastern Washington.

Reasons supporting proposal: The Fish and Wildlife Commission developed a policy to expand the private lands available for hunting to the general public several years ago. One of the programs that was authorized under their authority 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.

WAC 232-28-297 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposal is to establish the 2012-2013, 2013-2014, and 2014-2015 cougar hunting seasons. The proposal establishes hunt areas and associated harvest guidelines for the entire state (except Columbia Basin and Puget Sound Cougar Management Units). The harvest guideline represents a sustainable 12-16 percent harvest rate for each hunt area. The anticipated effects to the cougar population are to maintain a stable population and to maintain an adequate age structure for cougar populations equally distributed across the state.

Reasons supporting proposal: Recently published studies suggest that a 12-16 percent harvest rate of a local cougar population is the maximum harvest rate that still has a high probability for maintaining a stable cougar population along with stable adult male territorial behavior. Harvest rates in excess of 16 percent can result in declines in core populations of breeding females, and excessive male harvest rates result in the loss of adult male territorial behavioral, which acts as a regulatory mechanism for local male cougar numbers.

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

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed language eliminates one elk area and creates three new deer areas. Deer and elk areas help direct hunters when a scale smaller than the Game Management Unit (GMU) is needed. Deer and elk areas help staff deal with wildlife damage problems.

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 the GMU. Proposed language eliminates an elk area that is associated with a special permit elk hunt that is no longer being conducted.

WAC 232-28-342 2012-13, 2013-14, 2014-15 Small game seasons.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This amendment proposes calendar date adjustments to most small game seasons, expands the wild turkey season in eastern Washington, reinstates the September Canada goose season in eastern Washington, and shifts the crow season one month earlier.

Reasons supporting proposal: This proposal provides for the continuation of hunting seasons on small game species to provide recreational opportunity and depredation control.

WAC 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, balance the hunting opportunity between user groups, increase opportunity when deer populations allow, and reduce opportunity when declining deer numbers warrant a change. The proposal would repeal the old deer general seasons for 2009-2011 and adopt the new deer seasons for 2012-2014.

Reasons supporting proposal: This proposal provides recreational deer hunting opportunity and protects deer from overharvest. The proposal would maintain sustainable general deer hunting season opportunities for 2012 through 2014. The proposal helps address deer damage problems and provides for deer population control when needed.

WAC 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, balance the hunting opportunity between user groups, increase opportunity when elk populations allow, and reduce opportunity when declining elk numbers warrant a change. The proposal would repeal the old elk general seasons for 2009-2011 and adopt the new elk seasons for 2012-2014.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposal would maintain sustainable general elk hunting season opportunities for 2012 through 2014. The proposal helps address elk damage problems and provides for elk population control when needed.

WAC 232-28-359 2012 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 that is above and beyond what is offered for general seasons. The proposal would repeal the old deer special permit seasons for 2011 and adopt the new deer special permit seasons for 2012. The proposal adjusts special permits for deer for 2012 in response to deer population changes and damage complaints. The proposal would help reduce or minimize agricultural damage and provides for population control of deer where needed.

Reasons supporting proposal: The proposal continues to provide recreational deer hunting opportunity while protecting deer from overharvest and helps minimize deer agricultural damage.

WAC 232-28-360 2012 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 that is above and beyond what is offered for general seasons. The proposal would repeal the old elk special permit seasons for 2011

and adopt the new elk special permit seasons for 2012. The proposal adjusts special permits for elk for 2012 in response to elk population changes and damage complaints. The proposal would help reduce or minimize agricultural damage and provides for population control of elk where needed.

Reasons supporting proposal: The proposal continues to provide recreational elk hunting opportunity while protecting elk from overharvest and helps minimize elk agricultural damage.

WAC Sections Proposed for Repeal:

WAC 232-28-272	2009 Black bear and 2009-2010, 2010-2011, and 2011-2012 Cougar hunting seasons and regulations.
WAC 232-28-287	2009-2010, 2010-2011, and 2011-2012 Cougar permit seasons and regulations.
WAC 232-28-295	Landowner hunting permits.
WAC 232-28-351	2009-2011 Deer general seasons and definitions.
WAC 232-28-352	2009-2011 Elk general seasons and definitions.
WAC 232-28-355	2011 Deer special permits.
WAC 232-28-356	2011 Elk special permits.