

**15. LIGHTED NOCKS FOR ARCHERY EQUIPMENT – RULE BRIEFING
AND PUBLIC HEARING**

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Summary

Meeting: March 1, 2013
Agenda Item 15: Lighted Nocks for Archery Equipment – **Rule Briefing and Public Hearing**
Presented By: Dave Ware, Game Division Manager, Wildlife Program

Background:

Department staff will brief the Commission on the potential amendment of WAC 232-12-054 Archery requirements—archery special use permits.

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 is ethical and what fair chase means to them. Objective 3 of the Plan states that the Department 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 addressed several issues related to lawful hunting equipment and baiting of game birds for consideration by the Fish and Wildlife Commission. With only seven members present, the Commission vote on whether to allow the use of illuminated nocks resulted in four members in favor and three opposed; it takes a five member affirmative votes to change a rule. Therefore, the motion to change the rule and allow illuminated nocks did not pass. The Commission asked that this issue be re-considered for 2013 when additional members were present for a vote.

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

- Maintaining equipment regulations for hunting that also provide options for hunters within the context of fair chase and ethical hunting considerations.
-

Public involvement process used and what you learned:

An informal online survey of archers in 2011 showed that there is significant support (greater than 85 percent) to allow the use of illuminated nocks on arrows. However, some Washington archery hunting organizations have taken a position opposed to this change.

The Department conducted an extensive public involvement process to develop the 2012-2014 hunting season recommendations. In early August 2011, 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 2013, a postcard was mailed to approximately 600 organizations and individuals informing them 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 comment regarding a potential amendment to WAC 232-12-047 Unlawful methods for hunting, WAC 232-12-054 Archery requirements—archery special use permits to allow the use of illuminated nocks on arrows. The Commission will consider adoption at their April 12-13, 2013 meeting.

Draft motion language:

N/A

Justification for Commission action: The Game Management Plan describes a strategy of facilitating public debate and Commission consideration of technology advances for use in hunting. The use of illuminated nocks on arrows during archery hunting seasons has been requested by archery hunters and received broad support by many archers, but it is opposed by some traditional archery organizations.

Communications plan:

WDFW Website
News Releases
Hunting Pamphlet

AMENDATORY SECTION (Amending Order 12-70, filed 5/2/12, effective 6/2/12)

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

(a) It is unlawful for any person to carry or have in his possession any firearm while archery hunting in the field ~~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 ~~7~~ big game hunting season.

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

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

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

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[1] OTS-5257.1

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 or with a~~ broadhead blade or blades that are less than seven-eighths of an inch wide.

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

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

(i) It is unlawful to hunt wildlife with any bow equipped with a scope. However, hunters with disabilities who meet the definition of being visually impaired in WAC 232-12-828 may receive a special use permit that would allow the use of scopes or other visual aids. A 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) The following Rrules pertainingsapply to long bow, recurve bow and compound bow archery equipment:

(a) It is unlawful for any person to hunt big game animals with

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[2] OTS-5257.1

a bow that does not produce a minimum of 40 pounds of pull measured at twenty-eight inches or at full draw.

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

(3) Archery special use permits:

(a) An archery special use permit is available to a person who possesses a valid disabled hunter permit. An archery special use permit application must be signed by a physician stating that the person's disability is permanent and the person has a loss of use of one or both upper extremities, has a significant limitation in the use of an upper extremity, or has a permanent physical limitation, which loss or limitation substantially impairs the ability to safely hold, grasp, or shoot a long bow, recurve bow or compound bow. The loss or limitation may be the result of, but not limited to, amputation, paralysis, diagnosed disease, or birth defect. The approved archery special use permit must be in the physical possession of the person while using adaptive archery equipment as described in subsection (1)(d) of this section to hunt game birds or game animals.

(b) A crossbow special use permit is available to a person who meets the requirements for an archery special use permit and is unable to use adaptive archery equipment. Adaptive equipment includes, but is not limited to: Cocking devices that hold the bow at full draw; trigger mechanisms that may be released by mouth, or chin, or hand supporting the bow; and devices that assist in supporting the bow. Information describing types of adaptive equipment will be provided

to physicians for their assessment of the applicant's ability to utilize adaptive archery equipment. Muscle weakness, impaired range of motion, or unilateral hand weakness disability, of both hands or both arms or both sides of the upper extremity, may result in an inability to use adaptive archery equipment. Standard tests approved by the American Medical Association may be conducted to assess a person's abilities.

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

[Statutory Authority: RCW 77.12.047. 12-11-005 (Order 12-70), § 232-12-054, filed 5/2/12, effective 6/2/12. Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240, 77.32.070, 77.32.530. 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.

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[4] OTS-5257.1

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.

Pages 1-5

- Several technical amendments were made throughout this section to improve the clarity and accuracy of the rule.

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 for allowing illuminated nocks. The majority of comments received and surveys conducted of archers in 2011, supported allowing illuminated nocks.</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 archery organizations have not supported the use of any electronics in the past. However, the majority of archers surveyed by the Department in 2011 were in support of this exception.</p>
<p>The Commission vote in 2012 was close, 4-3 in favor of, illuminated nocks. I urge you to approve illuminated nocks or hold the vote until all Commissioners are present.</p>	<p>With a nine member Commission, it takes five votes to approve a change to regulations. As you described, in 2012 the vote by the Commission was split four in favor and three opposed. The Commission asked the Department to bring this proposal forward again in 2013 for further consideration.</p>
<p>The Washington State Archery Association represents approximately 2500 archers in this state.</p> <p>We find ourselves once again opposed to an attempt by the DFW to increase technology in archery hunting. The WSAA opposes the use of any electronic devices or gadgets attached to a bow for archery hunting.</p> <p>DFW Quote! “This proposed amendment is intended to further the discussion on allowing illuminated nocks for archery equipment.”</p> <p>This issue has been discussed and rejected during the three</p>	<p>The request to consider allowing illuminated nocks again, in 2013, came from the Commission and is in response to the high support of archery hunters for the change and the presence of only seven of nine Commissioners at the 2012 meeting.</p>

COMMENTS	AGENCY RESPONSE
<p>year season process! Is there new evidence that showing sound reasons to make a special exception to the existing rules?</p> <p>DFW Reasons supporting proposal: “This proposal facilitates public discussion of new technologies and consideration of acceptable fair chase and ethical standards for hunting”. Once again there are no studies showing that any good reasons to cross the “no electronic” threshold.</p> <p>The WSAA is disappointed that the DFW continues to bring this up after it was rejected last year. There are no studies that show this will help with anything! The fact is that the Pope & Young Club and Professional Bowhunters have both rejected the use of electronic devices attached to a bow for archery hunting. The WSAA urges the DFW and Commission to reject the use of lighted nocks and stop trying to add electronic devices and gadgets to archery hunting in this state. No electronic devices attached to a bow for archery hunting is where the line should be drawn! It is simple, easy to enforce and east to understand.</p>	
<p>An electronic nock is not necessary to bow-hunting, nor have they proved to be helpful in the retrieval of lost game. It will encourage risky, and at worst illegal, shots. Bow-hunting 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 bow-hunter. Locating downed game is one of the most important things we as conscientious individuals can do while in the field bow-hunting. 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. Facilitating this discussion on whether to allow illuminated nocks is largely driven by the number of archery hunters who support them.</p>

COMMENTS	AGENCY RESPONSE
<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 these 2013 hunting season recommendations.</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>Overall, the archery community still does not feel that mechanical broad heads function reliably enough to recommend their use. Even if they are 95% reliable, that would mean that 5% might inflict a less than lethal arrow into an animal.</p>
<p>A bow-hunting study was conducted at Camp Ripley, Minnesota, in the early 1990s. This was an investigation regarding bow-hunting and wounding loss. This scientific study has provided the public with very clear evidence that the bow and arrow is an efficient and effective means of game management. Effectiveness was measured without the aid of electronic devices on the bow and arrow.</p> <p>The idea behind the proposal for electronic nocks is that the bow-hunter can retrieve their game when darkness falls because a light on the nock will be a beacon to the game. Additionally, it is strongly suggested that bow hunters are wounding a disproportionate amount of game and need a change in regulations to address this as a conservation matter. The problems with these ideas are as follows:</p> <ol style="list-style-type: none"> 1. Quite often the nock does not stay on the arrow after the arrow hits a target. The nock is lying on the ground in this scenario. 2. The arrow usually passes through a target such as a deer or elk. The nock is now on the ground behind the animal in this scenario. 3. Sometimes the arrow breaks and the nock end will be on the ground while the remainder of the arrow is in the animal. The electronic nock is useless in this scenario. 4. The idea that this proposal is a conservation issue is false. There is no evidence to support more game is retrievable due to electronic nocks. The proposal, therefore, does not lend any credibility in favor of a conservation issue. One of the key requirements for regulation changes this year is for the matter to be one of conservation. 5. There are already non-electronic nocks available on the market which illuminate. The requirements for this regulation change are clearly questionable based 	<p>We understand the concern and recognize that the issue has been debated within the archery community. Facilitating this discussion on whether to allow illuminated nocks is largely driven by the number of archery hunters who support them.</p>

COMMENTS	AGENCY RESPONSE
<p>upon this fact.</p> <ol style="list-style-type: none"> 6. Electronics being on the bow and arrow is a perfect place to draw a line in the sand with regards to regulations being easier to understand and enforce. 7. Bowhunters prefer more time in the field or more opportunity than they do electronic gadgets. <p>For over 40 years bowhunters have successfully harvested game without lighted nocks or other electronics on the bow or arrow. That fact alone is enough to discredit any need or support for the lighted nock.</p> <p>Experienced bowhunters understand the effectiveness of archery equipment and how much of an element the person using the equipment contributes towards achieving success in the field. Previous testimony in support for the electronic nock is riddled with unproven and anecdotal claims of excessive wounding by bowhunters.</p> <p>The elements of success while hunting with the bow are very similar to what they are for rifle hunters. The individual hunter is the cornerstone to success. A successful hunter will often have experience, exercise patience, make good decisions and perhaps even have a sprinkle of luck which will contribute to their outcome. Is the idea of the electronic nock going to promote people to take shots when it is darker than they would previously? The answer is, yes. Consider the idea that perhaps it is too dark to begin with if someone requires an electric nock to hunt. Ask yourself - How did bowhunters harvest game all these years without the electronic nock?</p> <p>Companies are constantly attempting to invent a new gizmo in order to fix hunting or improve someone's field prowess. I would like to remind you that game in the field are not getting more advanced technology in order to avoid hunters. Companies which invent and mass market the gadgets to improve hunting have a vested interest (monetarily speaking) to chip away at regulations until all hunters can legally utilize their company's trinket in the field. Thank you. fotaking the time to read this letter and considering this matter further.</p> <p>The proposal to allow electronics on the bow and or arrow will also send a clear message to critics of bowhunting. That message is: Bowhunting is not an effective means to take game animals. Bowhunting is currently broken and this</p>	

COMMENTS	AGENCY RESPONSE
<p>electronic nock is going to fix the problem. For over 40 years bowhunters have successfully harvested game without lighted nocks or other electronics on the bow or arrow. That fact alone is enough to discredit any need or support for the lighted nock.</p> <p>Supporters of this regulation change are asking that the Washington Department of Fish and Wildlife permit bowhunters the use of electronics because they are wounding too many animals and are having difficulty recovering them. By approving this proposal the WDFW is indirectly acknowledging this idea to the public; even though it based upon little more than anecdotal reporting. The arguments utilized in order to promote the electronic nock on the arrow are strikingly similar to ones often used by anti-hunters who claim bowhunters are wounding a disproportionate amount of game. Arguments like this were used by anti-hunters whom had a clear intent to ban bowhunting in Minnesota prior to the Camp Ripley study. The Camp Ripley study discounts anecdotal reporting from hunters based upon their field work. I encourage you to read the details of the report. The revelation that bowhunters are using arguments long used by anti-hunters to support electronics nocks is disturbing to me. Experienced bowhunters understand the effectiveness of archery equipment and how much of an element the person using the equipment contributes towards achieving success in the field. Previous testimony in support for the electronic nock is riddled with unproven and anecdotal claims of excessive wounding by bowhunters. In 2010 an individual reported to the Washington Fish and Wildlife Commission that many a bowhunter who wounded game was likely to head out and shoot a second or third animal and therefore the lighted nock is an issue of conservation. Most ethical hunters who wound an animal will be searching in the field to harvest their game and will take the time to learn from the experience so that they can better avoid such situations. It is a stretch of reality to state most bowhunters which wound animals are going to head out into the field to shoot a second or third animal. This claim is very disturbing and ignores all the elements to achieve success which are taught by the National Bowhunter Education Foundation. Consider that a rifle hunter could achieve similar results after stretching the limits of their ability and equipment or by a stroke of bad luck. Testimony in 2011 which contained a survey with intent to utilize it as evidence to support the lighted nock as a conservation matter</p>	

COMMENTS	AGENCY RESPONSE
<p>is not based upon any scientific information whatsoever. Nor did this survey originate from any recognizable source of authority. The survey does contain more anecdotal reports; which were the type dismissed in the Camp Ripley study because there were clear indications of inaccuracy when relying upon such information. The survey was not made available to the public and therefore should not be accepted as supporting evidence.</p> <p>The elements of success while hunting with the bow are very similar to what they are for rifle hunters. The individual hunter is the cornerstone to success. A successful hunter will often have experience, exercise patience, make good decisions and perhaps even have a sprinkle of luck which will contribute to their outcome. You could equip some hunters with a spear and send them out to the field. Their success will largely be based upon tactics, experience, knowledge of the game and good decisions. All of which are individual qualities as opposed to items purchased at the local store. Individual qualities are also a good reason why bowhunters have very similar wounding rates to the rifle hunters. Bowhunters are comprised of an even cross-section of society, much like other hunting factions. It's true that there are going to be animals which become wounded from hunting; which is very unfortunate as this activity is not an exact procedure. The fact of wounding is not a shortcoming unique to bowhunting. Many times errors in the field are a result of taking shots when it is too dark, the animal is too far away, the animal is moving or some other decision made by a human which is avoidable. Is the idea of the electronic nock going to promote people to take shots when it is darker than they would previously? The answer is, yes. Consider the idea that perhaps it is too dark to begin with if someone requires an electric nock to hunt. Ask yourself - How did bowhunters harvest game all these years without the electronic nock?</p> <p>I want to share a quote from a bowhunter as well as one of the greatest American conservationists of the twentieth century. Many would say this quote still rings true today: Then came the gadgeteer, otherwise known as the sporting-goods dealer. He has draped the American outdoorsman with an infinity of contraptions, all offered as aids to self-reliance, hardihood, woodcraft, or marksmanship, but too often functioning as substitutes for them. Gadgets fill the pockets, they dangle from neck and belt. The overflow fills the auto-</p>	

COMMENTS	AGENCY RESPONSE
<p>truck, and also the trailer. Each item of outdoor equipment grows lighter and often better, but the aggregate poundage becomes tonnage. The traffic in gadgets adds up to astronomical sums, which are soberly published as representing "the economic value of wildlife." But what of cultural values? - Aldo Leopold, A Sand County Almanac</p> <p>I ask that the WDFW carefully considers if these electronic devices being proposed are representing the economic value of wildlife. The companies inventing new gadgets for hunting are going to be in business for many years to come and will continue to test the boundaries of what is acceptable and correct in the name of progress. Such companies are constantly attempting to invent a new gizmo in order to fix hunting or improve someone's field prowess. I would like to remind you that game in the field are not getting more advanced technology in order to avoid hunters. Companies which invent and mass market the gadgets to improve hunting have a vested interest (monetarily speaking) to chip away at regulations until all hunters can legally utilize their company's trinket in the field. I hope we can keep that in perspective when weighing decisions such as this one. Thank you for taking the time to read this letter and considering this matter further.</p>	
<p>I would like to address a couple of concerns that were stated by the Commission at last year's rule adoption meeting regarding WAC 232-12-054 1. b.</p> <p>It troubles me to hear the Commission use the term <i>slippery slope</i>. The use of electronics on archery equipment is not a <i>slippery slope</i> unless you allow it. Each item should be looked at on its own merit.</p> <p>The use of an illuminated nock has less impact on your <i>hunting or sportsman skills</i> than a range finder, which is allowed. The range finder tells you the exact distance to an animal +/- 1yd and newer ones calculate actual distance from tree stands by using ARC, all before the shot. They are not primitive nor do they encourage us to use better skills as an outdoorsman. Should you ban them as well?</p> <p><i>Shooting later and taking unwise shots.</i> You need to see the animal before you can shoot it. Shooting after legal light and</p>	<p>The Commission did not initiate the use of the term slippery slope; it was the public that expressed those terms in describing their concerns for allowing electronics attached to bows or arrows.</p> <p>Decisions by the Commission on allowing the use of advancing technology are not simple; regardless of the device, there are some important policy calls that guide these decisions. The policy of maintaining separate archery and muzzleloader hunting opportunities, the timing of those seasons, and the length of those seasons, hinges on keeping the weapons primitive. At this point the use of range finders or any other</p>

COMMENTS	AGENCY RESPONSE
<p>sometimes before is not acceptable, nor ethical.</p> <p>Ethical considerations are important and strongly encouraged by hunting and archery organizations and the use of illuminated nocks does not impact those considerations.</p>	<p>technological tools currently allowed, but may be subject to future consideration.</p> <p>We all expect hunters to be ethical in their choices of when to attempt a shot; we expect them to be diligent in following up on retrieval of game and not to attempt shots when retrieval might be compromised.</p> <p>How those decisions by hunters are influenced by regulations are the crux of the Commission's considerations of technology restrictions, and will be important in the decision this year on whether to allow illuminated nocks.</p>



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

Preproposal Statement of Inquiry was filed as WSR 12-19-007 on 9/6/12; WSR 12-20-084 on 10/3/12; and WSR 12-23-013 on 11/9/12; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

The subject of this proposed rule-making effort is the amendment of hunting seasons and regulations for 2013-2014, archery equipment regulations, and rules governing the importation of dead non-resident wildlife for the purposes of disease control. See Attachment A for a complete listing of rules.

Hearing location(s):
 Moses Lake Civic Center
 401 S. Balsam
 Moses Lake, Washington 98837

Date: March 1-2, 2013 Time: 8:30 a.m.

Submit written comments to:

Name: Wildlife Program Commission Meeting Public Comments
 Address: 600 Capitol Way North
 Olympia, WA 98501-1091

Fax: (360) 902-2162 by (date) February 15, 2013

Assistance for persons with disabilities: Contact

Tami Lininger by February 22, 2013

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

Date of intended adoption: on or after April 12, 2013
 (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: RCWs 77.12.047; 77.12.150; and 77.12.240

Statute being implemented: RCWs 77.12.047; 77.12.150; and 77.12.240

Is rule necessary because of a:

Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No
 If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 23, 2013
TIME: 11:05 AM

WSR 13-03-152

DATE
January 23, 2013

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

When filing the permanent rule-making order (CR-103P), the WAC sections containing rule amendments will be consolidated into one or two Order Typing Service (OTS) documents.

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

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2693
Implementation.... Nate Pamplin	Natural Resources Building, Olympia	(360) 902-2693
Enforcement..... Bruce Bjork	Natural Resources Building, Olympia	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

These rules 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: This proposal is not related to hydraulics rules.

ATTACHMENT A

WAC 232-12-021 Importation and retention of dead nonresident wildlife.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The states and provinces listed in this WAC have confirmed chronic wasting disease (CWD) in their wild, free-ranging populations of cervids. This proposal would add the states of Texas and Missouri to those states where additional processing of deer, elk, and moose carcasses is required before they can be brought into Washington.

Reasons supporting proposal:

The proposal reduces the risk of CWD being imported into Washington State via carcasses of animals harvested in other states. Reducing disease risk helps in sustaining deer, elk, and moose hunting opportunities in Washington.

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 232-28-248 Special closures and firearm restriction areas.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed amendment is part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway. Anticipated effects are minimal; this project involves merely rewording and clarifying a rule already in existence.

Reasons supporting proposal: The department needs these changes to increase efficiency, functionality, and clarity of the rules within its Administrative Code.

WAC 232-28-273 2012-2014 Moose seasons and permit quotas.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This amendment clarifies that the exemption from the once-in-a-lifetime moose restriction is also applicable if the hunter applies in the future for a hunt in the permit categories of antlerless moose: raffle, auction, or master hunter. Additionally, this amendment reduces the number of master-hunter moose permits.

Reasons supporting proposal:

The proposed change in language reduces ambiguity regarding who may apply for a moose permit. The reduction in master hunter moose permits reflects the expected number of hunters needed in 2013 and beyond, based on the experience of recent years.

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 purpose for amending the 2013-15 spring black bear hunting seasons is to expand opportunity in the north Puget Sound. These spring seasons are mainly established to address damage caused by bears to commercially grown trees. The hunt utilizes recreational hunters to harvest black bears in areas where

chronic tree damage and other property damage has been documented and allows the department to disperse harvest geographically and target male bears. This strategy helps ensure long-term sustainability in the black bear population and provides recreational opportunity for hunters.

Reasons supporting proposal: Spring bear hunting helps address commercial tree damage issues and provides recreational hunting opportunity. In the past, most black bear damage was addressed using depredation permits where the landowner would contract with a hunter using dogs to kill multiple bears near areas with tree damage. Depredation permit hunters were taking an increasing number of bears each year, and over 150 bears were being killed annually. The spring black bear season allows recreational hunters to better target the areas receiving damage and allows hunters rather than contractors to harvest bears.

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 and to maintain the number of cooperating landowners.

Reasons supporting proposal: Several years ago, the Fish and Wildlife Commission developed a policy to expand the private lands available to the general public for hunting. One of the programs that was authorized is the Landowner Hunting Permit Program. This program encourages landowners to provide opportunity to the general hunter in exchange for customized hunting seasons and the ability to generate funding to offset the cost of providing public access.

WAC 232-28-334 Game management units (GMUs) boundary descriptions -- Region four.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal changes the management area designation of the Puget Sound Islands from Deer Areas to Game Management Units (GMUs). The proposed amendments will allow the Department to better track harvest removals specific to the islands.

Reasons supporting proposal:

This proposal will allow the Department to better track harvest removals specific to the Puget Sound Islands rather than having those removals lumped with mainland GMUs.

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:

The purpose of the proposal is to designate Anderson Island as a Game Management Unit rather than a Deer Area. The proposed language will allow the Department to better track harvest removals specific to the island.

Reasons supporting proposal:

The proposed changes will allow the Department to better track harvest removals specific to the Anderson Island rather than having those removals lumped with a mainland GMU.

WAC 232-28-337 Elk area descriptions.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to separate Elk Area descriptions from Deer Area descriptions. The proposal also removes one Elk Area that is no longer needed and adjusts the boundary of two other Elk

Areas to make them more effective in dealing with wildlife conflict. Additional language modifications have been made to improve clarity.

Reasons supporting proposal:

Elk Areas help direct hunters at a scale smaller than the GMU when needed. Elk Areas also help staff address local wildlife conflict problems. Some of the language modifications in this proposed amendment are part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway.

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

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of this proposal is to add GMU 145 to the late fall turkey season. This GMU was inadvertently omitted during the three-year season-setting process. This proposal also modifies bag-limit language pertaining to fall turkey permit seasons. The change to the bag-limit language clarifies that hunters who kill a turkey during the permit seasons may still participate in the other fall seasons open to all hunters.

References to the western Washington Dungeness pheasant release site are also removed under the western Washington pheasant seasons.

Reasons supporting proposal:

GMU 145 is surrounded by other GMUs open during the late fall season. The intent was to include this unit in the three-year proposal. The department supports providing opportunity in this unit.

Turkey populations are healthy or increasing in areas where fall general seasons are in place, and the department is encouraging additional harvest and recreational opportunity in these areas. Allowing harvest during the general seasons by those who draw permits poses no concern for the population.

Clallam County owns the Dungeness release site and has decided to no longer allow use of the area for upland bird hunting. For this reason, removing references to this site is appropriate.

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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when deer populations allow; and reduce opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: The proposed amendment provides recreational deer hunting opportunity and protects deer from overharvest. The amendment would maintain sustainable general deer hunting season opportunities for 2013; address deer damage problems; and provide 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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when elk populations allow; and reduce opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposed amendment would maintain sustainable general elk hunting season

opportunities for 2013; address elk damage problems; and provide for elk population control when needed.

WAC 232-28-359 2013 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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when deer populations allow; and reduce opportunity when declining deer numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational deer hunting opportunity and protects deer from overharvest. The proposed amendment would maintain sustainable deer special-permit hunting season opportunities for 2013; address deer damage problems; and provide for deer population control when needed.

WAC 232-28-360 2013 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. The purpose is also to balance the hunting opportunity between user groups; increase opportunity when elk populations allow; and reduce opportunity when declining elk numbers warrant a change.

Reasons supporting proposal: This proposal provides recreational elk hunting opportunity and protects elk from overharvest. The proposed amendment would maintain sustainable elk special-permit hunting season opportunities for 2013; address elk damage problems; and provide for elk population control when needed.

WAC 232-28-622 Big horn sheep seasons and permit quotas.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Hunters may apply for a bighorn sheep permit even if they've previously harvested a bighorn sheep in Washington if the earlier harvest was a bighorn sheep killed under a ewe-only hunt permit, a raffle permit, or an auction permit. Language in this amendment clarifies whether the exemption from the once-in-a-lifetime bighorn sheep restriction is also applicable if the hunter applies in future for a hunt in these categories.

Rocky Mountain bighorn sheep populations in the Blue Mountains area of south-eastern Washington have been reduced in past years due to the lingering effects of pneumonia outbreaks. Pneumonia was detected in the Asotin herd in 2012, and biologists expect this herd to decline over the next few years, although a few older rams remain in this herd.

Reasons supporting proposal:

The change in language reduces ambiguity regarding who may apply for a bighorn sheep permit. The reduction in hunting permits for the Blue Mountain area will reduce pressure on a herd that is experiencing a disease problem, and increase the chances for a high quality ram taken from this herd by the winner of the Rocky Mountain bighorn sheep raffle.

WAC 232-28-623 2012-2014 Mountain goat seasons and permit quotas.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Language in this amendment clarifies whether the exemption from the once-in-a-lifetime mountain goat restriction is also applicable if the hunter applies in future for a hunt in these categories.

The proposed amendment also clarifies the names and descriptions of mountain goat hunt areas in Region 4, around Mt. Baker, and establishes legal descriptions of open mountain goat hunt areas.

Reasons supporting proposal:

Changes in language reduce ambiguity regarding who may apply for a bighorn sheep permit; remove inconsistency between the WAC, pamphlet, and instructional letters sent to permit holders; and clarify hunting unit boundaries for mountain goats in the Mt. Baker area.

WAC 232-28-624 Deer area descriptions.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to separate Deer Area descriptions from Elk Area descriptions to improve the clarity of these rules. The proposal also removes the Puget Sound Islands that were previously described as Deer Areas. The Department is proposing that those islands be described as Game Management Units (GMUs) in the future. Additional language modifications have been made to improve clarity.

Reasons supporting proposal:

Deer Areas help direct hunters at a scale smaller than the GMU and help staff address wildlife conflict problems. Some of the language modifications in this proposed amendment are part of the effort to streamline, reorganize, and update rules in the WAC Overhaul Project currently underway.