

9. HUNTING EQUIPMENT RESTRICTIONS – RULE ACTION

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"GREEN SHEET"

Meeting: April 11-12, 2008
Agenda Item 9: Amend WAC 232-12-045 Hunting equipment restrictions – **Rule Action**
Prepared By: Dave Ware
Presented By: Dave Ware, Game Division Manager, Wildlife Program

Background:

The use of radio-telemetry equipment to locate wildlife while hunting is becoming a greater concern. It is a common wildlife research technique to equip wildlife with radio transmitters for collecting location information. This equipment is becoming more widely available to the public for a greater variety of purposes. This rule modification would make the use of radio-telemetry equipment for hunting transmitter-equipped wildlife illegal.

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

Restricting the use of radio-telemetry equipment for hunting.

Public involvement process used and what you learned:

These proposed recommendations were mailed to approximately 450 organizations and individuals in January for their review and consideration. These organizations and individuals were also informed of the opportunity to provide public testimony at the March 7-8, 2008 Commission meeting in Olympia.

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

Amend WAC 232-12-045 Hunting equipment restrictions, as presented.

Draft motion language:

I move to amend WAC 232-12-045 as proposed.

Justification for Commission action:

To maintain high standards of ethical behavior when hunting.

AMENDATORY SECTION (Amending Order 03-129, filed 6/12/03, effective 7/13/03)

WAC 232-12-045 Hunting equipment restrictions. (1) It is unlawful to hunt deer or elk with the aid of infrared night vision equipment or with laser sights (not to include range finders) capable of projecting a beam onto the target, while in possession or control of a firearm, bow and arrow, or crossbow.

(2) It is unlawful to use radio-telemetry equipment to locate and hunt wildlife that have radio transmitters attached to them. Possession of radio-telemetry receivers while hunting deer, elk, cougar, bear, moose, mountain goat, and bighorn sheep is unlawful, except as permitted by the department.

[Statutory Authority: RCW 77.12.047. 03-13-047 (Order 03-129), § 232-12-045, filed 6/12/03, effective 7/13/03.]

WAC 232-12-045 Hunting equipment restrictions

SUPPLEMENTAL RECOMMENDED ADJUSTMENTS

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

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Under section 2, add cougar to the list of big game animals and at the end of the last sentence add the language: "except as permitted by the Department."

(2) It is unlawful to use radio-telemetry equipment to locate and hunt wildlife that have radio transmitters attached to them. Possession of radio-telemetry receivers while hunting deer, elk, cougar, bear, moose, mountain goat, and bighorn sheep is unlawful, except as permitted by the Department.

These changes are necessary to clarify that all big game would be covered by this rule and that exceptions could be granted by the Department.

SUMMARY OF WRITTEN PUBLIC INPUT

WAC 232-12-045 Hunting equipment restrictions

COMMENTS	AGENCY RESPONSE
Support the proposal to restrict the use of telemetry equipment for hunting big game animals that have radio collars.	Thank you for your support.

SUPPLEMENTAL SUMMARY OF WRITTEN AND ORAL PUBLIC INPUT

Oral public input taken at the March 7-8, 2008 Commission Meeting

WAC 232-12-045 Hunting equipment restrictions

COMMENTS	AGENCY RESPONSE
It appears that the rule as written would make it illegal to have radio collars on your hunting dogs.	The rule was written to ensure that transmitters and telemetry gear used on hunting dogs (for raccoon, upland birds, etc) would continue to be legal.
Two-way radios are used to locate lost hunters and provide safety.	Two-way radios are not affected by this rule.
We use radio equipment on our dogs to hunt raccoons, but also hunt deer and elk. As such, we usually possess radio equipment with our standard hunting equipment. It shouldn't be illegal just because I forgot to take my radio equipment out of my truck.	Enforcement of this rule would be problematic without making possession illegal. Catching someone in the act of using telemetry equipment would be very difficult. Hunters would need to pay close attention to equipment in their possession similar to other rules such as possession of lead shot while hunting waterfowl.
Transmitters can be used to track young hunters older hunters or other hunters who might have medical issues. We shouldn't take away the opportunity to use transmitters to monitor lost or hurt hunters. The second sentence regarding possession should be eliminated.	There are several ways to address safety issues such as hand held radios, cell phones, and GPS units. As mentioned previously, it would be difficult to catch someone using telemetry equipment, therefore regulating possession is very important.



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 07-24-061 ; 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)

WAC 232-12-004 Classification of wild birds
 WAC 232-12-045 Hunting equipment restrictions
 WAC 232-28-273 2006-2008 Moose, bighorn sheep, and mountain goat seasons and permit quotas
 WAC 232-28-295 Landowner hunting permits
 WAC 232-28-337 Deer and elk area descriptions
 WAC 232-28-342 2006-07, 2007-08, 2008-09 Small game seasons
 WAC 232-28-351 2006-2008 Deer general seasons and definitions
 WAC 232-28-352 2006-2008 Elk general seasons and definitions

Hearing location(s):

Natural Resources Building, Room 172
 1111 Washington Street Southeast
 Olympia, WA 98504
 (360) 902-2515

Submit written comments to:

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

By: Friday, February 15, 2008

Date: March 7-8, 2008 Time: 8:00 am

Assistance for persons with disabilities:

Contact: Susan Yeager by March 5, 2008

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

Date of intended adoption: April 11-12, 2008
(Note: This is NOT the effective date)

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

Reasons supporting proposal:
See Attachment A

Statutory authority for adoption: 77.12.047, 77.12.020, 77.12.570, 77.12.210

Statute being implemented: 77.12.047, 77.12.020, 77.12.570, 77.12.210

Is rule necessary because of a:

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: January 23, 2008
 TIME: 9:30 AM

WSR 08-03-141

DATE

January 23, 2008

NAME

Lori Preuss

SIGNATURE

TITLE

Rules Coordinator

(COMPLETE REVERSE SIDE)

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

None

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

- Private
 Public
 Governmental

Name of agency personnel responsible for:

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

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

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

- Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

These rules regulate recreational hunters and do not directly regulate small business.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: Not hydraulics rules.

ATTACHMENT A

WAC 232-12-004 Classification of wild birds

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

The amendment adds Eurasian collared dove to the list of predatory birds in Washington.

Reasons supporting proposal:

The Eurasian collared dove is a non-native species that has recently expanded its range into Washington. The effects of this species are not known, but there is some evidence that it may compete with our native mourning doves. The proposed amendment would classify the species as a predatory bird, which would allow it to be taken year-round with a hunting license as provided under WAC 232-12-005.

WAC 232-12-045 Hunting equipment restrictions

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

This proposal will restrict the use of telemetry equipment for hunting deer, elk, bear, moose, mountain goat, and bighorn sheep that have radio transmitters attached to them.

Reasons supporting proposal:

It is too easy for hunters to find and harvest wildlife with transmitters attached to them and hunting in this manner may bias the results of research projects.

WAC 232-28-273 2006-2008 Moose, bighorn sheep, and mountain goat seasons and permit quotas

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

Rule amends 2008 seasons and permit quotas for moose, bighorn sheep, and mountain goats. The purpose of the rule is to maximize recreational hunting opportunities for these species while meeting the population and recreational objectives for each herd as indicated in the Game Management Plan. The rule changes include minor statewide permit level changes for moose (+14 permits) and bighorn sheep (+2 permits), as well as hunt boundary changes for mountain goat. The anticipated effect is stable to increase populations of these hunting species.

Reasons supporting proposal:

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

WAC 232-28-295 Landowner hunting permits

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

The proposal identifies permit levels and season dates for Landowner Hunting Permit (LHP) program participants for the 2008 hunting seasons. There are calendar date modifications for some permits, but no changes in permit levels are being proposed. If adopted, the proposal will allocate 70 deer permits and 186 elk permits among 5 LHP cooperators. Sixty percent of the permits will be for antlerless animals while 24% will be for antlered animals and 16% for any elk.

Reasons supporting proposal:

The proposed permits are consistent with the Commission's private lands hunter access program policy (C-6002). The permits will result in general public hunter access on private property and will help mitigate deer and elk foraging on private agricultural lands.

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 change removes elk feeding areas from GMU 368.

Reasons supporting proposal:

This proposal allows the continuation of December hunting seasons without impacting feeding activities or creating unethical hunting situations.

WAC 232-28-342 2006-07, 2007-08, 2008-09 Small game seasons

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

Since 2003, the Department has proposed liberalized fall, either sex turkey hunting seasons in northeastern and southeastern Washington, to provide expanded hunting opportunity and to address undesired turkey population increases. This proposal would change fall turkey hunting opportunities by increasing fall turkey permit levels in some southeastern Washington Game Management Units (GMUs), while moving some northeastern GMUs from "early fall permit only" to "early fall general season" designations.

The amendment also extends the mourning dove season from 15 to 30 days in September, modifies the mourning dove falconry season to be consistent with federal rules, and makes the September goose season in Grays Harbor consistent with the remainder of Goose Management Area 3.

Reasons supporting proposal:

The proposed changes provide: 1) greater turkey population control in areas experiencing unwanted population growth or, 2) increased turkey hunter opportunity in areas where expanding populations can support increased fall harvest.

The 2003-09 WDFW Game Management Plan prescribes a restrictive dove season until a significant increase is observed in the 10-year Washington breeding population index. In 2007, a significant increase was observed in this index, and the department is recommending an increase in the 2008 dove season length from 15 to 30 days, with season dates September 1-30. Grays Harbor County was included in Goose Management Area 3 in 2006, and the 2008 September goose season in Grays Harbor County is proposed for change to be consistent with season dates in the remainder of Goose Management Area 3.

WAC 232-28-351 2006-2008 Deer general seasons and definitions

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

This rule amends the 2008 seasons for deer. The rule clarifies the antler restriction in GMU 554; focuses late season opportunity in a portion of GMU 162; and retains a late deer season in the main part of GMU 368.

Reasons supporting proposal:

Recommended adjustments clarify restrictions, and helps focus harvest where desired. The change from GMU 368 to Deer Area 3682 helps retain the late hunt without impacting elk feeding operations.

WAC 232-28-352 2006-2008 Elk general seasons and definitions

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

This rule amends the 2008 seasons for elk. The rule modifies the season dates for the Elk Area 3911 damage hunt to provide better incentives for harvesting elk early in the season. Hunts that end in January are amended to end on January 20th to allow time for hunters to report prior to the January 31 reporting deadline. This proposal also establishes a hunt in Elk Area 3681, which avoids conflict with elk feeding stations and ethical issues while retaining the late elk season in the main part of GMU 368.

Reasons supporting proposal:

Recommended adjustments clarify restrictions, and helps focus harvest where desired. The change from GMU 368 to Elk Area 3681 helps retain the late hunt without impacting elk feeding operations.