

Article 3: Taking and Handling of Wildlife

Trail Camera Regulation



Out-of-Cycle Rulemaking

Options for regulating the use of trail cameras for the purpose of taking or aiding in the take of wildlife.

- State law requires agency rule review at least every five years
- Commission has the authority to review and open a rule at anytime
- No statutory prohibition when a rule can be opened
- “Out-of-Cycle” is a term used by the Department
- Commission routinely adopts or amends rules outside of five-year review



Concern/Purpose:

The Commission is considering rulemaking as a result of public concerns related to the proliferation of the use of trail cameras as it relates to fair chase; concerns that use of trail cameras has become a source of conflict between and amongst hunters; concerns that frequent visits to set/check cameras are affecting livestock operations; and concerns about the potential biological effects of setting/checking cameras on point source waters.



Commission/Ethos Policy on Fair Chase:

“Fair Chase” is the ethical, sportsmanlike, and lawful pursuit and taking of free ranging wildlife in a manner that does not give a hunter or angler improper or unfair advantage over such wildlife. The following criteria are used to evaluate whether a new technology or practice violates the Fair Chase ethic.

Does the technology or practice allow a hunter or angler to:

- Locate or take wildlife without acquiring necessary hunting and angling skills or competency;
- Pursue or take wildlife without being physically present and pursuing wildlife in the field; or
- Almost guarantee the harvest of wildlife when the technology or practice prevents wildlife from eluding take.



Alternatives considered in the past:

- No action or no restrictions on use
- Live-action cameras (Currently unlawful)
- ¼ mile restriction around water sources
- Species specific (e.g. deer and elk, big game)
- Specific units or zones (North/South)
- Camera registration and label system
- Camera season (open and closed dates)
- Complete ban on use (Live-action and passive cameras)



Evaluation of Alternative

- Conformity with the Commission's Fair Chase Policy
- Added regulatory burdens and ambiguity
- Clarity to the public
- Economic impacts on individuals/industry regulated by the rule
- Impact on wildlife from a biological perspective
- Level of complexity for enforcement
- Ability to implement consistently
- Social impact on consumptive/non-consumptive wildlife users
- Within the Commission's authority



Option #1:

Ban the use of all trail cameras

R12-4-301: Repeal definition of “live action trail camera.”

R12-4-301: Add definition: “Trail camera” means an unmanned device used to capture images, video, or location data of wildlife.

R12-4-303: A person shall not use a trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife, or locating wildlife for the purpose of taking or aiding in the take of wildlife.



Option #2:

Establish a trail camera season

R12-4-301: Add definition: “Trail camera” means an unmanned device used to capture images, video, or location data of wildlife.

R12-4-303: A person shall not use a trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife, or locating wildlife for the purpose of taking or aiding in the take of wildlife from July 1 through January 31 annually.



Moratorium Requirements:

Executive Order 2020-02(2) requires an agency to identify for consideration at least three existing rules for every one additional regulation; the Department recommends for consideration the following three rules for elimination: R12-4-111. Identification Number, R12-4-209. Community Fishing License; Exemption, and R12-4-214. Apprentice License.



Next Steps:

- File Proposed Rulemaking with Secretary of State
- Public Comment Period
- Present Final Recommendations to Commission
- GRRC Council Meeting
- Rules Become Effective January 2022



Questions



Recommendation:

The Department recommends that the Commission vote to approve the Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking (Selecting Option #1, Option #2, or an Alternative Option), and Economic Impact Statement amending rules within Article 3: Taking and Handling of Wildlife.

