

## **UPDATED - March 11, 2021**

### **Revised information on proposed rules to regulate the use of trail cameras for the take of wildlife**

- At the December 2020 meeting of the Arizona Game and Fish Commission, the Commission voted 5-0 to open rulemaking with proposed language that, if approved, would prohibit the use of trail cameras for the purpose of taking or aiding in the take of wildlife.
- Listed below is a breakdown of the public comments received from the January 1, 2021 through February 1, 2021 public comments related to the language proposed in December:
  - 2,742 total public comments
  - 1,200 opposed the proposed ban
  - 832 supported the proposed ban in total
  - 442 suggested additional regulation or partial ban
  - 254 duplicates (meaning multiple comments are submitted by one person; they are considered to be one comment)
- Of the 442 comments that suggested some form of regulation instead of a full ban, a breakdown of the suggestions is as follows:
  - 160 said to prohibit trail cameras around waters
  - 101 said to prohibit trail cameras by season
  - 70 said to prohibit trail cameras by location
  - 54 said to limit or regulate guides
  - 35 said register trail cameras
  - 14 said to prohibit trail cameras statewide, except on private property
  - 4 said to conduct an education campaign
  - 3 said to allow only CHAMP hunters to use trail cameras
- In response to internal and external discussions and comments related to the December proposed rulemaking, at the February 2021 Commission meeting, the Commission voted 5-0 to open a separate rulemaking with proposed language that, if approved, would:
  - Prohibit the use of trail cameras for the purpose of taking or aiding in the take of wildlife within  $\frac{1}{4}$  mile of a developed water source.
  - Allow the use of trail cameras to aid in the take of wildlife from February 1 through June 30 as long as the camera is not placed within  $\frac{1}{4}$  mile of a developed water source.
- This new proposed language presented in February does not replace the December proposed rule, but provides the Commission with options to consider at the conclusion of both rulemaking processes.
- The final rulemaking related to the regulation of trail cameras will not be heard at the March 19 Commission meeting as previously anticipated. The final rulemaking for both proposals will be heard at the June 11 Commission meeting in Payson. At that meeting, the Commission can approve either of the two final rules or terminate rulemaking all together.
- The proposed language presented in February has two parts, a seasonal aspect and a developed water aspect. They read as follows:
  - A person shall not place, maintain or use a trail camera, including images, video, or location, time or date data 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 and,
    - A person shall not place, maintain or use a trail camera, including images, video, or location, time or date data 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, within one-fourth mile (440 yards) of a developed water source.
- The new proposed language includes two definitions:
  - “Trail camera” means any device which is not held or manually operated by a person and is used to capture images, video, or location, time or date data of wildlife.
  - “Developed water source” means any developed, placed, or man-made structure that collects or stores water with the primary purpose of providing water to wildlife or livestock.
- Both proposed rules are specific to the take of wildlife which is defined to mean:
  - “Take” means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or placing or using any net or other device or trap in a manner that may result in capturing or killing wildlife.
- If the rule proposed in February is approved:
  - Trail cameras used for research, general photography, cattle operations or any other reason other than the take of wildlife will remain legal.
  - It will allow trail camera use to aid in the take of wildlife during hunts from February 1 through June 30 except within ¼ mile of a developed water.
  - It will prohibit use during Fall hunts from July 1 through January 31.
  - Live action cameras remain unlawful.
- The Commission is considering regulating trail cameras as a result of documented public concerns:
  - The use of trail cameras as it relates to Fair Chase.
    - Commission Policy on Fair Chase includes: “...new or evolving technologies and practices that provide hunters or anglers with an improper or unfair advantage in the pursuit and taking of wildlife, or may create a public perception of an improper or unfair advantage...” applies to areas where water is primarily point source water and game cannot escape detection.
  - The use of trail cameras has become an increasing source of conflict between and amongst hunters including the sense of ownership over a water source and hunting area.
  - Frequent visits to set/check trail cameras are creating a significant disturbance to wildlife during extended dry periods of the year.
  - Livestock operators are concerned that frequent visits to set/check trail cameras are negatively affecting livestock operations.
  - The potential biological effects of setting/checking trail cameras on point source waters, especially during the ongoing drought.
  - Invasion of privacy when trail cameras photograph other people in the field.
  - The high number of trail cameras on the landscape and water sources.
  - The high number of trail cameras that may be on the landscape in the future (as technology continues to improve, prices go down and availability increases).
  - As the state population continues to grow, the number of cameras continue to steadily increase as do complaints.

- The potential monetization of game cameras to include services to place, monitor, check and sell camera images, and if those services increase, the numbers of cameras and their use for take could dramatically increase.
- Trail cameras have also been raised with the State Legislature and legislation has previously been introduced that has so far not advanced because the Commission maintains the authority to examine this issue through rulemaking. At the request of the Commission, it was pulled because of poorly written legislation.

The Commission has concluded that the sum of all the issues are worthy of engaging a public process to consider proposed rulemaking to regulate the use of trail cameras for the take of wildlife.

- The Department is seeking public comments related to the proposed rule presented at the February Commission meeting. Comments are being accepted **by email at rulemaking@azgfd.gov from March 11, 2021 through April 11, 2021.**
- The Commission will hear and vote on final rulemaking at the June 11, 2021 Commission meeting in Payson.
- Any change to the current trail camera rule will not go into effect prior to January 1, 2022.