



PRIVATE LAND/ PUBLIC WILDLIFE ADVISORY COMMITTEE

PL/PW Draft Recommendations for FWP Consideration

Topic Area: Landowner Preference

- 1. Proposed PLPW Recommendation:** All statutes reflect lands being used for landowner preference be contiguous acreage.

Rationale and Background: For landowners applying for landowner preference for deer/antelope, either-sex elk permits or elk B licenses, statutes differ among opportunities as to what is required creating confusion for applicants.

For deer/antelope, applicants must *own 160 acres of real property*. For either-sex elk permits or elk B, applicants must *own 640 acres of contiguous land or for elk b specifically 160 acres or more of contiguous agricultural production land on which the department's documented elk game damage in the last 2 years*.

By requiring all lands be contiguous, it creates consistency in acreage requirements and makes it easier for landowners to understand and department to administer.

Department Response: The department believes this may streamline verification of landowner preference deer/antelope applications by making it easier to approve applications related to non-contiguous ownership. It may decrease the total number of landowner preference deer/antelope applicants overall.

- 2. Proposed PLPW Recommendation:** All statutes reflect lands identified to apply for landowner preference must be used primarily for agricultural purposes.

Rationale and Background: Statutes are inconsistent as to how the land must be used or classified when applying for landowner preference.

To be eligible for landowner preference for deer/antelope, landowners must *use the property primarily for agricultural purposes*.

For either-sex elk permits or elk B licenses, there's no requirement as to how the land must be used, rather the statute requires *at least some of the land be used by elk, as documented by the department*.

For elk B licenses, an applicant must *own 160 acres or more of contiguous agricultural production land on which the department has documented elk game damage within the last 2 years*.

Non-resident applicants applying for landowner preference for the big game and elk combination licenses must own at least 2,500 contiguous acres of land (with a maximum of five designees) and may only hunt their own land or *on private property they lease to produce a crop*.

PL/PW believes the lack of a requirement for lands to be used primarily for agricultural purposes across all preference types creates inequity for landowner applicants and incentivizes landowners to purchase land who have no intent of owning the land for agricultural use or intention of raising a crop. By requiring all lands be used primarily for agricultural purposes, it prioritizes those landowners directly involved in production agriculture.

Department Response: The department believes the administrative difficulty in determining when land qualifies for agricultural purposes or is used or leased to produce a crop creates practical administrative difficulties and complexities. For example, it is unclear whether orchards, timber lands, tree nurseries or vegetable gardens can be considered as “agriculture purposes.” Even if the department were to ask for verifying documentation (e.g., grazing leases), it remains unclear when the agricultural production needs to occur and what needs to be produced to be considered “agriculture purposes.” In sum, such a change could create inner-agency headaches and turmoil between landowners who feel they qualify but don’t. Regarding presence of elk, the department currently uses an old GIS layer to determine if land is used by elk and recognizes that the GIS layer needs to be updated to the most current elk population distribution.

- 3. Proposed Recommendation:** All statutes reflect a common definition for an employee designee.

Rationale and Background: For landowners desiring to designate their landowner preference benefit to an employee, requirements and definitions in statute(s) for employee designations are inconsistent.

For deer/antelope, statute requires the designee to be an immediate family member, person with developmental or physical disability or person *employed by the owner or owners as a land manager or in a similar capacity*.

For either-sex elk permits and hunting access programs, statute requires the designee be an immediate family member, person with physical or developmental disability or *an employee who works full time and year-round as part of the active farm or ranch operation*.

For elk B licenses, statute requires the designee be an immediate family member, person with physical or developmental disability *or an employee of the landowner*.

PL/PW believes the lack of a consistent definition for an employee designee creates confusion for applicants and potentially provides benefits to employees of landowners who do not contribute to the success of the operation in a substantial or meaningful way. The committee also believes that landowners should have the ability to provide this benefit to someone who does not work year-round as many employees are seasonal in nature (night calving, round-up, planting, harvest, etc.) but significantly contribute to the success of the operation.

PL/PW believes that employee definitions should be consistent and prioritize those full-time employees directly involved in the success of the agricultural operation to reduce potential risks for license fraud and provide red-tape relief to landowners. The committee believes that someone does not need to work year-round for the operation to be eligible for the preference designation. PL/PW would like employees to qualify by providing full-time work with at least 1,000 hours of employment in 1 year or 500 hours in each of the previous 2 years.

Department Response: The department relies on the landowner's attestation of employee eligibility and does not currently verify full-time or year-round employment through tax documentation. The department uses an affidavit signed by the landowner to attest their employee designee meets the respective "employee" requirements. To document and verify the number of hours a person works and the type of work they conduct may contribute to additional administrative burdens for staff and for landowners.

- 4. Proposed Recommendation:** Provide increased penalties for those who falsify records related to landowner preference applications.

Rationale and Background: PL/PW believes that an individual should not be eligible to receive landowner preference in any subsequent license year if convicted of falsifying records to obtain a permit or license through landowner preference.

Department Response: The department believes convictions for fraud are one part of the overall judicial process and increasing penalties for those who falsify records may be warranted to deter license fraud. The department currently uses license fraud investigators and investigates when fraud may be suspected. While increased penalties may not be an option for those individuals who falsify records, the department can include a clause in the application that would then disqualify them (if found to falsify

records) from applying for a landowner preference application at a determinate amount (year, multiple years, in perpetuity).

- 5. Proposed Recommendation:** Restrict non-resident landowners from obtaining more than 10% of the licenses or permits allotted to the landowner preference drawing pool.

Rationale and Background: In some limited quota drawings, non-resident landowners are securing up to 30% of the permits set aside for landowner applicants in the landowner preference drawing pool. By statute, 15% of available permits or licenses are set aside for landowners. All landowners regardless of residency compete in this preference pool, however some non-resident landowners are securing permits while some resident landowners with landowner preference are not.

Specifically, in 2025, multiple hunting districts had limited either-sex elk permits where non-resident landowners were drawing more than 10% of the total number of landowner preference permits available. For example, the total number of 590-20 either-sex elk permits available was 380 with 15% being set aside for those applying with landowner preference or 57 permits. There were 57 resident landowner applicants who applied with 40 being successful (70%). There were 17 non-resident landowners who applied with all 17 being successful (100%).

PL/PW believes the 10% cap of non-residents should apply first at the limited permit level and not the overall quota level with the resulting permits going to eligible resident landowners to increase their drawing success. In the HD590 example above if non-residents were capped at 10% at the permit level (5.7 rounded down to 5 as standard practice by the department for non-residents), at minimum 12 more resident landowners would have been successful in securing an either-sex elk permit increasing drawing success to 91.2% for resident landowners rather than the 70% experienced.

Department Response: The department drawing system is set up so that the 10% cap of non-residents is monitored at the overall quota level. Depending upon how many resident and non-resident landowners apply with preference, there may be times when non-resident landowner applicants are successful and secure permits while resident landowner applicants do not. Contrastingly, there may be times when resident landowner applicants are successful and secure permits while non-resident landowner applicants do not. Changing the drawing process would be a large administrative burden and could represent an increase in resident landowner drawing success in some districts.

6. Proposed Recommendation: Resident landowners enrolled in an FWP hunting access program should have the ability to purchase one additional bonus point *for any* license type in which they (or their designee) are applying with landowner preference.

Rationale and Background: HB 635 in the 2023 regular session created the non-resident landowner big game or elk combination priority pool opportunity for a non-resident landowner owning 2,500 contiguous acres in fee title. For each additional 2,500 contiguous acres owned by the landowner the department may issue an additional big game or elk combination license to an immediate family member, employee, or person with a developmental or physical disability, up to a maximum of five total per qualifying landowner.

If the non-resident landowner is successful in securing the non-resident big game combination or non-resident elk combination and enrolled in a department-administered hunting access program in the previous license year, the applicant may purchase an additional bonus point for one of the following: Elk Permit, Deer Permit, Elk B, or Deer B.

PL/PW believes this creates inequity for resident landowners as they cannot purchase an additional bonus point for participating in a department-administered hunting access program.

Department Response: The department believes that this may increase resident landowner interest in enrolling in a department-administered hunting access programs.

LANDOWNER PREFERENCE

Deer Licenses and Permits & Antelope Licenses

15% of each hunting district quota for deer B and antelope licenses and for deer permits is set aside for landowners in that hunting district. To claim landowner preference for a deer b license or permit or an antelope license, a landowner must own at least 160 acres of land that is primarily used for agricultural purposes within the applied for hunting district. Landowner preference only applies to first choice opportunities. If using landowner preference, you cannot apply as a party.

Landowner Preference Licenses And Permits For Deer And Antelope

87-2-735. (Effective March 1, 2026) **Landowner preference licenses and permits for deer and antelope.** (1) *Subject to the provisions of subsection (2) and the limitation in subsection (3), a person who owns 160 acres or more of real property that is primarily used for agricultural purposes in a hunting district in which a limited number of deer or antelope licenses or permits are awarded must be issued, on application, a license or permit to hunt deer or antelope in the hunting district under the terms and conditions of the license or permit.*

(2) *When the real property is held jointly or in common by several persons, only one of the joint or common owners is entitled to the preference provided in this section, or the owners may designate their preference to a person who is an immediate family member, a person who is employed by the owner or owners as a land manager or in a similar capacity, or to a person with a developmental disability or a physical disability as determined by the department. Preference may not be awarded to a landowner if the hunting area is totally within the prescribed boundaries of public land.*

(3) *Fifteen percent of limited licenses or permits available each year in a hunting district for deer or antelope must be available to landowners under this section. If the number of persons applying pursuant to this section exceeds 15% of licenses and permits available for that hunting district, the department shall award the licenses and permits by drawing. The department shall provide a method of selecting first, second, and third choice hunting districts if a drawing is required.*

ARM 12.3.618 DEER PERMITS

(1) Residents may not apply for a deer permit without first purchasing an A-3 license.

(2) Nonresidents must purchase a B-10 or B-11 license at the time of submittal of drawing applications.

Class A-3 – Resident general deer license

Class B-10 – Nonresident Big Game or Elk Combination License

Class B-11 – Nonresident Deer Combination License

Elk Permits

15% of each hunting district quota for elk permits is set aside for landowners in that hunting district. For a landowner preference elk permit, the landowner must own at least 640 acres of contiguous land used by elk within the applied for hunting district. Landowner preference only applies to first choice opportunities. If using landowner preference, you cannot apply as a party.

87-2-705, MCA. Drawing for special elk permits.

87-2-705. (Effective March 1, 2026) **Drawing for special elk permits.** (1) In the event the number of valid applications for special elk permits for a hunting district exceeds the quota set by the department for the district, these permits shall be awarded by a drawing. The department shall provide for those persons making valid application for special elk permits a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) Subject to the limitation of subsection (4), a person who owns 640 acres or more of contiguous land, at least some of which is used by elk as documented by the department, in a hunting district where elk permits are awarded under this section shall be issued, upon application, a permit to hunt elk in the hunting district under the terms and conditions of the permit.

(3) An applicant who receives a permit under subsection (2) may designate that the permit be issued to an immediate family member, an employee of the landowner who works full time and year-round as part of the active farm or ranch operation, or a person with a developmental disability or a physical disability as determined by the department. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to receive the permit.

(4) Fifteen percent of the special elk permits available each year under this section in a hunting district must be available to landowners under subsection (2).

(5) The department may promulgate the rules necessary to implement this section.

ARM [12.3.619](#) ELK PERMITS

(1) elk permit fees established in 87-2-704, MCA are non-refundable.

The department issues elk permits for landowner preference described in [87-2-705](#), MCA, according to the following policies and procedures:

(a) The statutory requirement of 640 acres of contiguous land is used only to determine if the applicant is eligible to apply as a landowner.

(b) If license/permits are valid in a designated portion of a hunting district, some of the land owned by the applicant must be within the boundaries of that portion.

(c) Both resident and nonresident landowners must use the special drawing application provided by the department. The department shall verify that the

applicant owns 640 acres, that it is contiguous land used by elk as determined by the department, and that the designee of the landowner preference is eligible.

(d) Partnerships may delegate landowner preference to members of the immediate family, a partner or an employee. Only one person may be delegated landowner preference for each sole proprietorship, partnership or corporation. A corporation may delegate the landowner preference to one shareholder.

(e) All applicants entitled to landowner preference will be considered in the preference drawings for elk. Unsuccessful landowner applicants who exceed 15% of a district will be entered into the regular drawings with their district choices.

(2) Residents may not apply for an elk permit without first purchasing an A-5 elk license.

(3) Nonresidents must purchase the B-10 at the time of submittal of drawing applications.

Class A-5 – Resident general elk license

Class B-10 – Nonresident Big Game or Elk Combination License

Elk b License

15% of each hunting district quota for elk b licenses is set aside for landowners in that hunting district. For a landowner preference elk b licenses, the landowner must own at least 160 acres of contiguous producing agricultural land on which the department has documented elk game damage within the last 2 years. Landowner preference only applies to first choice opportunities. If using landowner preference, you cannot apply as a party.

87-2-516. *(Effective March 1, 2026) Drawing for Class A-9 and Class B-12 antlerless elk B tag licenses -- landowner preference. (1) In the event the number of valid applications for Class A-9 resident antlerless elk B tag licenses or Class B-12 nonresident antlerless elk B tag licenses for a hunting district exceeds the quota set by the department for the district, the department shall award the permits by a drawing.*

(2) Subject to the limitations of subsection (4), in a hunting district where Class A-9 and Class B-12 licenses are issued, a corresponding Class A-9 or B-12 license must be issued, on application, to persons who:

(a) own 640 acres or more of contiguous land, at least some of which is used by elk as documented by the department; or

(b) own 160 acres or more of contiguous production agricultural land on which the department documented elk game damage within the last 2 years.

(3) A landowner who is eligible to receive a Class A-9 or Class B-12 license under subsection (2) may designate an immediate family member, an employee of the landowner, or a person with a developmental disability or a physical disability as determined by the department to apply for the license. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to apply for the Class A-9 or Class B-12 license.

(4) Subject to the management provisions provided in [87-1-321](#) through [87-1-325](#), 15% of the Class A-9 and Class B-12 licenses available each year in a hunting district must be available to landowners pursuant to subsection (2).

(5) For the purposes of this section, "employee" means a person who is paid by a landowner to do work and who has state or federal taxes withheld from the payment for the work provided.

Class A-9 – Resident antlerless elk B license

Class B-12 – Nonresident antlerless elk B license

Nonresident Combination License Priority Pool

To claim Nonresident Combination License Priority Pool for Montana Landowners, you must be a nonresident landowner that own at least 2,500 acres of contiguous land that is used for crop production purposes. 15% of the Nonresident Big Game/Elk Combination license (B-10) quota may be set aside for nonresident landowners or their designated immediate family member(s) to hunt only on property the owner owns in fee title or on other private property the landowner leases.

The landowner must own at least 2,500 contiguous acres and for each additional 2,500 contiguous acres owned by the landowner, the department may issue to the landowner or the landowner's immediate family member(s) an additional Nonresident Big Game or Nonresident Elk combination license; up to a maximum of 5 licenses per qualifying landowner. (An immediate family member is defined as a spouse, parent, grandparent, child, grandchild, sibling, niece, or nephew of the landowner by blood, marriage, or legal adoption.)

If a landowner qualifies for the priority pool and is successful in drawing a Nonresident Big Game or Nonresident Elk Combo and who was also enrolled in a department-administered private land hunting access program in the previous license year (2024) may purchase an additional bonus point for one of the following: elk permit, deer permit, elk b, or deer b.

Department-administered private land hunting access programs are Block Management , Elk Hunting Access, or Public Access Land Agreement

87-2-714. (Effective March 1, 2026) **Landowner preference for Class B-10 nonresident big game combination license.** (1) Subject to the provisions of subsection (6), 15% of licenses issued under [87-2-505](#) may be placed in a landowner preference pool for nonresident landowners to hunt only on property the landowner owns in fee title or on other private property the landowner leases to produce a crop as defined in [80-8-102](#).

(2) A nonresident landowner of record may designate an immediate family member, an employee, or a person with a developmental disability or a physical disability as determined by the department to receive the license issued under this section.

(3) (a) To qualify to receive a Class B-10 license pursuant to this section, the landowner must own at least 2,500 contiguous acres in fee title. Subject to the provisions of subsections (3)(b) and (5), for each additional 2,500 contiguous acres owned by the landowner, the department may issue to the landowner or the landowner's designee an additional Class B-10 license up to a maximum of five Class B-10 licenses per qualifying landowner.

(b) An individual may not hold more than one Class B-10 license.

(4) Applicants must pay the full Class B-10 license fee established in [87-2-505](#).

(5) If there is a sufficient number of licenses set forth in subsection (1) and multiple applications made per qualifying landowner, the department shall issue one license to each qualifying landowner or the landowner's designee before it issues a second or subsequent license to any landowner or the landowner's designee. All Class B-10 licenses not issued pursuant to this section shall be returned to the general draw pool available to all applicants pursuant to [87-2-505](#).

(6) The commission may, by rule, limit the overall number of licenses that can be provided to landowners or their designees pursuant to this section to less than 15% of those available pursuant to [87-2-505](#).

(7) A landowner who receives a license pursuant to this section and who was enrolled in a department-administered private land hunting access program in the previous license year may purchase an additional bonus point for an elk or deer license or permit drawing for the fee established in [87-2-113](#).

(8) For the purposes of this section, the following definitions apply:

(a) "Developmental disability" means a developmental disability as defined in [53-20-102](#).

(b) "Employee" means a person who works full-time and year-round for the landowner as part of the active farm or ranch operation enrolled in the block management program.

(c) "Immediate family member" means a spouse, parent, grandparent, child, grandchild, sibling, niece, or nephew of the landowner by blood, marriage, or legal adoption.

(d) "Physical disability" means a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.