

BEFORE THE FISH AND WILDLIFE COMMISSION AND
THE DEPARTMENT OF FISH, WILDLIFE and PARKS

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.9.901 and 12.9.908 and the) PROPOSED AMENDMENT AND
repeal of ARM 12.9.902, 12.9.905,) REPEAL
and 12.9.911 pertaining to contractual)
elk hunting access agreements)

TO: All Concerned Persons

1. On December 1, 2023, at 10:00 a.m., the Department of Fish, Wildlife and Parks (FWP) and the Fish and Wildlife Commission (commission) will hold a public hearing via the ZOOM meeting platform to consider the proposed amendment and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the telephonic public hearing in the following way:

Dial by telephone: + 1 206 337 9723
Meeting ID: 826 2139 9536
Passcode: 530224

2. FWP and the commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact FWP, no later than 5:00 p.m., on November 17, 2023, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. General Statement of Reasonable Necessity. FWP and the commission are proposing to initiate a comprehensive update to the contractual elk hunting access agreement's administrative rules. Particularly, FWP and the commission intend on removing outdated and repetitive language, clarifying outstanding language, and ensuring compliance with statutory requirements.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.9.901 DEFINITIONS The following definitions ~~applies~~ apply to this subchapter:

(1) "Contractual public elk hunting access agreement" or "EHA agreement" means a negotiated agreement between the department and a landowner which defines how free public elk hunting may occur on land enrolled under the agreement.

~~(2) "Regular hunting season" means the general season established by the commission for hunting elk with firearms in a hunting district which contains land enrolled in a contractual public elk hunting access contractual agreement.~~

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

REASON: FWP is proposing amendments to this rule to remove unnecessary language.

12.9.908 PROCESS FOR COMMISSION CONSIDERATION OF PERMITS

(1) Elk hunting access applications must be submitted on a form prescribed by the department, and only complete applications will be accepted ~~In order for the commission to determine the number of hunting permits to issue under 87-2-513, MCA, the department shall complete negotiations for contractual public elk hunting access agreements prior to the commission meeting at which the commission makes final permit quota decisions.~~

(2) Elk hunting access applications must be received on or before May 1. Any elk hunting access application received after May 1 is ineligible for commission consideration ~~The department shall place proposals to grant permits under 87-2-513, MCA, on the commission agenda as part of the commission meeting when final permit quota decisions are made.~~

(3) All complete elk hunting access applications, draft EHA agreements, and hunter/landowner satisfaction data from the prior year will be presented to the commission for consideration in their decision. Specific landowner, landowner designee, and public hunter contact information, such as their email address, phone number, and ALS number, will be redacted.

(4) The commission reserves the right to reject elk hunting access applications or deny the issuance of permits and or licenses, or both, under this program.

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

REASON: FWP is proposing amendments to this rule to better reflect existing practices, streamline administration of the program, and to advance the Governor's Office Red Tape Relief Initiative.

5. The department proposes to repeal the following rules:

12.9.902 ELIGIBILITY

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

REASON: FWP is proposing repeal of this rule because it duplicates language in the statute.

12.9.905 CONTRACTUAL PUBLIC ELK HUNTING ACCESS AGREEMENTS

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

REASON: FWP is proposing repeal of this rule because part of the language is duplicative, as it currently resides in statute, and the remainder would be better suited in a policy document by the division. Moreover, repeal of the rule would advance the Governor's Office Red Tape Relief Initiative.

12.9.911 PROCESS FOR SELECTING PERMIT HOLDERS

AUTH: 87-1-201, 87-1-301, 87-2-513, MCA
IMP: 87-2-513, MCA

REASON: FWP is proposing repeal of this rule to advance the Governor's Office Red Tape Relief Initiative and because the language for selecting a permit holder would better reside in a policy document by the division.

6. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Charlie Sperry, Department of Fish, Wildlife and Parks, P.O Box 200701, Helena, Montana, 59620-0701; or email fwpprk@mt.gov, with "EHA ARM" in the subject line and must be received no later than 5:00 p.m., December 4, 2023.

7. Christina Bell or another hearing officer appointed by FWP has been designated to preside over and conduct the hearing.

8. FWP maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by FWP or the commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written request may be mailed or delivered to: Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to cbell@mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on June 19, 2023.

10. With regard to the requirements of 2-4-111, MCA, FWP has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

/s/ Lesley Robinson
Lesley Robinson
Chair
Fish and Wildlife Commission

/s/ Dustin Temple
Dustin Temple
Director
Montana Fish, Wildlife and Parks

Certified to the Secretary of State October 24, 2023.