

To All Interested Parties:

At the direction of the Fish and Wildlife Commission, Montana Fish, Wildlife & Parks has taken the initiative to propose changes to the Administrative Rules of Montana (ARM) for Contractual Public Elk Hunting Access Agreements (EHAs). In doing so, FWP has indicated outdated and unnecessary language within the current ARM (12.4.901 – 12.4.911) and proposes to remove such language. Most of the outdated and unnecessary language is language that is either already identified in statute and is therefore repetitive and unneeded or is purely informational and does not need to reside in ARM and should instead be included in departmental policy. This process would assure compliance with the Governor’s Office Red Tape Relief Project. This document is intended as a companion to the rule notice to identify which stricken language is already included in statute or would be moved to a departmental policy. Any other stricken language is proposed for repeal. Once finalized, the policy would be available for public review on the department’s website in advance of the 2024 EHA application cycle.

### 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.~~

### 12.9.902 ELIGIBILITY

~~(1) In order to be eligible for a permit under 87-2-513, MCA, a landowner must own and enroll a minimum of 2500 acres experiencing sufficient elk use during the regular hunting season to provide hunting opportunity consistent with the terms of a contractual public elk hunting access agreement. The department may consider enrollment of less than 2500 acres, as long as all other eligibility criteria are met.~~

The language in 12.9.902 was revised by HB 596, 2023, and is included in statute.

### 12.9.905 CONTRACTUAL PUBLIC ELK HUNTING ACCESS AGREEMENTS

~~(1) The department may enter into a contractual public elk hunting access agreement provided that the landowner and the department agree to terms. A contractual public hunting agreement must include but is not limited to the following terms:~~

~~(a) area open to public elk hunting, including:~~

~~(i) specific land area with identified boundaries;~~

~~(ii) times and dates area is open;~~

~~(iii) methods for obtaining landowner permission;~~

~~(iv) area use rules which address travel methods, game retrieval, etc.;~~

~~(b) number and distribution of public hunting days that will be allowed on property for the following categories:~~

~~(i) hunters with permits valid for the hunting district;~~

The language in 12.9.905 would be moved to departmental policy.

- (ii) hunters with permits issued under [87-2-513](#), MCA;
- (iii) landowners with permits issued under [87-2-513](#), MCA; and
- (c) methods for collecting evaluation data, including:
  - (i) hunter use data;
  - (ii) elk harvest data; and
  - (iii) hunter/landowner/department satisfaction data.

#### 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(s) received after May 1 is/are 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 any and all elk hunting access applications or deny the issuance of permits and or licenses, or both, under this program.~~

#### 12.9.911 PROCESS FOR SELECTING PERMIT HOLDERS

~~(1) The department shall randomly select hunters from the list of applicants who were unsuccessful in drawing permits valid in a hunting district affected by an approved contractual public elk hunting access agreement, and offer the selected hunters an opportunity to receive a permit issued under [87-2-513](#), MCA.~~

~~(2) If there were no unsuccessful permit applicants in an affected district, the department shall give public notice of the available permits and distribute them to hunters on a first come, first served basis.~~

The language in 12.9.911 would be moved to departmental policy.
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