

OFFICE OF THE SECRETARY OF STATE  
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ARCHIVES DIVISION  
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**NOTICE OF PROPOSED RULEMAKING**  
 INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635  
 DEPARTMENT OF FISH AND WILDLIFE

**FILED**

07/21/2020 10:48 AM  
 ARCHIVES DIVISION  
 SECRETARY OF STATE

FILING CAPTION: Minimum Access and Habitat Auction Tag Bid Amounts

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/11/2020 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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4034 Fairview Industrial Drive SE  
 Salem, OR 97302

Filed By:  
 Roxann Borisch  
 Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 09/11/2020

TIME: 8:00 AM - 5:00 PM

OFFICER: Roxann Borisch

ADDRESS: Oregon Dept of Fish and  
 Wildlife

4034 Fairview Industrial Dr SE  
 Salem, OR 97302

SPECIAL INSTRUCTIONS:

Because of the rapidly changing  
 situation with COVID-19, all or  
 portions of this hearing may be  
 conducted electronically. Information  
 will be posted on our website at  
[https://www.dfw.state.or.us/agency/c  
 ommission/minutes/](https://www.dfw.state.or.us/agency/commission/minutes/)

NEED FOR THE RULE(S):

The minimum acceptable bid amount for A&H Auction deer and elk tags is currently set at \$2,000 for deer and \$5,000 for elk by administrative rule, 635-090-0140 (5)(b). Those values represent the minimum value the tags can be sold for at auction. During the 2019 auctions, one host organization's event had only one bidder for the A&H auction tag. While the tag sold well above the minimum bid value, it raised concerns for the A&H Board. Currently the minimum acceptable bid is approximately 5% of average deer and 12% of average elk auction sales prices.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

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#### FISCAL AND ECONOMIC IMPACT:

ODFW does not anticipate any fiscal impact from this rule change. Auctioned tags normally get final bids significantly higher than the proposed minimums (see below). There is no indication that this proposed rule change will affect the way hunters commonly bid on auctioned tags. This proposed rule change is to ensure that the A&H fund revenue is protected from future anomalous auction bidding behavior.

The average auction value for a deer tag from 2012 to 2020 is \$33,506 and \$34,861 for an elk tag. Since 2012 the lowest amount a deer tag has auctioned for is \$11,000 and the second lowest was \$12,500 in 2017. The 2017 value was an anomaly as it was less than half of the next lowest bid that year, and less than a third of the highest bid that year. During the same time frame, the lowest value for an auction elk tag was \$16,000, in 2013 and second lowest value was \$19,000 in 2012 and 2013.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

State agencies that could be affected by these rules are the Oregon Department of Fish and Wildlife. The Access and Habitat program is reliant on the auctioning of premium hunting tags to supplement fund revenues and maintain project schedules. These revenues are not expected to be affected with the implementation of the proposed rules.

No units of local government are expected to be significantly affected by these rules.

The general public could be affected by these rules. Auction bids come from the general public and any changes to the auction mechanism could impact future bidding. However, ODFW does not anticipate the proposed minimums to affect auction behavior in the aggregate. As mentioned earlier, since 2012 the lowest bid received on any tag was well above the proposed minimum.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);  
There is no anticipated impacts to small businesses.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Does not apply to this amendment.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The draft administrative rules were developed without a rule advisory committee because the proposed amendments and anticipated impacts on both the public and on wildlife are minimal. Correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process.

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AMEND: 635-090-0140

RULE SUMMARY: Proposed rule would increase the minimum bid amounts for auctioned deer tags from \$2,000 to \$10,000 and elk tags from \$5,000 to \$15,000

CHANGES TO RULE:

635-090-0140

Deer and Elk Tag Auction and Raffle ¶¶

(1) Notwithstanding ORS 496.146(10), upon the recommendation of the Access and Habitat Board, the commission may issue each year up to ten elk and ten deer tags to hunt deer or elk. Recommendations from the board shall include:¶¶

(a) The land on which each tag shall be used;¶¶

(b) The percentage of funds (not to exceed 50 percent) received from the tags that may revert to the landowner if the tag is limited to private land; and¶¶

(c) A written agreement with the commission which provides public access and habitat improvements.¶¶

(2) The board may contract with a sportsman's group or other organization to conduct a raffle or an auction to issue the access and habitat deer and elk tags.¶¶

(3) The access and habitat raffle and/or auction deer and elk tags are in addition to all other tags and permits approved by the commission.¶¶

(a) In addition to the number of deer and elk tags legally available to an individual, an individual is allowed one additional elk and one additional deer tag annually, provided these tags are Access and Habitat auction or raffle tags.¶¶

(b) The board shall recommend season dates and open area specific to the tag.¶¶

(c) Bag limit: one deer or one elk.¶¶

(4) Access and habitat deer/elk tag raffle requirements:¶¶

(a) There is no limit on the number of chances a person may purchase. Raffle chances shall be available for purchase in the following denominations with the addition of a \$2.00 license agent fee:¶¶

(A) Deer Tags¶¶

(i) One chance at a cost of \$2.50.¶¶

(ii) Six chances at a cost of \$9.50.¶¶

(iii) Fifteen chances at a cost of \$19.50.¶¶

(iv) Forty chances at a cost of \$49.50.¶¶

- (v) One hundred chances at a cost of \$99.50.¶
- (B) Elk tags¶
  - (i) One chance at a cost of \$4.50.¶
  - (ii) Six chances at a cost of \$19.50.¶
  - (iii) Fifteen chances at a cost of \$39.50.¶
  - (iv) Forty chances at a cost of \$99.50.¶
- (C) Combination Elk and Deer Tags¶
  - (i) One chance at a cost of \$9.50.¶
  - (ii) Six chances at a cost of \$29.50.¶
  - (iii) Fifteen chances at a cost of \$59.50.¶
  - (iv) Forty chances at a cost of \$149.50.¶
- (b) Raffle chances will be available to the public online and through authorized License Agents during the dates specified in the current Big Game Regulations. Chances may be sold by Department representatives at various public events or meetings of sportsmen and landowners.¶
- (c) Residents and nonresidents shall be eligible to purchase chances.¶
- (d) There shall be no refunds for any raffle chance purchases.¶
- (e) One winner and a minimum of two alternate winners shall be drawn at a public drawing; time and location to be determined by the board and Department.¶
- (f) If a person is drawn as the winner of more than one hunt for the same species, the Department will issue the first Access and Habitat raffle deer/elk tag drawn by the person who meets all criteria specified herein.¶
- (g) The order in which the winner and alternate winners for the deer/elk raffle hunts shall be drawn at the public drawing is as follows:¶
  - (A) Statewide Combination Elk and Deer - #AH002.¶
  - (B) Statewide Deer Hunt - #AH001.¶
  - (C) Southeast Oregon Deer Hunt - #AH004.¶
  - (D) Central Oregon Deer Hunt - #AH005.¶
  - (E) Northeast Oregon Deer Hunt - #AH003.¶
  - (F) Statewide Elk Hunt - #AH009.¶
  - (G) Northeast Oregon Elk Hunt - #AH006.¶
  - (H) Central/Southeast Elk Hunt - #AH007.¶
  - (I) Western Oregon Elk Hunt - #AH008.¶
- (h) The Department will notify the winner and two alternates by mail. The winner must claim the tag during regular business hours within 30 days of the drawing or he/she shall be disqualified and the Department will offer the tag to the first alternate. The first alternate must claim the tag within 10 business days of notification or he/she shall be disqualified and the Department will notify the second alternate. The second alternate will be contacted in the same manner and with the same deadlines as the first alternate if the winner or first alternate have not claimed the tag as required. The tag will not be issued if not claimed during regular business hours within 90 days following the drawing.¶
- (i) The access and habitat raffle deer/elk tag winners must have a valid hunting license before they will be issued the tag(s).¶
- (j) The Department will issue an access and habitat raffle deer/elk tag to the person who purchased the winning chance and who meets all criteria specified herein. The tag is not transferable.¶
- (5) Access and habitat deer/elk tag auction requirements:¶
  - (a) Residents and nonresidents shall be eligible to bid.¶
  - (b) The minimum acceptable bid for an access and habitat auction tag shall be ~~\$2,000~~ 10,000 for deer and \$15,000 ~~.00~~ for elk. The bid price includes the tag fee.¶
  - (c) Individuals, agents, corporations, or others that submit the highest bid shall provide the name, address, phone number, and affiliation of the individual to whom the access and habitat auction deer/elk tag shall be issued to a Department representative or a representative of the organization authorized to conduct the auction

immediately upon the conclusion of the auction of such tag.¶¶

(d) Submittal of the winning bid shall be made to the Department by cashier's check or certified check within 20 working days of the date of the auction (whether conducted by the Department or by a sportsman's group or organization authorized to do so).¶¶

(e) If the full amount of the bid is not paid as required by OAR 635-090-140(5)(d), the Department may, at its discretion, reject the bid and offer the access and habitat auction deer/elk tag to the next highest bidder. Such next highest bidder must make payment to the Department by cashier's check or certified check within five working days of notification.¶¶

(f) The access and habitat auction deer/elk tag winner must have a valid hunting license before they will be issued the tag(s).¶¶

(g) The Department will issue an access and habitat auction deer/elk tag to the winner who meets all criteria specified herein. The tag is not transferable.¶¶

(h) The Department reserves the right to accept or reject any or all access and habitat auction deer/elk tag bids.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.232, 496.242, 496.112

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.232, 496.242, 496.112