

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
06/17/2021 2:16 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2022 Elk Archery Regulations Proposal

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/06/2021 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.

CONTACT: Roxann Borisch
503-947-6314
roxann.b.borisch@state.or.us

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: 08/06/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

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 consideration of regulatory changes to archery elk hunting in select Blue Mountain units is necessary due to ongoing concerns about low post-season bull ratios, high archery harvest and hunter density.

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.

FISCAL AND ECONOMIC IMPACT:

The following regulation concepts are not expected to result in significant economic or fiscal impacts to local governments or the general public. Potential changes, including the proposal to shift eastern Oregon archery elk hunts from general to controlled hunt tags may potentially result in changes to agency revenues. Other possible economic impacts could occur from potential shifts across Wildlife Management Units (WMUs) where hunter trip expenditures take place, resulting in a transfer of spending activities that could impact geographic areas located around any effected hunting units.

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).

The initial regulatory proposal presented in March of 2021 was to move several Blue Mountains hunts to controlled hunts and split remaining units into a General Western or General Eastern hunt. Under this concept, controlled unit tags would not be portable to general season hunts, so archery elk hunters would need to choose either Eastern Oregon General, Western Oregon General, or the controlled hunt tag they drew. This review will look into this option, as well as other options listed below:

- Several different options for the General Western/ General Eastern season boundary—one breaking the boundary at the crest of the Cascades and another that would include Cascade units in the General Eastern Oregon season.
- Another concept would retain a single general season in units not either currently within or proposed for a controlled hunt.
- A youth-only general season archery tag valid in most units statewide, to allow youth to hunt with family who may have a controlled tag.
- Grouping several units (Catherine Creek, Minam, Imnaha, Pine Creek, and Keating) into one controlled hunt zone encompassing the Eagle Cap Wilderness area, in effort to maintain existing wilderness hunt characteristics.

The economic and fiscal analysis here applies to potential impacts of regulatory change to archery hunting in Oregon in general, as it is difficult to analyze impacts without yet knowing which option or option combination will be pursued. The rulemaking process allows for further analysis as the agency moves forward in assessing the presented options.

State Agencies:

State agencies that could be affected by these rules are the Oregon Department of Fish and Wildlife (wildlife management costs) and the Oregon State Police (enforcement costs). No major changes from the current levels of these agencies' operations or expenditures are expected as a result of adoption of these particular rules. The policy option of,

moving several Blue Mountains hunts to controlled hunts and splitting the remaining units into a General Western or General Eastern hunt, has the maximum potential reduction in ODFW license revenues that can be estimated at \$512,350 per year. This estimated figure comes from an estimated impact of 800 fewer non-resident hunting licenses (\$172 each), 800 fewer non-resident elk tags (443.50 each) and 700 fewer resident elk tags (28.50 each) sold for eastern Oregon archery elk hunts. While this estimate of loss in revenue is not insignificant, it needs to be noted that this would be the worst case scenario representing the maximum potential impacts to agency revenue. We expect the actual revenue impacts to ODFW from these rules to be less significant, since it is likely that many hunters will find substitutes, and as a result participate in alternative hunts.

Local Governments:

No units of local government are expected to be significantly affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the proposal. However, discussed further in the section on hunting trip expenditures, there may be the potential for changes in non-resident archer hunter travel behaviors that could result in a minor reductions in hunter trip expenditures, this would primary effect areas within Grant, Union, and Umatilla counties.

General Public:

The public is affected by the rules relating to hunting. Various sectors of the public economy (hunters, suppliers of hunters, and the general economy) will experience different impacts. The economic impact of changes in hunting rules depends primarily on the changes in hunting opportunities associated with the rule changes and related effects on direct expenditures by hunters. These effects are best measured by estimating the magnitude of changes in the number of hunter days and estimating the resulting changes in expenditures made by hunters, and the associated effects on personal income.

Adjustment to archery opportunity could result from the proposal to change several WMUs in Blue Mountains region of eastern Oregon from general seasons with unlimited tag numbers to controlled hunts. This change could limit tag numbers to no more than 5% for each controlled hunt. The increase in controlled hunt tags will be compensated for to an unknown degree by reduced participation in general seasons with unlimited over-the-counter tags. It is estimated that non-resident participation in eastern Oregon archery elk hunts could be reduced by approximately 800 hunters. Controlled hunt application sales may be affected, approximately 1/3 of archery hunters already apply for controlled hunt tags.

In general, overall hunter participation levels are not anticipated to decrease as a direct result of the proposal. By addressing low post-season bull ratios in Blue Mountain units through this proposal there is potential for some reduction to certain types of archery opportunity in the short run. However, even if these actions can be viewed as restricting opportunities and reducing positive economic impacts in the short run. Conservation through adjustment of these elk hunts is intended to perpetuate the resources at optimum levels over the long run. Failure to restrict harvest to allow escapement for reproduction would result in reduced elk hunting opportunities in the future. The proposed regulations strike a balance that will sustain population levels and maintain future benefits.

Potential for Effects to Hunting Trip Expenditures:

The area where there is most likely a potential for an economic impact is through possible changes resulting from

altered travel caused by some eastern Oregon WMUs being controlled for archery hunting thus these hunters cannot use those tags elsewhere; there could also be some additional returning travel as well because that is the only unit where those tags would be valid.

Total economic (direct, indirect and induced) effects on personal income in the areas in and surrounding WMUs are the result of the direct expenditures on goods and services made by hunters during their hunting trips. Through the "multiplier process", there is a resulting increase in economic activity and personal income in the general economy of areas where hunting trip expenditures occur.

While in aggregate it is expected that the total amount of hunting expenditures and the corresponding downstream effects on personal income are unlikely to be significantly affected, as it is not anticipated that the total number of hunters and/or net hunting days would change considerably as a result of this proposal. It is possible that there could be a potential reduction in spending resulting from a reduction in non-resident archers, as well as a potential for shifting in where spending occurs due to some WMUs changing to controlled hunts. WMU boundaries do cross county lines, changes in hunter spending would mostly likely impact regions within Grant, Union, and Umatilla counties, as these are the areas where the greatest number of tag reductions would occur. 2021 economic analysis work by Earth Economics (conducted using 2019 data) showed that the total annual amount of hunting trip expenditures for Grant, Union, and Umatilla was \$37 million dollars, supporting 385 jobs in the region. In 2019, hunter expenditures in these three counties contributed \$10.7 million in GDP and \$1.8 million in state and local taxes.

A general summary of studies that review hunting expenditures is presented below to provide a background on the economic impact of hunting in Oregon.

Survey data from 1989 - 1991 from Starkey Experimental Forest hunts in Eastern Oregon indicate average overall trip expenditure by elk and deer hunters of about \$285, with nearly \$150 of the total made in Eastern Oregon. This is equivalent to an average expenditure of \$52.36 per hunter day, of which an average of \$27.52 per hunter day was made in Eastern Oregon. In inflation adjusted 2019 dollars, the average expenditure per hunter day would amount to about \$100 per hunter day, of which an average of \$52.36 would be spent in Eastern Oregon (base year 1991).

The relationship between direct, indirect and induced personal income from the direct trip expenditures per hunter day can be estimated based on response coefficients developed from an economic input-output model. Using the 1989 - 1991 Starkey Experimental Forest data and information on the relationship between expenditures and the personal income associated with the spending, the state-level personal income impact per hunter day for Eastern Oregon deer and elk was about \$39; the personal income impact in Eastern Oregon was about \$13 per hunter activity day. Adjusting for inflation since 1991, the personal income impacts in 2019 dollars would be about \$74 per hunter day at the state level, and about \$25 per hunter day in Eastern Oregon.

A 2008 survey conducted for ODFW and Travel Oregon by Dean Runyan Associates found that hunting-related direct expenditures were \$517.94 million for all of Oregon. This is equivalent to \$628.39 million in 2019 dollars. This spending includes trip costs, such as food, lodging/camping, gasoline, guide fees, and equipment expenditures. The equipment category represents the majority (about 62%) of those expenditures. A 2021, study by Earth Economics provide

updated figures on hunting-related expenditures (using 2019 data). The survey findings estimate Oregon's total hunter related expenditures to be \$225.9 million in 2019 dollars with a per-person, per-day breakdown of \$111.23.

Total hunter expenditures are not currently estimated annually at a statewide level for Oregon. However, there are some figures available that provide context on hunter expenditures. According to data from the 2011 National Survey of Fishing, Hunting and Wildlife-Associated Recreation, total hunter expenditures in Oregon were about \$238.7 million in 2011. In 2019 dollars, this would mean \$277.6 million in expenditures.

The estimates above will be reasonably good measures of the impact on total personal income per hunter day to the extent that the dollars spent for the hunting trips would not have been spent on other activities or commodities in Oregon had there been no hunting seasons. The economic impacts of hunters' expenditures on durable equipment associated with hunting are not included in the estimates above. These equipment expenditures are not necessarily related to hunter use in a simple linear fashion, and hence, may not be significantly affected by marginal changes in seasons. However, there is probably a positive relationship between hunting opportunities and equipment expenditures, particularly in the long run.

References

Dean Runyan Associates. Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008. Prepared for the Oregon Department of Fish and Wildlife, May 2009.

Mojica, J., Cousins, K., Madsen, T., 2021. Economic Analysis of Outdoor Recreation in Oregon. Earth Economics. Tacoma, WA.

Oregon Department of Fish and Wildlife. Unpublished Analysis of Hunter Expenditure Data Collected from Hunters on the Starkey Experimental Forest, 1989 - 1991.

U.S. Fish and Wildlife Service and U.S. Census Bureau. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, 2011.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);

The types of business subject to the rule are primarily those that supply goods or services to hunters. These may include taxidermy services, hunting guides, private hunting preserve operators, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places. Hunting occurs in myriad locations and thus the number of small businesses subject to the rule cannot be estimated.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); None Expected

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s). None Expected

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

Over the past five years, the Department has been leading a Big Game Regulation Review Project in efforts to update the regulations to clarify regulatory language and provide fair and consistent opportunity while ensuring biological objectives are met. Feedback from stakeholders was collected through an online public forum and a survey of over 4,000 randomly selected resident deer and elk hunters to help inform these changes.

Additional information, including, final reports of the Forum comments and Deer and Elk Hunter Survey can be found online at

<https://myodfw.com/articles/big-game-hunting-season-review>

From June through August 2020, hunter input on proposed concepts for 2021 controlled hunt tag numbers, hunting regulations and seasons was collected through an online form and ODFW District wildlife staff. Change to Eastern Oregon archery elk seasons to move all units east of the Cascades to controlled hunts was recommended in last year's regulations review. After receiving public and Commission feedback, the archery elk concept was tabled by the agency in order to ensure the final proposal is focused on current issues and concerns, and to allow further opportunity for public input. Since ODFW has focused on communicating with all interested parties regarding the changes incorporated into the agency's initial draft proposal for 2022, as well as working with constituents to evaluate potential modifications to the proposal based on input received through email, virtual meetings, or direct contact.

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

No. Interested and affected persons are generally aware of rulemakings. The Department provides information and Draft proposals to, and receives comments from interested and affected persons. In addition, affected persons have been guided to provide feedback to the Department through an online forum. The Department District Biologists also conducted outreach efforts at local levels. At the Commission hearing, public correspondence and testimony is accepted into the record as part of the rulemaking process.

RULES PROPOSED:

635-065-0001, 635-071-0000, 635-073-0000, 635-073-0001

AMEND: 635-065-0001

RULE SUMMARY: Set hunting season regulations and controlled hunt tag numbers for 2022 archery elk seasons including time, place, and manner of take. These amendments include results from the Big Game Hunt Review Process to address allocation of elk hunting opportunity.

CHANGES TO RULE:

635-065-0001

Purpose and General Information ¶¶

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.¶¶

(2) OAR Chapter 635, Division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2024~~12~~ Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2024~~12~~ Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices, and website of the Oregon Department of Fish and Wildlife.¶¶

(3) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162

AMEND: 635-071-0000

RULE SUMMARY: Set hunting season regulations and controlled hunt tag numbers for 2022 archery elk seasons including time, place, and manner of take. These amendments include results from the Big Game Hunt Review Process to address allocation of elk hunting opportunity.

CHANGES TO RULE:

635-071-0000

Purpose and General Information ¶¶

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.¶¶

(2) Controlled hunt tag numbers for 2021~~2~~ are listed in the "2021~~2~~ Oregon Big Game Regulations" and are adopted and incorporated in OAR Chapter 635, Division 071 by reference.¶¶

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2021~~2~~ Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2021~~2~~ Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.¶¶

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.¶¶

(5) Notwithstanding the provisions of the 2021 Oregon Big Game Hunting Regulations, controlled Rocky Mountain elk hunt tag numbers for the controlled hunt area listed on page 49 and in Table 1 are changed as follows (see attached table):

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162, ~~496.118~~

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, ~~496.118~~

AMEND: 635-073-0000

RULE SUMMARY: Set hunting season regulations and controlled hunt tag numbers for 2022 archery elk seasons including time, place, and manner of take. These amendments include results from the Big Game Hunt Review Process to address allocation of elk hunting opportunity.

CHANGES TO RULE:

635-073-0000

Purpose and General Information

- (1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts; pursuant to ORS Chapter 496. ¶
- (2) Controlled hunt tag numbers for 2021~~2~~ for Premium Hunts, deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in the "2021~~2~~ Oregon Big Game Regulations" and are adopted and incorporated into OAR chapter 635, division 073 by reference. ¶
- (3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts set out in the document entitled "2021~~2~~ Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2021~~2~~ Oregon Big Game Regulations," in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting, Premium Hunts, and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife. ¶
- (4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com. ¶
- (5) Notwithstanding the provisions of the 2021 Oregon Big Game Hunting Regulations, controlled archery elk hunt tag numbers for the controlled hunt area listed on page 52 and in Table 1 are changed as follows (see attached table):
Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162, ~~496.118~~
Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, ~~496.118~~

AMEND: 635-073-0001

RULE SUMMARY: Set hunting season regulations and controlled hunt tag numbers for 2022 archery elk seasons including time, place, and manner of take. These amendments include results from the Big Game Hunt Review Process to address allocation of elk hunting opportunity.

CHANGES TO RULE:

635-073-0001

Bowhunting Seasons ¶¶

- (1) Portions of the bowhunting areas are open for other hunting during specified periods listed under extended and controlled seasons.¶¶
- (2) A bowhunter shall have on their~~his~~ person a hunting license and a valid tag while hunting in any of the bowhunting seasons listed in this section.¶¶
- (3) A bowhunter possessing an elk bow tag is restricted to authorized elk bowhunting areas and seasons, and shall not hunt during the West Cascade, Coast, or Rocky Mountain elk Any Legal Weapon seasons.¶¶
- (4) A bowhunter possessing a deer bow tag is restricted to authorized bowhunting areas and seasons and shall not hunt during any other general western Oregon deer or controlled buck seasons.¶¶
- (5) The elk bow tag is the only tag valid in any bowhunting season open to elk hunting. The deer bow tag is the only tag valid in any bowhunting season open to deer hunting. Hunters with deer and/or elk tags may also possess tag(s) as provided in OAR 635-065-0015.¶¶
- (6) White-tailed deer are protected in all units west of the eastern boundaries of the Santiam, McKenzie, Indigo, Dixon, and Rogue units except for the controlled hunts listed in the Oregon Big Game Regulations.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162