

## Notice of Rulemaking Hearing

### Tennessee Wildlife Resources Commission

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 24th day of April, 2008.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204, telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Lisa Crawford, Legal Assistant, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

### Substance of Proposed Rules

#### New Rule

#### Chapter 1660-01-25

#### Rules and Regulations Governing Special Elk Take Permits

##### 1660-01-25-.01 Special Elk Take Permit

- (1) The Executive Director of the agency is authorized to issue one Special Elk Take Permit to a 501(c)(3) nonprofit wildlife conservation organization, for the purposes of generating funds for the enhancement of the agency's elk management program. An organization that receives a Special Elk Take Permit may sell or otherwise transfer the permit through any legal means available. All the proceeds of the sale must be used in Tennessee for the elk program on projects approved by the agency except that, notwithstanding any other provision of the law to the contrary, the organization may utilize no more than ten percent (10%) of the proceeds to administer the sale or transfer.
- (2) Requirements for issuance of Special Elk Take Permits:
  - (a) The Tennessee Wildlife Resources Commission shall authorize the Executive Director of the agency to issue not more than one Special Elk Take Permit in any one license year to take one elk per permit. The Executive Director shall allow the sale of one permit through auction to the highest bidder or to a person selected through a raffle by an incorporated, nonprofit organization dedicated to the conservation of wildlife.
  - (b) The agency shall issue a Request for Proposals (RFP), which shall comply with the standards and guidelines established by the State of Tennessee.

- (c) Nonprofit 501(c)(3) organizations dedicated to the conservation of wildlife are eligible to submit proposals for a Special Elk Take Permit. Proposals shall be submitted to the agency in compliance with applicable state laws and regulations.
  - (d) The Executive Director of the agency shall appoint a committee of the agency to examine the RFPs and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and administrative costs relative to the funds obtained from auctioning the permit; and the organization's previous involvement with elk conservation.
  - (e) Upon approval of a proposal, the nonprofit organization awarded the Special Elk Take Permit shall enter into a contract agreement with the agency. The contract agreement shall comply with all contracting standards and guidelines established by the State of Tennessee.
  - (f) The nonprofit organization must agree, in writing, to the following: (a) to transfer all proceeds within sixty (60) days following the event and at least thirty (30) days prior to the opening of the season, and (b) to provide the agency with the name, address, and the physical description of the individual to whom the Special Elk Take Permit is issued.
  - (g) Any organization selected to conduct a permit auction or raffle for the Tennessee Wildlife Resources Commission shall abide by all applicable Tennessee and Federal laws as well as the laws of the state where such event is held.
  - (h) Unless a person's hunting license privilege is revoked or under suspension pursuant to the law of any state or country, any person, without regard to resident status or citizenship, is eligible to participate.
  - (i) Except as provided herein, Special Elk Take Permits are non-transferable and shall be issued only to the winner of a raffle or the highest bidder at an auction. The highest bidder in any auction may give the permit as a gift to another person provided written designation of such person is received by the Executive Director at least thirty (30) days prior to the opening of the season. Further, the Executive Director may authorize a transfer of a Special Elk Take Permit prior to the opening of the season due to death or medical incapacity of the holder of the permit.
- (3) Special Elk Take Permits
- (a) Special Elk Take Permits issued under this section shall permit the taking of one elk, as defined or specified by unit or season.
  - (b) All Special Elk Take Permits issued as a product of a competitive auction or raffle shall be written at the agency headquarters.
  - (c) There shall be no refund of any monies collected through auction or raffle.
  - (d) Special Elk Take Permits shall be valid on a unit-by-unit basis from the first open season in a unit for September 1 through January 31. Licenses are not valid in units that do not have an open season for elk between September 1 and January 31. An

open season is any season in which licenses are issued by the agency by drawing or over the counter for the species.

- (e) Permits will be valid for one year only and only in accordance with applicable provisions of this section and other appropriate regulations of the Tennessee Wildlife Resources Commission, unless otherwise provided herein.
- (f) All wildlife harvested through the use of a Special Elk Take Permit shall be checked at an authorized big game checking station in accordance with regulations established by the Tennessee Wildlife Resources Commission. Failure to present harvested wildlife for inspection as required by this regulation shall make the licensee ineligible for future licenses for that species in Tennessee.

Statutory Authority: T.C.A. §§70-1-206, 70-2-219

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of February, 2008. (FS 02-22-08; DBID 826)