

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARINGS ON
12.9.804, 12.9.804A, 12.9.805, and) PROPOSED AMENDMENT
12.9.1101 pertaining to game damage)
hunts)

TO: All Concerned Persons

1. On August 11, 2015, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

On August 11, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Road, Kalispell, Montana, to consider the proposed amendment of the above-stated rules.

On August 11, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana, to consider the proposed amendment of the above-stated rules.

On August 11, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 6 Office, 54078 US Highway 2 West, Glasgow, Montana, to consider the proposed amendment of the above-stated rules.

On August 11, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 Office, 352 I-94 Business Loop, Miles City, Montana, to consider the proposed amendment of the above-stated rules.

On August 12, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment of the above-stated rules.

On August 12, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 South 19th Avenue, Bozeman, Montana, to consider the proposed amendment of the above-stated rules.

On August 12, 2015, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana, to consider the proposed amendment of the above-stated rules.

2. The department 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 the department no later than 5:00 p.m. on July 31, 2015, to advise us of the nature of

the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

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

12.9.804 GAME DAMAGE HUNTS (1) Damage hunts are carried out according to the following policies and procedures:

(a) remains the same.

(b) if the regional supervisor determines that a damage hunt is necessary before, during, or after the general hunting season, the regional supervisor must obtain approval of the commissioner in whose district the game damage hunt is proposed prior to implementing the hunt. If the commissioner is not available, then the regional supervisor may request approval from the ~~chairman~~ chair of the commission or, in ~~his~~ the chair's absence, any other commissioner.

(2) The following conditions apply to game damage hunts:

(a) remains the same.

(b) damage hunts may be authorized when there are enough animals involved on the landowner's property to justify the use of public hunting, but numbers of animals and size of affected area does not qualify for implementation of a management ~~season~~ hunt, as outlined in ARM 12.9.1101;

(c) and (d) remain the same.

(e) a game damage hunt roster must be established in accordance with ARM 12.9.804A for use in identifying some or all of the hunters eligible to participate in game damage hunts. ~~If sufficient~~ Eligible hunters ~~cannot~~ may be identified through the game damage hunt roster, or the department may identify eligible hunters through other established means of hunter selection, including first-come, first-served advertised opportunities, ~~and unsuccessful special~~ license or permit applicant lists, or lists of names supplied by landowners;

(f) unless stated otherwise, participants in a damage hunt shall possess a valid unused license, permit, or damage hunt license or permit for the species being hunted;

(g) through (i) remain the same.

AUTH: 87-1-225, MCA

IMP: 87-1-225, MCA

12.9.804A GAME DAMAGE HUNT ROSTER (1) A game damage hunt roster will be used to provide a list of some or all of the hunters available to participate in game damage hunts and management ~~seasons~~ hunts, according to the following procedures:

(a) hunters interested in participating in game damage hunts and management ~~hunts~~ ~~seasons~~ will apply through the department web site between June 15 and July 15 dates specified by the department annually. Hunters without internet access may apply at any department regional or Helena office. A roster will be established through a computerized random selection of applicant names, with

roster results being made available online by ~~August 1~~ a date specified by the department annually. ~~Hunters without internet access may apply at any department regional or Helena office between June 15 and July 15 annually.~~ If necessary, the department may establish additional sign-up periods;

(b) remains the same.

(c) resident and nonresident hunters must possess a valid unused antelope, deer, or elk license or permit specific to the species being hunted to participate in a game damage hunt or management ~~season~~ hunt; and

(d) nonresident hunters who possess a valid unused antelope, deer, or elk license may comprise up to 10% of the total game damage hunt roster pool of hunters for a specific game damage hunt or management ~~season~~ hunt.

(2) If sufficient numbers of hunters to participate in a game damage hunt or management ~~season~~ hunt for a hunting district cannot be identified from that district's game damage hunt roster, hunters on the roster from an adjacent hunting district may be selected.

(3) The department may also identify eligible hunters through other established means of hunter selection, including first-come, first-served advertised opportunities, unsuccessful special license or permit applicant lists, or lists of names supplied by landowners.

AUTH: 87-1-225, MCA

IMP: 87-1-225, MCA

12.9.805 SUPPLEMENTAL GAME DAMAGE LICENSES (1) To assist landowners who qualify for game damage assistance under the provisions of 87-1-225, MCA, the department, through the regional supervisor or designated staff, has the discretion to issue supplemental game damage licenses for antlerless animals to hunters ~~for game management purposes or~~ as an alternative to a kill permit being issued to a landowner. Criteria used to determine when to issue a supplemental game damage license ~~may~~ will include, but are not limited to, the following:

(a) through (g) remain the same.

(2) and (3) remain the same.

(4) When the department must designate resident or nonresident supplemental game damage license recipients, selection will be made using procedures defined in ~~ARM 12.9.804(1)(b)(ii) through (iv)~~ 12.9.804A.

(5) In order to receive an elk supplemental game damage license, a hunter must ~~surrender~~ return for refund to the department any unused valid A9/B12 antlerless elk license and ~~special elk permit, if applicable,~~ prior to the supplemental elk game damage license being issued.

(a) ~~If the hunter surrenders to the department an unused valid elk license, there will be no charge for the elk supplemental game damage license and no refund will be issued for the surrendered license and permit. If the hunter has not purchased an elk license,~~ The price of the supplemental game damage license will be the regular license price of an A9/B12 antlerless elk license or an adjusted price set by the commission; and,

~~(b) The department may only issue an elk supplemental game damage license to a nonresident who holds and surrenders a valid, unused B-10 elk license~~

and special elk permit, if applicable. The department will not charge for the elk supplemental game damage license and no refund will be issued for the surrendered license and permit.

(6) and (7) remain the same.

AUTH: 87-2-520, MCA

IMP: 87-2-520, MCA

12.9.1101 MANAGEMENT SEASONS HUNTS (1) A management ~~season~~ hunt may be implemented on lands eligible for assistance. A management ~~season~~ hunt is a proactive measure to prevent or reduce potential damage caused by large concentrations of game animals resulting from seasonal migrations, extreme weather conditions, restrictive public hunting access on adjacent or nearby properties, or other factors. The department shall make determinations of eligibility based on the criteria set out in this rule. To qualify for a management ~~season~~ hunt, a landowner must allow public hunting or not significantly reduce public hunting through imposed restrictions during established hunting seasons, including the general big game season. For eligibility, public hunting must be allowed at levels and in ways sufficient to effectively aid in management of area game populations. Restrictions that may significantly restrict public hunting include:

(a) through (e) remain the same.

(2) ~~Upon receiving conditional approval from the director to proceed with a management season proposal,~~ If the regional supervisor determines that a management hunt is necessary before, during, or after the general hunting season, the regional supervisor must obtain the approval of the commissioner in whose district the management ~~season~~ hunt is proposed prior to implementing the ~~season~~ hunt. ~~If the commissioner is not available, then the regional supervisor may request approval will be requested from the chairman~~ from the chair of the commission, or in ~~his/her~~ the chair's absence, any other commissioner.

(3) Management ~~seasons~~ hunts may be implemented under the following conditions:

(a) remains the same.

(b) the ~~season~~ hunt will provide for dispersal and limited harvest of animals;

(c) through (e) remain the same.

(f) any weapons restrictions and area closures that apply during general hunting seasons to areas included in management ~~seasons~~ hunts will also apply to hunting conducted during management ~~seasons~~ hunts in those same areas.

(4) ~~Hunters~~ Some or all hunters eligible to hunt during a management ~~season~~ will hunt may be selected from the game damage hunt roster under procedures outlined in ARM 12.9.804A. ~~If sufficient numbers of hunters cannot be identified through use of the game damage hunt roster,~~ The department may also use other established means of hunter selection, including first-come, first-served advertised opportunities, ~~and unsuccessful special~~ license or permit applicant lists, or lists of names supplied by landowners.

AUTH: 87-1-225, MCA

IMP: 87-1-225, MCA

REASON: The last time the Game Damage Program administrative rules were revised was March 2006. Since that time, various laws and department licensing procedures have changed that necessitate changes to these administrative rules. In addition, a program performance audit completed in May 2015 by the Legislative Audit Division offered several recommendations that suggest revision could best address those issues. An internal, ongoing program review conducted by agency staff has also identified various issues that can best be addressed through revision of current administrative rules.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Fish, Wildlife and Parks, Wildlife Division, P.O. Box 200701, Helena, Montana, 59620-0701 or e-mail fwpgamedamagearms@mt.gov, and must be received no later than August 21, 2015.

5. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct the hearings.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

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

/s/ M. Jeff Hagener

M. Jeff Hagener

Director

Department of Fish, Wildlife and Parks

/s/ Aimee Fausser

Aimee Fausser

Rule Reviewer

Certified to the Secretary of State July 6, 2015.