



ENVIRONMENTAL QUALITY COUNCIL

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HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary
JOE KOLMAN, Legislative Environmental Analyst

July 1, 2012

To: EQC Members
Fr: Hope Stockwell, Research Analyst
Re: Proposed amendments to LC 9000

Attached are the amendments to LC 9000 that were requested by EQC members since your May 2012 meeting. The proposed changes are highlighted in yellow.

CI2244 2181hsxa.

EQC
July 18, 2012
Exhibit 2

Amendment 1a -- Sen. Keane -- Section 1 of LC 9000, page 1-2

(2) (a) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) (i) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) (ii) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) (iii) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) (iv) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) (v) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(b) One of the members appointed by the governor must also be a member of the Montana heritage preservation and development commission established in 22-3-1002.

Amendment 1b -- Rep. Williams -- Section 1 of LC 9000, page 2

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational and heritage resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9.

these properties, lands, and waters; and

(i) develop and keep current a strategic plan to promote a vibrant and cost-effective parks system and efficient and effective achievement of the duties prescribed in this part into the future.

2e

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

2f

(3) The members of the board shall hold meet at least quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Amendment 3a -- Mr. Youngberg -- Section 2 of LC 9000, page 4

1/3-3/8 3/8 V_TN_L€5/8 L_F 17/8 2/3 11/3 C_R3/8 ¥¥ C_RV_T%005/8N⁰¹3%u€-⊗ ¥¥ N⁰⁵5/8N_L€-⊗L_FP_t (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the board shall:

...
(f) review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

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Amendment 3b -- Sen. Brenden -- Section 2 of LC 9000, page 4

1/3-3/8 3/8 V_TN_L€5/8 L_F 17/8 2/3 11/3 C_R3/8 ¥¥ C_RV_T%005/8N⁰¹3%u€-⊗ ¥¥ N⁰⁵5/8N_L€-⊗L_FP_t (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the board shall:

...
(f) review and approve construction projects any expenditure that has has an estimated cost of more than \$1,000 but less than \$5,000;

Amendment 4 -- Rep. Williams -- Section 10 of LC 9000, page 14

1/2 1/4 ¥¥⁰²anP_t □ V_T%005/8 L_F ¥¥ H_T5/8-1/3%00N_L€5/8 L_F ¥¥ 5/8-7/8 1 C_R1/8 5/8 N⁰⁵5/8-N_LP_t (1) The department and board may make rules governing the use, occupancy, and protection of the property under its control administered pursuant to this part.

Amendment 5a -- Rep. Williams -- Section 20 of LC 9000, page 24-25

As used in this part, unless the context clearly requires a different meaning, the following definitions apply:

(1) "Board" means the state parks and recreation board established in [section 1]. For the purposes of this part, the board has jurisdiction over recreational use of all waters immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters administered pursuant to Title 23, chapter 2, part 4.

(2) "Certificate of number" means the certificate issued by the department of justice, an authorized agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the motorboat or sailboat an identifying number and containing other information as required by the department of justice.

(3) "Commission" means the fish and wildlife commission established in 2-15-3402. For the purposes of this part, the commission has jurisdiction over recreational use of all waters that are not immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters not administered pursuant to Title 23, chapter 2, part 4.

Amendment 5b -- Mr. Youngberg -- Section 20 of LC 9000, page 24-25

As used in this part, unless the context clearly requires a different meaning, the following definitions apply:

(1) "Board" means the state parks and recreation board established in [section 1]. For the purposes of this part, the board has jurisdiction over all waters within or immediately adjacent to the boundaries of lands administered pursuant to Title 23, chapter 1, and all waters administered pursuant to Title 23, chapter 2, part 4.

(2) "Certificate of number" means the certificate issued by the department of justice, an authorized agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the motorboat or sailboat an identifying number and containing other information as required by the department of justice.

(3) "Commission" means the fish and wildlife commission established in 2-15-3402. For the purposes of this part, the commission has jurisdiction over all waters that are not within or immediately adjacent to the boundaries of lands administered pursuant to Title 23, chapter 1, and all waters not administered pursuant to Title 23, chapter 2, part 4.



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JOE KOLMAN, Legislative Environmental Analyst

July 1, 2012

To: EQC Members
Fr: Hope Stockwell, Research Analyst
Re: Proposed amendments to LC 9000

Attached are three amendments to LC 9000 that were requested by George Golie with the Montana Game Wardens Association. They are labeled amendment G1, G2, and G3. The proposed changes are highlighted in yellow.

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Amendment G1 -- Involves several sections and would remove regulation of water and boating activities (including the Smith River Management Area) from the purview of the state parks and recreation board.

NEW SECTION. Section 1. State parks and recreation board -- composition. (1)

There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(7) The administrator of the division that oversees state parks is the secretary of the board.

NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings.

(1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, **and** other heritage and recreational resources, **and** land, **and** water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the board shall:

(a) set the policies of and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties; **and**

lands, ~~and waters~~ in a way that promotes their importance to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, ~~and~~ mountain biking, ~~and boating~~;

(b) work with the commission to maintain hunting and angling opportunities on ~~and~~ ~~from~~ these lands ~~and waters~~;

(c) establish the rules of the department governing the use of these properties; ~~and~~ lands; ~~and waters~~. The rules must be adopted in the interest of public health, public safety, and protection of property and public resources ~~in regulating swimming, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, and sanitation~~. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers by the department of interest in these properties; ~~and~~ lands; ~~and waters~~;

(e) review and approve the budget of the department for the administration of these properties; ~~and~~ lands; ~~and waters~~ prior to its transmittal to the budget office;

(f) review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties; ~~and~~ lands; ~~and waters~~.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Strike sections 16 through 24, amending 23-2-403, 23-2-404, 23-2-408, 23-2-410, 23-2-502, 23-2-506, 23-2-525, 23-2-529, and 23-2-531, MCA.

Section 30. Section 37-47-310, MCA, is amended to read:

"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner of fishing outfitter business. (1) An outfitter's license may not be

transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or corporation.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4)(a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, and wildlife, and parks commission and that a property right does not attach to the transferred river-use days.

(b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted by the state parks and recreation board pursuant to 23-2-408."

Section 39. 87-1-301. Powers of commission. (1) Except as provided in subsection subsections (7) and (8), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in [section 2], 23-2-502(1), and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an

affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;
(v) conflicts among hunter groups;
(vi) availability of public and private lands; and
(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8) Pursuant to [section 2], the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, and land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9.

Section 40. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-307(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in [section 2], 23-2-502(1), and 87-1-301(7), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this

section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are necessary both to enable the trailing of domestic livestock across the designated wildlife management area and to protect and enhance state lands. The rules may not:

- (i) require a fee for domestic livestock trailing or related activities; or
- (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

(4) For the purposes of this section, the following definitions apply:

(a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Strike section 41, amending 87-1-306, MCA.

NEW SECTION. Section 42. Name change -- directions to code commissioner. (1)

Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife or recreational resources administered under Title 23, chapter 2, parts 4 and 5, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

Amendment G2 -- Involves several sections and would remove regulation of snowmobiling and off-highway vehicles from the purview of the state parks and recreation board.

NEW SECTION. Section 1. State parks and recreation board -- composition. (1)

There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, ~~6, 8~~, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(7) The administrator of the division that oversees state parks is the secretary of the board.

NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings.

(1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, ~~6, 8~~, and 9, the board shall:

(a) set the policies of and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters in a way that promotes their importance to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, and boating;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties, lands, and waters. The rules must be adopted in the interest of public health, public safety, and protection of property and public resources in regulating swimming, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers by the department of interest in these properties, lands, and waters;

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the budget office;

(f) review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Strike sections 25 through 29, amending 23-2-601, 23-2-641, 23-2-657, 23-2-801, 23-2-806,

Section 39. 87-1-301. (Effective March 1, 2012) Powers of commission. (1) Except as provided in ~~subsection~~ subsections (7) and (8), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in [section 2], 23-2-502(1), and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is

necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

- (i) for the biologically sound management of big game populations of elk, deer, and antelope;
- (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
- (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

- (i) harvest of lions by resident and nonresident hunters;
- (ii) history of quota overruns;
- (iii) composition, including age and sex, of the lion harvest;
- (iv) historical outfitter use;
- (v) conflicts among hunter groups;
- (vi) availability of public and private lands; and
- (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or

(1)(h).

(8) Pursuant to [section 2], the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9."

Strike section 45, repealing 23-2-652, MCA.

NEW SECTION. Section 46. Name change -- directions to code commissioner. (1)

Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife or recreational resources administered under Title 23, chapter 2, parts 4 and 5, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

Section 3. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and board may make rules governing the use, occupancy, and protection of the property under its control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department this section or a rule established pursuant to subsection (1) this section~~ is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) ~~It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person ~~may not~~ refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director of the department shall employ all necessary and qualified personnel park rangers and state fish and game wardens for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this chapter and rules of the department and the fish, wildlife, and parks commission board; and

(c) to report violations to the county attorney of the county in which they occur."

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