

## FWP RULEMAKING

Below is a list of FWP rulemaking. The standard annual or biennial hunting, fishing, and trapping regulations are not included unless changes were made due to legislation.

Subject	Need	Status
Exotic wildlife	Authorized by SB 442 (2003) to set up process for regulation of exotic species: establish prohibited exotic wildlife, and controlled exotic wildlife. Commission rule.	ARM rule drafting will begin within the next six months.
Fishing – general clean up	Rules needed to implement HB 187 (2003). HB 187 authorized FWP to sell paddlefish tags to residents who purchase a two-day fishing license. Also, changes rules for commercial sale of fish. Regulations for whitefish, Chinook salmon, crappie and yellow perch allowed. Commission rules.	Changes incorporated into biennial fishing regulations in October 9, 2003.  Commercial sale of fish guidelines must be implemented in ARM rules. Rulemaking anticipated within the next 12 months.
Fishing – use of spears/gigs in Fort Peck Reservoir	Regulations needed to allow for use of spears/gigs on Fort Peck for taking salmon or lake trout pursuant to SB 221 (2003). Commission rules.	Changes incorporated into biennial fishing regulations 10/9/03.
Fishing – Beaverhead/Big Hole Restrictions	Over-use and crowding on rivers prompted Commission to adopt rules to protect river resources until River Recreation Advisory Committee could complete its work and make recommendations to Commission about recreational use policy. Commission rules.	Rules changed from biennial to ARM 6/30/03.
Fishing - Commercial Bait Fish Seining Regulations	FWP and Commission responsible under MCA §§ 87-2-101, 87-3-204, 87-3-205, 87-4-609 to make regulations regarding the taking of bait fish. Joint Department and Commission rule.	Regulations reviewed and adopted annually. Current regulations adopted in 10/9/03.

Game Bird Farms/Shooting Preserves	ARM Rule needed to implement changes made in HB 100 (2003). Bill authorized the update of statutes relating to game bird farms and shooting preserves. Department rules.	Enforcement Division has drafted rules for both shooting preserves and game bird farms. Scheduled for public review and final decision this summer.
Game Damage	The Commission plans to amend ARM 12.9.808, Management Seasons, to specify criteria under which management seasons will be implemented immediately. Currently FWP and Commission must use a 30 day comment period to set management seasons. Waiting 30 days implement a management hunt is often too long of a wait. Commission rule.	The process to amend ARM 12.9.808 should begin within the next year.
Game Farm/Alternative Livestock	Update rules to be consistent with I-143. I-143 changed the law in regard to alternative livestock ranches (game farms). Department rules.	ARM rule revision has been drafted. Completion of public review and final decision scheduled within the next six months.
Game Preserve repeal – Green Meadow	Game preserve no longer needed or enforceable. Commission rule.	ARM repeal completed 9/26/03.
Game Preserve boundary adjustment – Teton-Spring Creek Preserve	Landowners experiencing severe game damage. Boundary adjustment to remove them from preserve so that firearm hunts can be held to reduce deer numbers. Commission rule.  Weapons restriction adopted to address adjacent property owners' safety concerns. Commission rule.	ARM amendment completed 1/30/04.  Weapons restrictions adopted in general hunting regulations.
Hunting – annual rule for sale of nonresident combination licenses	Update rule with the changes in the variable priced fees, target quotas and deadlines. Update and refine procedures for license issuance based on department and public input. Commission rule.	Annual rule effective 3/1/04 through 2/28/05 already in place. New annual rule proposal will be considered for a final decision 11/4/04.

Hunting – Bison	SB 395 (2003), gave the Commission authority to establish bison hunts in Gallatin and Park counties. Commission rule.	The Commission is in the scoping process to determine whether or not a bison hunt would be feasible and what specific conditions would need to exist to meet the intent of the statute.
Hunter Education	Update ARM rule from requiring persons under 18 to show proof of hunter's education to requiring persons born after January 1, 1985, to show proof of hunter education pursuant to HB 396 (2003). Commission rule.	Approval to proceed with ARM given by Commission. Proposed rule slated to be filed with Secretary of State 3/1/04.
Hunting license – calculation method for outfitter sponsored, variable priced class B-10 and B-11 licenses	Establish a consistent method for calculating price of B-10 and B-11 licenses. Commission rule.	ARM rule completed 8/1/03.
MEPA	Since department MEPA rules were adopted, many electronic alternatives have been developed. When MEPA involves issues of national concern over 15,000 comments can be received from all over the U.S. Instead of sending a large document out to commentors at considerable postage expense, the documents can now be viewed on FWP website. Rules need to provide for electronic alternatives. Department rules.	Rules may be proposed within the next year.
MEPA	May need to amend department MEPA rules to include provisions from HB 142 (2003) requiring review of EIS's by local governments. Department rules.	Rules may be proposed within the next two years.
Paddlefish egg donations, marketing and roe	Regulations outdated. Department rules.	ARMs may be revised within the next year.

Parks biennial fee rule	<p>Determine fees where applicable and user rules for parks and FAS's. Commission rules.</p> <p>Amend rule to delete resident day-use fees. Implementing SB 336 (2003) providing for funding in optional \$4.00 vehicle registration fee.</p>	<p>Adopted by Commission 12/11/03</p> <p>Commission deleted resident day-use fees in Parks Biennial Fee Rule at 12/11/03 Commission meeting.</p>
Parks biennial fee rule – Thompson Chain of Lakes Camping fees	FWP charges camping fees at approximately 40 fishing access sites to offset the greater expense of operating sites where camping occurs. At Thompson Chain of Lakes a substantial amount of camping occurs, fees proposed by Commission to offset costs as well as to ensure FAS users statewide were being treated equally. Commission rules.	Biennial fee rule amendment adopted by Commission 12/11/03. This rule now included in biennial rule.
Prairie dogs - translocation	Support for conservation plan for prairie dogs required alternatives to control and conserve animals. Rules needed to implement relocating animals. Joint Department and Commission rules.	ARM proposal filed with Secretary of State 2/17/04. Four rule hearings scheduled in March.
Prairie Dogs – shooting regulations on public land	<p>Prairie dogs are a species of special concern. Shooting regulations for public land were adopted to protect them during their breeding and rearing periods. Additionally, rules were needed to promote success of the black-footed ferret reintroductions on BLM lands in S. Phillips County by closing shooting of black-tailed prairie dogs over an estimated 25,000 acres of prairie dog colonies where black-footed ferrets have been reintroduced, while simultaneously replacing a controversial “firearm discharge closure” enacted by BLM for that purpose.</p> <p>Commission rule.</p>	Biennial rule adopted 2/12/04.
Shooting range grants	Regulations outdated. Implementing HB 389 (1999). Department rules.	ARM rulemaking completed 9/12/03

Water - closure of Ryan, Cochrane and Morony reservoirs	Potentially dangerous draw downs by PPL Montana on reservoirs creates boating hazardous. During FERC relicensing MPC/PPL Montana agreed to management plan and settlement agreement funding other recreation areas to mitigate loss of recreational opportunity by this rule. Commission rules.	ARM rulemaking completed 4/25/03
Water - emergency closures of two water bodies for fire fighting	Hazardous condition for recreators existed. Fire fighting aircraft flying low and scooping and pumping water from Placid Lake and Nevada Lake. Commission rules.	Placid Lake effective 8/14/03 until 8/18/03. Nevada Lake effective 8/18/03 until later in the day 8/18/03.
Water – emergency closure Painted Rocks Reservoir	High water flows and safety boom failure at Painted Rocks Reservoir. Suction of water going over the spillway sufficient to carry watercraft or persons in the water over the top of the spillway to the Bitterroot River 130 feet below. Commission rule.	Emergency rule effective 6/3/03 to 6/27/03.
Water – no wake zones proposed: Swan River	Rule proposed in response to petition from citizens. Swan River petitioners state that river is shallow and rocky and has numerous recreators floating, making speed hazardous. Commission rule.	ARM rule in process. Rule scheduled for Commission final decision at March 11, 2004, meeting.
Water – no wake zones proposed: Yellow Bay	Rule proposed in response to petition from University of Montana. Petitioner states boats and water skiers interfering with U of M's teaching and research. U of M has a biological station in Yellow Bay. Commission rule.	ARM rule in process. Rule scheduled for Commission final decision at March 11, 2004, meeting
Water – River Recreation Advisory Committee	Increasing recreational use of rivers in Montana has led to conflicts among user groups. The River Recreational Advisory Committee was appointed to develop Commission policy to resolve conflicts and protect resource. The policy may be codified as ARM rules. Commission rules.	Policy as drafted by committee is finished. Department will recommend that commission adopt policy as proposed ARMs at 3/11/04 Commission meeting. Conversion of policy to ARM rules will begin if Commission gives its approval to begin the rulemaking process.

Water rule update	Outdated format of water rules near dams. Reformatted to make consistent with other water rules. Corrected rule errors found in biannual review of rules. No substantive changes made except where rule was incorrect due to errors in 2001 water rule clean up. Commission rules.	ARM rule corrections adopted 11/28/03
Water -Smith River Special Use Area Rule  Smith River Special Landowner Rule (Section (K) of Smith River Special Use Area Rule)	MCA § 23-2-408 authorizes Commission to provide for administration of Smith River waterway. Rule carries out mandate.  This part of the rule resolved conflicts with landowners along the river regarding floating. Commission rule.	Rule adopted by Commission 12/11/03.
Wildlife habitat carrying capacity.	HB 42, 2003 Legislative Session, required FWP to determine carrying capacity for deer, elk and antelope and manage populations below those numbers. Commission rule.	Permanent rulemaking will only be proposed if Commission believes that a formal ARM needs to be implemented. The current annual rule process will otherwise be used in concert with the season setting process.
Zoo/Menageries	Update rules. Separate rules from game farm rules. Department rules.	Rules are currently being drafted. Completion of revision process within the next 6 months.

**FOR IMMEDIATE RELEASE –FEBRUARY 11, 2004**  
**CONTACT—Bernie Kuntz—406-994-6931**  
**Tom Palmer—406-444-3051, or visit FWP's web site at [fwp.state.mt.us](http://fwp.state.mt.us)**

**FWP SEEKS COMMENT ON PROPOSED BISON HUNT ISSUES**

**BOZEMAN**—Montana Fish, Wildlife & Parks is seeking public comment on issues to explore as it develops a hunting season proposal for bison that migrate out of Yellowstone National Park.

In 2003, Montana's Legislature passed SB395, which gave the FWP Commission authority to establish a bison hunt in Gallatin and Park counties. The commission recently directed FWP to prepare an environmental review for a proposed hunt, which must begin with a public effort to identify issues that may need to be addressed.

“As we move toward developing a bison hunting season, we want to invite Montanans and others to help us identify the benefits and challenges of such a proposal,” said Kurt Alt, FWP’s wildlife manager in Bozeman.

After public review of an environmental assessment, which will be developed over the coming spring and summer, a recommendation on whether or not to establish a hunt could come by fall, officials said.

The intent of the law authorizing the hunt is to allow Montana hunters to harvest wild, free-roaming bison under fair chase conditions and to reduce damage to private property by altering bison behavior and distribution. Officials said the proposed hunt is not expected to regulate bison populations. Population regulation will continue to be achieved through the Interagency Bison Management Plan.

FWP is seeking comment on all bison-related hunting issues, including:

- Bison population impacts
- Ethics of hunting bison
- Proposed brucellosis vaccination program on edibility of meat
- Hunting logistics, including boundaries, timing, weapons, and licensing
- Public safety
- Exposure of hunters to brucellosis
- Property damage by hunters and bison
- Impacts on other activities and species, including threatened and endangered species and activities described in the Interagency Bison Management Plan
- Social, economic, and environmental impacts near Yellowstone National Park

Comments should be mailed by March 12 to: Attn. Bison Hunt Issues, Montana Fish, Wildlife & Parks, 1400 S. 19<sup>th</sup> Ave., Bozeman, MT 59718, or via Email to: [fwpbison@state.mt.us](mailto:fwpbison@state.mt.us).

## SENATE BILL 395 - BISON HUNT - 2003 Session

### Key Points.

- The bison hunt is at the discretion of the DFWP.
- The bison hunt may not be initiated by the DFWP without the authorization and concurrence of the Dept of Livestock and the state veterinarian.
- The DFWP bison hunt rules must contain provisions for "fair chase".

### AN ACT

1. PROVIDING FOR THE SPORT HUNTING OF WILD BUFFALO OR BISON AS A MANAGEMENT TOOL THROUGH ESTABLISHMENT OF A SPECIAL WILD BUFFALO OR BISON LICENSE.
2. ESTABLISHING REGULATIONS RELATED TO THE SPECIAL WILD BUFFALO OR BISON LICENSE
3. SETTING A PRICE FOR THE LICENSE.
4. CLARIFYING DUTIES OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS IN ADMINISTERING THE SPECIAL WILD BUFFALO OR BISON LICENSE, INCLUDING CONSULTATION AND COOPERATION WITH THE DEPARTMENT OF LIVESTOCK IN DEVELOPING AND IMPLEMENTING RULES REGARDING THE SAFE HANDLING OF WILD BUFFALO OR BISON PARTS.

The Legislature intends that the provisions of the special wild buffalo or bison license be administered and implemented by the Department of Fish, Wildlife, and Parks, after consultation with the Department of Livestock, regarding the management of wild buffalo or bison that have been designated as a species in need of disease control.

- DFWP rules must be adopted in cooperation with the Department of Livestock
- **Rules must include**
  - License drawing and fees (\$75 for resident--\$750 for nonresident)
  - Notice of where to hunt but only generally
  - Provisions for fair chase hunting including hunting only on foot and away from public roads and that no specific animal may be designated for harvest.

Bison hunts implemented by DFWP are only 1 of 3 methods for managing bison for disease control.

Bison hunts may be permitted only with the authorization of the Department of Livestock and the concurrence of the state veterinarian.

"The department (of DFWP) may, after agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been exposed to or infected with a contagious disease pursuant to Section 87-2-730, MCA." (Section 87-1-216 (2) (c), MCA)



Contact Points with Decision-Makers for Bison Environmental Review  
(February 6, 2004)

- The Director of Montana Fish, Wildlife and Parks (FWP) and the Executive Director of the Montana Board of Livestock are the joint decision-makers on the environmental review for the proposed bison hunt. To make sure they are fully informed decision-makers they will be briefed by the FWP Region 3 Wildlife Manager and/or the Region 3 Supervisor when:
  - The public issues are summarized following scoping;
  - Alternatives are drafted;
  - Environmental assessment is drafted but not yet sent out to public;
  - After comments summarized on draft and before final decision.

Interdisciplinary Team and Primary Responsibilities

- Jeff Hagener (FWP Director) and Marc Bridges (Executive Officer) – decision makers on environmental assessment;
- FWP Commission and Board of Livestock – review and endorse decision made by decision-makers;
- Kurt Alt – project leader; coordinate environmental review; assist with alternative development; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers; primary liaison with contractor;
- Dr. Lynn Irby – contractor; summarize public comment on scoping notice; draft alternatives; draft effects analysis and draft environmental assessment; draft final environmental assessment;
- Pat Flowers – liaison with Department of Livestock and FWP Director’s Office; assist with alternative development; review draft environmental assessment before it goes to decision-makers; conduct public meeting on draft environmental assessment; review final environmental assessment before it goes to decision-makers;
- Sam Sheppard – assist with alternative development; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;
- Mark Anderson – assist with alternative development; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;
- Craig Jourdonnais – assist with alternative development; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;
- Tom Lemke – assist with alternative development; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;

- Bernie Kuntz – manage public involvement; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;
- Tom Palmer – consult on public involvement; review draft environmental assessment before it goes to decision-makers; review final environmental assessment before it goes to decision-makers;

### STEPS AND TIMELINE TO IMPLEMENT SB 395

STEP	DESCRIPTION	TIMELINE	COMMENTS/ASSUMPTIONS
1.	Obtain FWP Commission direction on whether or not to proceed with the implementation of SB 395	September 11, 2003	If Commission does not wish to proceed, process stops here
2.	Obtain Board of Livestock (BOL) direction on whether or not to proceed with implementation of SB 395	September 15/16, 2003	If Board does not want to allow hunting, process stops here
3.	Conduct public scoping for EA	February - March '04	Advertised through press release
3.	Draft EA on decision to incorporate hunting into bison management	March-April '04	Contract out. Joint effort overseen by DOL & FWP. EA is appropriate level of analysis, tiered off existing FEIS
4.	Public input on draft EA	April – May '04	Hold public meeting in Bozeman and take comments through the mail
5.	Analyze input, final EA, draft ROD	May-June '04	BOL and FWP Commission kept fully informed
6.	ROD reviewed by BOL and Commission	July '04	Concurrence by both BOL and Commission necessary to proceed
7.	ROD signed by Exec. Dir. Dept of Livestock and Dir FWP	July '04	Assumes concurrence of BOL and FWP Commission
8.	FWP Commission approves tentative regulations	August '04	Recommendations will come from FWP based on input from Step 5
9.	Public comment on tentative season structure and quota	August - September May '04	Provides additional opportunity for public input on hunt specifics
10.	FWP Commission approves final regulations	September '04	
11.	Application period	September -October '04	Assumes all applications must be submitted "on-line" or over the counter at FWP offices
12.	Drawing	October '04	
13.	Implement hunt	Fall/Winter '04-'05	Dates and details determined at steps 8-10