



## Interoffice Memo

TO: Senator Vincent, Chair;  
Members of the EQC

FROM: Martha Williams, Director

DATE: August 24, 2018

RE: **2019 Proposed FWP Legislation**

The following is a list of FWP's proposed legislation that has been approved through the Executive Planning process for introduction to the 2019 Legislature. The department would appreciate your review of these proposals and consideration for pre-introduction.

**FWP Sponsored Proposals**1. Clarify the hunting access enhancement and hunter management statutes

**Issue:** The hunting access enhancement and hunter management statutes were a delicate compromise drafted by a committee of landowners and sportsmen in the early 1990's. In order for everyone to agree, the statute has vague language and terms of art that meant something to committee members but are vague and confusing today. In a recent decision, District Judge Loren Tucker described the interrelationship between the block management statute and rules as a "labyrinth" and "trapeze act" that was "byzantine, cumbersome and complicated." The Judge further stated to the defendant, "I believe, in fact, that you have uncovered some factors that certainly could stand some redress by the Legislature and the state agency."

**Proposal:** The department proposes to re-draft the hunter access statutes (§§87-1-264 through -267, MCA) to clarify the requirements and inconsistencies in the existing statute. The specific proposal has yet to be developed fully. Generally, the language will serve to provide more clarity, avoid using vague terms of art, and will reflect the intent of the committee that originally proposed it.

2. Clarification on squaring of bonus points for applicants for hunting parties

**Issue:** The statute that allows for bonus points for a hunting license or permit to be squared (§87-2-117, MCA) is silent on how bonus points are to be squared for a party application. One option is to add all party members' bonus points together, divide by the number of members in the party, and then square the result. The second option is to square the bonus points of each individual in the party first, and then divide the result by the number of party members. Each approach yields a different outcome.

**Proposal:** The department’s practice has been to follow the first option based upon an administrative rule that predates the squaring of bonus points but provides clarity on department practice. We seek legislative authority to confirm this approach. The language is not yet developed and would be new proposed language.

3. Free conservation and base hunting licenses for block management cooperators

**Issue:** Currently under §87-1-266, MCA when a landowner agrees to participate in the block management program, part of their compensation is receiving a free B-10 or Class AAA license. However, in order to receive these licenses, a cooperator must first purchase a base hunting license and a conservation license. As a result, these free licenses are not really “free.”

**Proposal:** In order to be true to our marketing that block management cooperators receive a free license, the department seeks to amend §87-1-266, MCA to clarify that not only a base hunting license is free, but also the requisite conservation license is free to landowners who enroll in block management. The language is not yet developed and would be new proposed language.

4. Remove the conservation license from combination hunting licenses and make it a standalone prerequisite license.

**Issue:** Under current statute, the Class AAA sportsman and Nonresident B10 and B11 Combination licenses all include the conservation license as part of the package. This creates a host of complications. The conservation license is nonrefundable, and when a nonresident seeks to return a combination license the department must break the license apart to refund it. The conservation license is used for license certification with the US Fish and Wildlife Service and having it part of these combination licenses makes it difficult to track for reporting. Finally, this creates a problem for nonresidents with a combination license who are seeking an archery permit.

**Proposal:** The department proposes to remove the conservation license reference from §§87-2-505, 87-2-510, and 87-2-711, MCA and then amend §87-2-201, MCA as follows:

**87-2-201. Wildlife conservation license prerequisite for other licenses.** Except as provided in (6), it is unlawful for any person to purchase or apply for a hunting, fishing, or trapping license without first having obtained a wildlife conservation license as provided in this part.

5. Change statutorily mandated March 15 deadline for big game combo; also change the reference from “big game” combo to “elk and deer” combo in statute

**Issue:** The current statute, §87-2-511, MCA requires the nonresident combination licenses be on sale on March 15. The specificity of a date restricts the department, affects the date our regulations can be printed, and does not allow for better customer service and flexibility to adjust the timing for license sales.

In addition, the same statute, §87-2-511, MCA refers to a “big game combination” license but does not define what is included in “big game.” The department proposes these changes to be more descriptive by naming it an “elk and deer combination license.”

**Proposal:** The department proposes to change §87-2-511, MCA to remove the reference to a specific date the combination licenses will be offered for sale, allowing the department to set the date. In addition, the department proposes to change all references to “big game” combination to “elk and deer” combination to make it more descriptive and accurate.

6. In-stream flow sunset language removed

**Issue:** The statute that provides authority for FWP to acquire critical instream flow rights to protect, maintain or enhance stream flows to benefit fishery resources contains a sunset provision that the department proposes to repeal. MCA § 85-2-426 (6) gives FWP the authority to change water appropriation rights to an instream use through June 30, 2019.

**Proposal:** The department seeks to make this authority permanent by removing the reference to the sunset date.

7. Remove of Headwaters State Park from the statutory list of Primitive State Parks.

**Issue:** Because of their unique and primarily undeveloped character, certain state parks and management areas were designated by the Legislature in the mid-1990’s as Primitive State Parks. Further, sections 23-1-115 to -118, MCA restrict and limit development at designated sites, as well as revenue collection. As a result, the department is unable to respond to changes in user demand over time, and to use road and site development to prevent degradation of park conditions.

Headwaters State Park is located along the Missouri River near the growing Bozeman area and along the tourist pathway from Yellowstone to Glacier. There is a tremendous opportunity to develop this site to meet contemporary recreational needs of the public.

Both the Parks Board and the Parks in Focus group have expressed an interest in changing this statute.

**Proposal:** Remove Headwaters State Park from the list of Primitive Parks in §23-1-116, MCA.