



TO: Environmental Quality Council
FROM: Henry "Hank" Worsech, Director
DATE: September 6, 2022
RE: 2023 proposed legislation

The following is a list of FWP's proposed legislation that has been approved through the Executive Planning Process for introduction to the 2023 Legislature. The department would appreciate your review of these proposals and consideration for pre-introduction.

1. Include other species for electronic validation of tags:

Issue: Current MCA 87-2-119 only allows for game animal and wild turkey carcass tags to be selected for electronic validation. With ongoing development of FWP's ExploreMT system, hunters should be offered the ability to select electronic tagging for all species of animals requiring a carcass tag.

Proposal: Include language in MCA 87-2-119 clarifying that all species of animals requiring a carcass tag are eligible for electronic validation.

2. Paper carcass tags to "accompany" harvest of animal:

Issue: Current MCA 87-6-411 requires hunters to physically attach paper licenses to the animal's carcass prior to the animal being moved from the kill site or before the hunter leaves the kill site. Since moving to paper licenses, and implementing the ExploreMT system, FWP staff and public are facing paper license challenges. Paper licenses are easily destroyed, and with the option of electronic validation, hunters won't always have a physical license on an animal.

Proposal: Update language in MCA 87-6-411 removing the requirement for the paper license to be physically attached to a carcass, and clarify that after the paper license is validated, the license only needs to "accompany" the carcass but does not need to be physically attached. This will be consistent with those hunter's choosing to use electronic tagging where no physical license will be attached to a carcass.

3. Include other species to hunting from public highway statute:

Issue: Current MCA 87-6-403 does not prohibit the hunting of furbearing animals or wolves from the public highway. Current statute only prohibits the hunting of game animals and game birds from public highways. This is a public safety issue.

Proposal: Include furbearing animals and wolves in this statute clarifying that all these animals cannot be hunting from a public highway.

4. Remove 24 hour wait requirement for wolf license:

Issue: A wolf license is the only hunting license that requires a wait period after the license is purchased before it can be used. MCA 87-2-523 (resident) and 87-2-524 (non-resident) states that a hunter purchasing a wolf license after August 31 of each year must wait 24 hours before hunting with that license. The 24 hour wait requirement for black bears and mountain lions was removed from statute during the 2021 session.

Proposal: Remove subsection (3) from both statutes therefore removing the 24 hour wait requirement.

5. Define aircraft and when they can be used for the purposes of hunting:

Issue: Aircraft is not defined in MCA 87-6-101. Unmanned Aerial Vehicles (drones) are increasing greatly in popularity for the purposes of hunting. MCA 87-6-208 states that it is unlawful to use an aircraft to locate game animals for the purpose of hunting that animal during the same hunting day after the aircraft has been airborne. Further, current language includes FWP issuing permits for aircraft on National Forest lands for the purposes of hunting. FWP does not have a permitting process for this. This should be regulated by the appropriate land management agency. Other parts of statute are not clear and consistent as well.

Proposal: Define aircraft in MCA 87-6-101 to include UAV's. Clean up language in MCA 87-6-208 to clarify when aircraft can be used for the purposes of hunting. Remove FWP authority to regulate aircraft use on National Forest lands.

6. Remove sunset for the Wildlife Habitat Improvement Program:

Issue: The Montana Wildlife Habitat Improvement Act MCA 87-5-801 through 808 terminates (sunset) on June 30, 2023.

Proposal: Remove the sunset date allowing FWP to continue to offer up to \$2M/year in grants which would allow for additional weed treatment options that are recommended by the WHIP Council. Further, adding language to MCA 87-5-806(4) to allow additional weed treatment options that are recommended by the WHIP Council would allow the program to adjust as new technologies come about.

7. Clarify landowner preference for deer and antelope:

Issue: Landowner preference for elk is outlined in MCA 87-2-705. However, LOP authority for deer and antelope is outlined in ARM 12.3.104.

Proposal: Incorporating the LOP authority for deer and antelope into MCA 87-2-705 as it is for elk would address an applicant's eligibility for the LOP for all applicable species (deer, elk & antelope) and would designate the amount of permits/licenses available in each drawing for landowners.

8. Establish the ability for non-resident college students to purchase licenses online:

Issue: Currently MCA 87-2-525(3) states that non-resident college students must purchase their licenses at a FWP regional office or FWP HQ in Helena. MCA does not allow for purchasing of licenses online.

Proposal: Clean up language in statute to allow NR college students to purchase their licenses at any FWP office or online. The development of the new agency ExploreMT licensing system allows for compliance and offers an online convenience thus improving customer service.

9. Repeal surety bond requirements for FWP license agents:

Issue: MCA 87-2-902 requires license agents to secure a surety bond, if required by department rule (12.3.208), to secure payment of all license revenue collected by the agent on behalf of FWP.

Proposal: Repeal MCA 87-2-902 as the corresponding ARM 12.3.208 was repealed in 2018 because FWP's current licensing system automatically sweeps external license provider's bank accounts on a weekly basis for all funds owned to the department for the sale of licenses.

10. Statutory correction reflecting non-resident temporary snowmobile permit repeal:

Issue: MCA 23-2-615 requiring non-resident snowmobilers to purchase a Temporary Use Permit was repealed by SB 38 (2021 session). A reference to the permit in MCA 23-2-614 should have been deleted. This was missed in the bill drafting process.

Proposal: Remove the language in MCA 23-2-614 that references the non-resident Temporary Use Permit.

11. FWP employees use of firearms:

Issue: MCA 87-1-201(6) states that the department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens. Many non-enforcement employees need to use firearms in the course of their jobs to dispatch injured wildlife, kill and collect potentially diseased wildlife and deal with animals that pose a public safety threat.

Proposal: Adjust the current MCA to state that the department may allow designated employees to carry and use firearms for use in fulfilling requirements of their position.

12. Clarify that an AISPP is not a prerequisite for lifetime fishing licenses for the blind:

Issue: MCA 87-2-803(6)(a) states that a conservation license is not a prerequisite to licensure under this subsection (6)(a). Aquatic Invasive Species Prevention Passes are not mentioned under this subsection.

Proposal: Include language in the current MCA to clarify that the AISPP is not a prerequisite to licensure under subsection (6)(a).

13. Increase landowner payment cap for Block Management:

Issue: HB 637 (2021 session) increased the payment cap from \$15k to \$25k. However, there are still several cooperators that reach and exceed this cap.

Proposal: Increase the payment cap to Block Management cooperators from \$25k as defined in MCA 87-1-265 to \$50k per year.

14. Ensure sustainable grizzly bear populations in delisted areas:

Issue: The delisting process considers not only the biological status of the species but also the state's commitment to manage the delisted species in a manner that avoids any need for relisting.

Proposal: Requires the Fish and Wildlife commission to manage delisted grizzly bear populations at sustainable levels to maintain delisted status.

15. Remove pheasant release requirements from the Upland Game Bird Enhancement Program (UGBEP):

Issue: The UGBEP has experienced an overall decline in landowner interest to release pen-raised pheasants. Consequently, the program's bird planting fund continues to grow annually. Landowner and cooperator interests in habitat enhancement and leases remains high. Independent of the UGBEP, HB 637 (2021 legislative session) appropriated funds for the release of pen-raised pheasants on state lands. FWP plans to continue releasing pheasant using this new appropriation.

Proposal: Repeal 87-1-247(2)(a) and use the set aside funds for habitat improvements within the UGBEP rather than requiring the funds to be used for pheasant releases.