

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 12.6.1401 and 12.6.1409,)	AMENDMENT, ADOPTION, AND
adoption of NEW RULE I, and repeal of)	REPEAL
ARM 12.6.1402, 12.6.1403, 12.6.1404,)	
12.6.1405, 12.6.1406, 12.6.1407,)	NO PUBLIC HEARING
12.6.1408, 12.6.1410, and 12.6.1411)	CONTEMPLATED
regarding raptor propagation)	

TO: All Concerned Persons

1. On March 8, 2012, the Fish, Wildlife and Parks Commission (commission) proposes to amend, adopt, and repeal the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than December 9, 2011, to advise us of the nature of the accommodation that you need. Please contact Coleen Furthmyre, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail cfurthmyre@mt.gov.

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

12.6.1401 APPLICATION FOR PERMIT (1) Persons must possess both a federal and a Montana raptor propagation permit in order to:

(a) possess, transport, import, purchase, barter, or capture from the wild, any raptor for propagation purposes; and

(b) offer to sell, purchase, or barter a raptor egg or semen for propagation purposes.

~~(4)~~ (2) Persons wishing to apply for a captive-breeding Montana raptor propagation permit shall file a written application on a form provided by the department, a copy of a current federal captive-breeding raptor propagation permit, and \$20100.

(3) Montana raptor propagation permits are valid for a period of five years or portion thereof, and shall expire on the date designated on the face of the permit unless amended or revoked. Permits are renewable.

AUTH: 87-5-210, MCA
IMP: 87-5-210, MCA

12.6.1409 RECORDS AND REPORT (1) The records required by federal regulations ~~21.30(d)(10)~~ shall be sufficient record for the state.

(2) The permittee shall file with the department a copy of the annual report ~~described in section 21.30(d)(11) of the~~ required by federal regulations by no later than January 31 of each year.

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

4. The new rule proposed to be adopted provides as follows:

NEW RULE I FEDERAL RAPTOR PROPAGATION REGULATIONS

(1) The commission adopts and incorporates by reference federal regulation contained in 50 C.F.R. § 21.30. A copy of the federal raptor propagation regulations may be obtained from the Department of Fish, Wildlife and Parks, Enforcement Bureau, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana, 59620-0701.

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

5. The commission proposes to repeal the following rules:

12.6.1402 FACILITIES

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

12.6.1403 NOTIFICATION OF LAYING OF EGGS

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

12.6.1404 MARKING

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

12.6.1405 TAKING RAPTORS OR RAPTOR EGGS FROM THE WILD

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

12.6.1406 TRANSFER, PURCHASE, SALE, OR BARTER OF RAPTORS, RAPTOR EGGS, RAPTOR SEMEN, OR RAPTOR PROGENY

AUTH: 87-5-210, MCA

IMP: 87-5-210, MCA

12.6.1407 POSSESSION OF EGGS, NESTS, OR FEATHERS

AUTH: 87-5-210, MCA
IMP: 87-5-210, MCA

12.6.1408 INTENTIONAL RELEASE TO THE WILD

AUTH: 87-5-210, MCA
IMP: 87-5-210, MCA

12.6.1410 INTERSPECIFIC HYBRIDIZATION

AUTH: 87-5-210, MCA
IMP: 87-5-210, MCA

12.6.1411 DEATH, ESCAPE, OR RELEASE

AUTH: 87-5-210, MCA
IMP: 87-5-210, MCA

Reasonable Necessity: The United States Fish and Wildlife Service's revised federal raptor propagation regulations became effective June 22, 2011. The commission is proposing amending ARM 12.6.1401 to be consistent with the federal permit period of five years allowing for one expiration date for both permits. The commission is also proposing a \$100 fee for a five year permit instead of a \$20 fee for an annual permit.

The commission's proposed amendments to ARM 12.6.1409 remove the specific citation to federal regulations and require a copy of the report submitted to the federal government be submitted to the Department of Fish, Wildlife and Parks by no later than January 31 for the ease of reporting requirements of raptor propagators.

The commission is proposing adopting by reference the federal raptor propagation rules and repealing ARM 12.6.1402 through 12.6.1408 and 12.6.1410 through 12.6.1411 for consistency.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Bette Moe, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59620-0701; fax 406-444-7894; e-mail bmoe@mt.gov, and must be received no later than December 30, 2011.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Coleen Furthmyer at the above address no later than 5:00 p.m., December 30, 2011.

8. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 12 persons based on the number of falconers and propagators.

9. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which 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, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

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

/s/ Bob Ream

Bob Ream, Chairman
Fish, Wildlife and Parks Commission

/s/ John F. Lynch

John F. Lynch
Rule Reviewer

Certified to the Secretary of State November 14, 2011