

Montana Code Annotated 2025

TITLE 87. FISH AND WILDLIFE

CHAPTER 1. ORGANIZATION AND OPERATION

Part 2. Department of Fish, Wildlife, and Parks

Fishing Access Enhancement Program Created -- Private Landowner Assistance To Promote Public Fishing Access -- Rules

87-1-285. Fishing access enhancement program created -- private landowner assistance to promote public fishing access -- rules. (1) The department may establish programs of landowner assistance that encourage public access to and across private lands for purposes of fishing and may adopt rules to carry out program purposes. Rules may address but are not limited to incentives for private landowners who allow public fishing access on or across their lands, where legal access does not presently exist. Participation in the fishing access enhancement program is established through a cooperative agreement between a landowner and the department, including other resource management agencies when appropriate, that allows access for public fishing with certain restrictions or use rules.

(2) The department may also develop similar voluntary programs that are designed to promote public access across private lands for fishing purposes.

(3) Participation in a program established under subsection (1) is voluntary. Programs may not be structured in a manner that provides assistance to a private landowner who charges a fee for fishing access to private land that is enrolled in the program or who does not provide reasonable public fishing access to private land that is enrolled in the program. The commission shall develop criteria by which tangible benefits are allocated to participating landowners, and the department may distribute the benefits to participating landowners.

(4) Funds from the account established pursuant to **87-1-605** may be used to purchase or lease public fishing access at county road bridge crossings or for necessary parking facilities, trails, or ramps to facilitate fishing access to public waters at bridge crossings.

History: En. Sec. 1, Ch. 196, L. 2001.

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CHAPTER 1. ORGANIZATION AND OPERATION

Part 2. Department of Fish, Wildlife, and Parks

Fishing Access Enhancement Program -- Benefits For Providing Fishing Access -- Cooperative Agreement -- Factors For Determining Benefits Earned -- Restriction On Landowner Liability

87-1-286. Fishing access enhancement program -- benefits for providing fishing access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner liability. (1) As provided in **87-1-285**, the department may establish and administer a voluntary program to enhance fishing access. The program must be designed to provide tangible benefits to participating private landowners who grant access to or across their land for public fishing.

(2) A contract for participation in the fishing access enhancement program is established through a cooperative agreement between the landowner and the department that will guarantee reasonable access for public fishing, which may include leases, easements, or rights-of-way to rivers, streams, ponds, or lakes on the landowner's property and leases or easements for access along the banks or shorelines of rivers, streams, ponds, or lakes on the property. Landowners may also form a voluntary association when development of a unified cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of the plan developed by the landowner and the department and may include but is not limited to:

- (a) fishing access management, which may include off-road parking, foot trails, and vehicle access roads;
- (b) services to be provided to the public;
- (c) landowner property rules and other restrictions;
- (d) any other management information to be gathered, which must be made available to the public; and
- (e) notice to adjacent landowners.

(3) If the department determines that the plan referred to in subsection (2) may adversely influence fish management decisions or fishing habitat on public lands, then other public land agencies, interested sportspersons, and affected landowners must be consulted. An affected landowner's management goals and personal observations regarding fish populations and habitat use must be considered in developing the plan.

(4) The commission shall develop rules for determining tangible benefits to be provided to a landowner for providing public fishing access. Benefits will be provided to offset potential impacts associated with public fishing access, including but not limited to those associated with general property maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance. Program priority must be given to properties that provide the greatest fishing access for the lowest costs. Factors used in determining benefits may include but are not limited to:

- (a) the number of days of public fishing provided by a participating landowner;

(b) fish habitat provided; and

(c) access provided to adjacent public lands.

(5) Benefits earned by a landowner under this section may be applied in, but application is not limited to, the following manner:

(a) A landowner may receive direct monetary compensation for providing fishing access.

(b) A landowner may direct weed control payments to be made directly to the county weed control board or may elect to receive payments directly.

(c) A landowner may direct fire protection payments to be made directly to the local fire district or the county where the landowner resides or may elect to receive payments directly.

(d) A landowner may receive direct payment to offset insurance costs incurred for allowing public fishing access.

(e) The department may provide assistance in the construction and maintenance of roads, fencing, gates, and parking facilities and in the signing of property.

(6) The restriction on liability of a landowner, agent, or tenant that is provided under **70-16-302(1)** applies to a landowner who participates in the fishing access enhancement program.

History: En. Sec. 2, Ch. 196, L. 2001.

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ADMINISTRATIVE RULES OF MONTANA

12.7.1401 COOPERATIVE FISHING ACCESS AGREEMENTS

- (1) The department may provide monetary benefits under 87-1-285 , MCA, to a landowner who enters into a cooperative agreement with the department to allow public fishing access across or on the landowner's property.
- (2) In determining whether or not to enter into a cooperative agreement and/or the amount of monetary benefits paid under the agreement, the department shall evaluate the public benefit of acquiring access to the site. The department shall use the 2002 private land fishing access scoring form to make this evaluation. This form is incorporated by reference as part of this rule and is available from the Department of Fish, Wildlife and Parks, Fisheries Division, 1420 East Sixth Ave., P.O. Box 200701, Helena, MT 59620-0701.
- (3) The score a site receives on the 2002 fishing access scoring form will determine the amount of landowner benefits, if any, that the department offers to the landowner for the purpose of acquiring fishing access.
- (4) Compensation schedules will be prorated biennially to conform to legislative appropriations for the program.

Authorizing statute(s): 87-1-285, MCA

Implementing statute(s): 87-1-285, MCA

History: NEW, 2003 MAR p. 304, Eff. 2/28/03.