### **Montana Code Annotated 2021**

TITLE 87. FISH AND WILDLIFE
CHAPTER 1. ORGANIZATION AND OPERATION
Part 2. Department of Fish, Wildlife, and Parks

- **87-1-263.** Veterans' preference for reserving certain block management areas on Veterans' Day. (1) Subject to the provisions of subsections (2) and (3), on Veterans' Day, veterans may be given preference to use block management areas that require a reservation.
- (2) A reservation by a veteran to use a block management area pursuant to subsection (1) must be made at least 1 week in advance of Veterans' Day and in accordance with the existing reservation system for that area.
- (3) A person who makes a reservation pursuant to this section shall carry proof of the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card, or a driver's license indicating the person's veteran status, while hunting on the block management area for which the reservation was made. The person also shall make proof of the person's veteran status available for review by an employee or authorized officer of the department upon request.
- (4) The department shall conduct random verification of the veteran status of persons making reservations pursuant to this section.
- (5) The department may adopt rules to implement the provisions of this section.

History: En. Sec. 1, Ch. 188, L. 2017.

**87-1-264.** Expenditure of hunting access program funds on weed control. The legislature recognizes that the hunting access programs authorized in <u>87-1-265</u> successfully encourage landowners to increase public access to private and public lands for purposes of hunting, but that increased public access may also contribute to an increase in the spread of noxious weeds on public and private lands. Therefore, in an effort to improve management and services related to those programs, the department may offer up to 5% in additional incentive payments above the maximum annual payment established in <u>87-1-265</u> to landowners who agree to use those additional payments for specific weed management activities on lands under their control.

History: En. Sec. 26, Ch. 407, L. 2001; amd. Sec. 3, Ch. 63, L. 2019.

- **87-1-265.** Hunting access programs -- block management program -- private landowner assistance -- rules -- restriction on landowner liability. (1) There is established a block management program administered by the department to provide landowner assistance that encourages public access to private and public lands for hunting purposes.
- (2) The department may also develop and administer alternative programs to the block management program that are designed to promote public access to private and public lands for hunting purposes.

- (3) Participation in a hunting access program established under this section is voluntary. A lease, acquisition, or other arrangement for public access to or across private property for hunting purposes must be negotiated through a cooperative agreement between the landowner and the department that will guarantee reasonable access for public hunting. 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 conditions for use of the private property, including but not limited to:
- (a) hunting access management;
- (b) services to be provided to the public;
- (c) ranch rules and other restrictions; and
- (d) any other management information to be gathered, which must be made available to the public.
- (4) Private land is not eligible for inclusion in a hunting access program if outfitting, commercial hunting, or fees charged for private hunting access unreasonably restrict public hunting opportunities.
- (5) If the department determines that an agreement may adversely influence game management decisions or wildlife 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 game populations and habitat use must be considered in development of the agreement.
- (6) The commission may adopt rules to implement the provisions of this section, including but not limited to rules that determine tangible benefits to be provided to a landowner who participates in a hunting access program. Benefits are intended to offset potential impacts associated with public hunting access, including but not limited to those associated with general ranch maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance. Factors used in determining benefits may include but are not limited to:
- (a) the number of days of public hunting provided by a participating landowner;
- (b) wildlife habitat provided;
- (c) resident game populations;
- (d) number, sex, and species of animals taken; and
- (e) access provided to adjacent public lands.
- (7) (a) Benefits earned by a landowner who participates in a hunting access program may include but are not limited to those applied in the manner described in subsections (7)(b) and (7)(c).
- (b) A landowner may receive direct payments:
- (i) for weed control or may direct payments to be made directly to the county weed control board;
- (ii) for fire protection or may direct fire protection payments to be made to the local fire district or the county where the landowner resides; and

- (iii) to offset insurance costs incurred for allowing public hunting access.
- (c) The department may provide assistance in the construction and maintenance of roads, gates, and parking facilities and in the signing of property.
- (8) (a) Except as provided in <u>87-1-264</u> and subsection (8)(b) of this section, payments to a landowner who participates in a hunting access program through an annual agreement may not exceed \$25,000 per year.
- (b) Each landowner who participates in a unified cooperative agreement pursuant to subsection (3) may be eligible for payments not to exceed \$25,000 per year.
- (9) The restriction on liability of a landowner, agent, or tenant that is provided under <u>70-16-302(1)</u> applies to a landowner who participates in a hunting access program.

History: En. Sec. 1, Ch. 459, L. 1995; amd. Sec. 1, Ch. 216, L. 2001; amd. Sec. 4, Ch. 63, L. 2019; amd. Sec. 2, Ch. 552, L. 2021.

- **87-1-266.** License benefits for landowners enrolled in block management program -- rulemaking. (1) As a benefit for enrolling property in the block management program established in <u>87-1-265</u>, a resident landowner may receive one wildlife conservation license and one Class AAA combination sports license and the necessary prerequisites, without charge, if the landowner is the owner of record. The licenses may be used for the full hunting or fishing season in any district where they are valid. The licenses may not be transferred by gift or sale.
- (2) As a benefit for enrolling property in the block management program, a nonresident landowner may receive one wildlife conservation license and one Class B-10 nonresident big game combination license and the necessary prerequisites, without charge, if the landowner is the owner of record. The licenses may be used for the full hunting or fishing season in any district where they are valid. The licenses may not be transferred by gift or sale. The grant of a license under this subsection also qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license under this subsection does not affect the limits established under 87-2-505.
- (3) (a) Instead of receiving the benefits provided in subsection (1) or (2), a landowner of record who enrolls in the block management program may designate an immediate family member or employee to receive, without charge, a wildlife conservation license and the necessary prerequisites and:
- (i) a Class AAA combination sports license if the designated person is a resident; or
- (ii) a Class B-10 nonresident big game combination license if the designated person is a nonresident.
- (b) For purposes of this subsection (3), an immediate family member means a parent, grandparent, child, or grandchild of the cooperator by blood or marriage, a spouse, a legally adopted child, a sibling of the cooperator or spouse, or a niece or nephew.
- (c) For purposes of this subsection (3), the term "employee" means a person who works full time and year-round for the landowner as part of the active farm or ranch operation enrolled in the block management program.

- (d) An immediate family member or employee who is designated to receive a license pursuant to this subsection (3) must be eligible for licensure under current Montana law and may not transfer the license by gift or sale.
- (e) The grant of a Class B-10 nonresident big game combination license to an immediate family member or employee pursuant to this subsection (3) does not affect the limits established in 87-2-505.
- (4) The department may by rule limit the overall number of licenses that can be provided to landowners pursuant to this section.
- (5) For the purposes of this section, the term "necessary prerequisites" includes:
- (a) the base hunting license established in 87-2-116;
- (b) the aquatic invasive species prevention pass established in 87-2-130; and
- (c) the wildlife conservation license established in <u>87-2-201</u>.

History: En. Sec. 2, Ch. 459, L. 1995; amd. Sec. 2, Ch. 471, L. 2005; amd. Sec. 1, Ch. 114, L. 2009; amd. Sec. 2, I.M. No. 161, approved Nov. 2, 2010; amd. Sec. 1, Ch. 19, L. 2019; amd. Sec. 5, Ch. 63, L. 2019; amd. Sec. 3, Ch. 221, L. 2019.

Department: Fish, Wildlife, and Parks Department of

Chapter: Stream Access Rules

**Subchapter:** Block Management Rules

# 12.4.201 OVERVIEW OF BLOCK MANAGEMENT RULES

(1) ARM  $\underline{12.4.201}$  through  $\underline{12.4.210}$  regulate the block management program administered by the department.

History: <u>87-1-301</u>, <u>87-1-303</u> MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94.

## 12.4.202 ADMINISTRATION OF BLOCK MANAGEMENT PROGRAM

(1) Under 87-1-301(1) (c), MCA, and 87-1-303, MCA, the fish, wildlife, and parks commission has authority to develop rules governing the use of lands controlled by the department or that it operates under agreement with federal, state or private landowners. These statutes are the basis for the block management program administered by the department. The hunter management program and the hunter enhancement program as described under 87-1-267, MCA, are similar in intent and differ only in terms of license benefits for non-resident landowners who are eligible for the program. Both programs are administered under these rules as block management areas.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96.

## **12.4.203** DEFINITIONS

Wherever used in ARM  $\underline{12.4.201}$  through  $\underline{12.4.210}$ , unless a different meaning clearly appears from the context:

- (1) "Accessible state lands" means those state lands under the jurisdiction of the Montana department of natural resources and conservation which are accessible as described in ARM 36.25.165.
- (2) "BMA" means block management area. A BMA is a specified area on which, by cooperative agreement between the landowner, other resource management agencies and the department, public hunting is permitted with certain restrictions or use rules.
- (3) "Block management tabloid" means the document printed annually which provides statewide information on the block management program and describes means through which hunters may get specific information on block management opportunities.
- (4) "Commercial hunting activity" means any activities in which a consideration is required as a condition for hunting.
  - (5) "Department" means the Montana department of fish, wildlife, and parks.
- (6) "Cooperator" means a private or public landowner or land management agency with which the department enters into an agreement for the purposes of the allowing hunting access on a BMA.
  - (7) "Director" means director of the Montana department of fish, wildlife, and parks.
  - (8) "DNRC" means Montana department of natural resources and conservation.
  - (9) "Hunter day" means one hunter who hunts on a cooperator's property during a calendar day.
- (10) "Hunting season" means the time during which game birds and game animals may be legally taken as defined by the commission regulation under 87-1-304, MCA.
- (11) "Livestock loss insurance" means a program which provides reimbursement to livestock owners whose animals are injured or killed as the direct result of allowing public hunting on their property.
- (12) "Outfitting" means the act of providing hunting-related services for a consideration as defined in  $\underline{37-47-101}(5)$ , MCA.

- (13) "Regional office" means the headquarters of a department administrative region.
- (14) "Regional supervisor" means the supervisor of a regional office.
- (15) "Use season" means the period of time during which a BMA is open and functioning, allowing public hunting.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; AMD, 1996 MAR p. 1139, Eff. 4/26/96.

### 12.4.204 CRITERIA FOR PARTICIPATION

- (1) A BMA may be established for any of the following reasons:
- (a) the land is a high-priority resource and habitat area as defined by statewide and regional management objectives;
- (b) a potential exists for a cooperative relationship between the department and private landowner or landowners for long-term management projects and programs;
- (c) establishment of the BMA will result in sustained or increased hunter opportunity, access and hunter days on private lands;
  - (d) implementation of the BMA will open up access to inaccessible federal and state lands; or
- (e) implementation of a BMA will enhance regional management needs which may include but are not limited to:
  - (i) history of wildlife damage;
  - (ii) quality of hunting opportunities;
  - (iii) condition of wildlife habitat; and
  - (iv) availability of local hunting opportunities.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; AMD, 1996 MAR p. 1139, Eff. 4/26/96.

#### **12.4.205** USE OF BLOCK MANAGEMENT AREAS

- (1) The following governs use of BMAs:
- (a) Use restrictions for each BMA shall be established by negotiation between department personnel and the cooperator. Restrictions may include but may not be limited to:
  - (i) restrictions on vehicle use or off-road travel for access or downed game retrieval;
  - (ii) number of hunters or hunting parties utilizing a BMA per day;
- (iii) times and places at which permission slips or other instructions are provided on-site to the public; and
  - (iv) duration of the use season.
- (b) When lands under the authority of federal agencies are proposed for inclusion in a BMA, the managing federal agency must approve the inclusion.
- (c) On BMAs which restrict hunter numbers, a cooperator may allow additional hunters at his or her discretion.
- (d) The cooperator and the department reserve the right to deny access to a BMA for cause, including but not limited to: intoxication, violation of BMA rules or previous misconduct on a BMA. Willful violation of BMA regulations on private property which set the terms for entrance on a cooperator's property can be grounds for terminating privileges on a BMA and a misdemeanor citation under 87-3-304, MCA, hunting without landowner permission. BMAs may also be temporarily closed by the cooperator in conjunction with the department due to weather, fire danger or other conditions or circumstances which would place public safety or resources in jeopardy.

- (e) Priority consideration for block management enrollment will be given for lands that are open to all species and gender of game birds and animals available in huntable numbers, with access provided by the cooperator concurrent with applicable fall hunting season dates. Any restrictions on the gender or species available for hunting on a BMA, other than those established by the commission, must be approved by the regional supervisor in writing, documenting any biological or management reasons for such restrictions before implementation of the BMA. Species and gender restrictions, other than those established by the commission, may not be imposed on state or federal land.
- (f) BMAs which impose daily hunter number limits will allow free, equitable opportunities for access to all hunters requesting use of the BMA based on a daily hunter number capacity agreed upon by the cooperator and the department. The allocation of this hunter capacity will be on a first come, first served basis. In the event that hunting demand for a certain BMA is greater than supply, similar hunting opportunities may be offered on other days on the BMA or on other BMAs. On BMAs where hunter demand regularly exceeds available opportunity, the department, where practical, or the cooperator, with department approval, will develop equitable methods of allocation such as telephone reservations or drawings.
- (g) During periods when a BMA is not in operation and commission-established hunting seasons are in effect, access to private land is at the discretion of the landowner. These periods will be duly noted on enrollment forms as well as in information distributed to the public. During such non-block management periods, accessible federal and state lands will remain open to the public for recreation under rules and regulations adopted by the appropriate land management agency. Hunter days that occur when a BMA is not in operation and does not provide access to the general public will not be counted towards any compensation given the landowner to offset potential impacts of public hunting on the property.
- (h) Enrollment in the block management program may be terminated by the department or the cooperator if the terms of the contract or enrollment form are violated; or, by the department or the cooperator within 30 days following the end of the hunting season. DNRC may withdraw state lands from inclusion in a BMA under ARM <u>26.3.199C</u>. Any such notice must be in writing. A contract or enrollment may be canceled and a cooperator's property withdrawn from the program at any time due to circumstances beyond the control of the cooperator or the department, such as death, illness, natural disaster, or acts of nature.
- (i) Cooperators may enroll in or contract to participate in the block management program for up to 5 years at a time. However, this will be contingent on the annual availability of funds to operate the BMA.
- (j) Reservations for hunting opportunities on BMAs which restrict hunter numbers may not be accepted by cooperators or department personnel operating a BMA on behalf of a cooperator before September 1 preceding the opening of a use season.
- (k) On BMAs which restrict hunter numbers or require reservations, a hunter cannot reserve permission on more than one BMA per day.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96.

# 12.4.206 COMPENSATION TO COOPERATORS

- (1) Cooperators in the program may receive various forms of compensation for their participation including, but not limited to, the following:
- (a) department oversight and supervision of hunting on a BMA including the development and implementation of a hunter reservation system administered by the department when practical. For cooperators who elect to have the department provide personnel whose primary duty it is to manage hunting on their property, a compensation value will be assigned to those services by the department,

with that amount deducted from the total of any monetary compensation for which the cooperator is otherwise eligible under (1) (c) and (2) of this rule;

- (b) supplying of permission books or other materials which document hunter use, signs or huntingseason related supplies; and
- (c) monetary compensation to offset potential impacts associated with allowing public hunting access. These impacts include, but are not limited to, those identified in 87-1-267(5), MCA, and time spent dealing with hunters. Payments to cooperators will be made following the close of the use season and the submission of hunter use documents (permission slips, etc.) to the department.
- (2) Payments to cooperators will be set by the department, figured in the following manner and dependant on available funding:
  - (a) basic enrollment payment which will be provided to anyone enrolled in the program;
- (b) basic impact payment which will be provided to all cooperators and computed at an amount per hunter day;
- (c) length of season impact payment which will be available in addition to other impact payments to cooperators who place no restrictions on commission-established fall hunting seasons for any species legally available in huntable numbers on their property. This rate will be set at one-third of the base impact payment;
- (d) species/gender impact payment which will be available in addition to other impact payments, to cooperators who place no restrictions on the species and gender available in huntable numbers on their property. This rate will be set at one-third of the base impact payment;
- (e) cooperators who provide access corridors to isolated state or federal lands, with no enrollment of deeded land permitting public hunting access, will be eligible for compensation at 50% of the base impact payment and, if no restrictions are placed on the length of seasons, 50% of the length of season impact payment, based on the number of hunters for which access is provided;
- (f) in situations involving unique hunting opportunities or special management circumstances, compensation may be negotiated on a case-by-case basis at a rate not to exceed limits set in <u>87-1-267</u>(7), MCA. Compensation amounts in these situations will require written approval of the regional supervisor; and
- (g) for those cooperators who elect to receive monetary compensation under this rule, a method of measuring hunter use on the property must be used to document hunter days. This may include, but is not limited to permission slips, daily use rosters or other methods which will accurately reflect the hunter use of a cooperator's property. For those areas with unrestricted access where rosters or permission slips may not be practical, standard department hunter use accounting methods will be used to calculate hunter days.
  - (3) Additional forms of compensation may also include:
  - (a) livestock loss insurance payable at full market value of any loss;
  - (b) the supplying of wildlife damage materials and supplies; and
  - (c) participation in other department cooperative programs.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96

## 12.4.207 OUTFITTING AND COMMERCIAL HUNTING ACTIVITY

(1) Outfitting and commercial hunting activities on BMAs are not consistent with the intent of providing free public access to recreational opportunities on private lands. Outfitting may not take place on a BMA unless public recreation and hunting opportunities are not restricted and the cooperator and regional supervisor approve the activity. This rule does not regulate licensed outfitters legally operating

on federal or state lands under license or permit obtained from the bureau of land management, forest service, DNRC or other resource management agency.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96.

### 12.4.208 INFORMATION DISSEMINATION

- (1) Information concerning specific BMAs will be available at department regional offices in the region that the BMA operates. Information will be made available to the public upon request, either in person, by mail, telephone or fax. Each region will have available to the public on or before August 15 of each year:
  - (a) copies of the statewide block management tabloid; and
- (b) a list of BMAs in that region for the current year. This list may be expanded if more BMAs are enrolled closer to the opening of the general hunting season.
- (2) Block management information on specific areas available to the public will consist of printed materials which include at least the following:
- (a) map of BMA showing location and clearly identifying the boundaries of the BMA. The map will be dated with the year it was produced;
  - (b) hunting opportunities available;
  - (c) use restrictions of the area;
  - (d) method of gaining access;
  - (e) dates BMA is in effect;
  - (f) telephone number of regional office for information; and
- (g) indication of the location of any state lands in the BMA and notification of the requirement to possess a state lands recreational use license to hunt state lands administered by DNRC.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96.

## 12.4.209 INCLUSION OF STATE LANDS IN BLOCK MANAGEMENT AREAS

(1) State lands administered by DNRC may be included in BMAs. Whenever a proposed BMA includes accessible state lands, the procedures set forth in ARM  $\underline{36.25.164}$  through  $\underline{36.25.167}$  shall be followed.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94; <u>AMD</u>, 1996 MAR p. 1139, Eff. 4/26/96.

### **12.4.210** COMPLAINT RESOLUTION SYSTEM

- (1) BMA cooperators or hunters may make complaints to the department of problems they have encountered on a BMA. The department shall use the following procedure to investigate and resolve complaints.
- (a) Block management personnel are encouraged to work on-site to address problems before they reach the complaint stage.
- (b) Formal complaints must be in writing, signed by the complainant and may be presented to any department employee. Complaints need to include information describing the events that transpired, the BMA involved, and the names, addresses and, if possible, phone numbers of all individuals involved.
- (c) Complaints will be turned in immediately to the regional supervisor of the region in which the problem occurred and documented for tracking purposes.

- (d) The regional supervisor is responsible for assessing complaints and initiating the appropriate level of investigation. If the complaint involves state lands or federal lands, the supervisor will involve the appropriate management agency in resolving the complaint.
- (e) At the conclusion of the investigation, the regional supervisor will provide written notification to the complainant and the department field services administrator of the results of the investigation as well as any action taken as a result of the investigation. Other parties directly involved with the complaint (cooperator, land management agencies, etc.) will also be notified.
- (f) A complainant may appeal the action taken by a regional supervisor to the director. The director will review the complaint and investigation and issue a written decision.
- (g) Following the close of the hunting season, the field services division of the department will review and summarize all complaints lodged during the preceding hunting season. Each regional office will get a copy of this summary as well as identification of problem areas and suggested solutions.
- (h) For BMAs with any complaints which remain unresolved on March 1 annually after having been investigated through this process, the complaints will be reviewed as set forth in ARM 36.25.167 to determine if a public review is necessary to assess if continued enrollment in the program is appropriate.

History: <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>IMP</u>, <u>87-1-301</u>, <u>87-1-303</u>, MCA; <u>NEW</u>, 1994 MAR p. 1691, Eff. 6/24/94.

Department: Natural Resources and Conservation, Department of

Chapter: State Land Leasing

**Subchapter: Surface Management Rules** 

## **36.25.164** BLOCK MANAGEMENT AREAS: PROCEDURES FOR INCLUSION OF STATE LAND

- (1) The department shall commence review of a proposal to include state land within a block management agreement when the department receives from the department of fish, wildlife and parks a proposal that includes:
- (a) a complete legal description of the state land affected by the proposal, with a description of the legal access status of each tract of land;
  - (b) a listing of all terms, conditions, and restrictions of the proposal; and
- (c) a map that clearly identifies the boundaries of the proposed block management area, locations of state lands, adjoining public land, and public roads.
  - (2) The provisions of (3) apply to the review of a block management agreement that:
- (a) would impose restrictions on recreational use that are more stringent than those contained in ARM <u>36.25.149</u>; and
  - (b) contain state land that is:
  - (i) contiguous at some point to land that is not within the proposed block management area;
  - (ii) accessible by dedicated public road, public right-of-way, or easement;
  - (iii) accessible by public waters; or
  - (iv) accessible from contiguous federal, state, county, or municipal land that is open for public use.
- (3) Before land that meets the criteria in (2) may be included in a block management agreement, the department of fish, wildlife and parks and the department must have:
- (a) given public notice of the proposal in a newspaper of general circulation in the area of the proposed block management area;
  - (b) provided a 21-day period for written public comment following the public notice; and
- (c) if, during the public comment period, a request for public hearing was received that in the department's opinion raises a significant question as to whether the proposal is in the best interests of the public or the trust, held a public hearing in the area.
- (4) After close of the public comment period, the department shall review and prepare written responses to all substantive comments. The department shall send copies of those responses to each person who submitted a substantive comment.
  - (5) No public review is required for proposals that do not meet the criteria contained in (2).
- (6) The department shall notify the department of fish, wildlife and parks whether it will enter into the agreement. No block management agreement is effective as to state land until it is executed by the department. The department may not enter an agreement that does not meet the criteria contained in ARM <u>36.25.165</u>.

History: <u>77-1-804</u>, MCA; <u>IMP</u>, <u>77-1-804</u>, MCA; <u>NEW</u>, 1994 MAR p. 2002, Eff. 7/22/94; <u>TRANS</u>, 1996 MAR p. 2384.

### **36.25.165** BLOCK MANAGEMENT AREAS: CRITERIA FOR INCLUSION OF STATE LAND

- (1) The department may include state land in a block management area only if it finds that:
- (a) inclusion is in the best interests of the public and the trust;
- (b) the block management agreement does not conflict with rights of holders of leases, licenses, and easements;
  - (c) inclusion would not result in damage to the land;

- (d) the block management area contains private land; and
- (e) the state land is contiguous to federal or private land that is within the block management area. History: 77-1-804, MCA; IMP, 77-1-804, MCA; NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.

#### **36.25.166** BLOCK MANAGEMENT AREAS: TERMS OF AGREEMENT

- (1) A block management agreement that includes state lands must contain the following provisions:
- (a) Motorized vehicle use on state lands is restricted to federal, state, and dedicated county roads and to those roads designated by the department to be open to motorized vehicle use.
- (b) If the state land meets the criteria of ARM <u>36.25.164</u>, or if the agreement includes hunter limits, requires permission, or contains other restrictions that are more stringent than the restrictions contained in ARM <u>36.25.149</u>, the department of fish, wildlife and parks shall post the state land at customary access points with signs that include the period that the block management restrictions are effective and describe how access may be obtained.
- (c) If a complaint is not resolved to the satisfaction of the department, the department may withdraw the state land from the block management area.

History: <u>77-1-804</u>, MCA; <u>IMP</u>, <u>77-1-804</u>, MCA; <u>NEW</u>, 1994 MAR p. 2002, Eff. 7/22/94; <u>TRANS</u>, 1996 MAR p. 2384.

# **36.25.167** BLOCK MANAGEMENT AREAS: RENEWAL OF AGREEMENT

- (1) A block management agreement that contains state lands may be renewed.
- (2) Subject to (b), renewal of a block management agreement that meets the criteria of ARM 36.25.164 may be subject to the review procedures contained in ARM 36.25.164 only if:
- (a) during the term of the agreement, the department or department of fish, wildlife and parks have received public comments or complaints tending to:
  - (i) raise significant concerns regarding compliance with the agreement;
- (ii) indicate that continued enrollment in the block management program may not be in the best interests of the public or the trust; or
- (iii) there will be changes in the agreement that impose more stringent restrictions than those contained in the existing agreement.
- (b) If the department or department of fish, wildlife and parks has received complaints under the department of fish, wildlife and parks' complaint resolution system regarding a block management area that is being considered for renewal and those complaints have not been resolved, the director may not renew the agreement without public review until receiving a recommendation from the recreational use advisory council as to whether public review is appropriate.
- (3) The renewal of a block management agreement that does not contain state land meeting the criteria in ARM  $\frac{36.25.164}{100}$  or does not meet the criteria of (2) above is not subject to public review under ARM  $\frac{36.25.164}{1000}$ .
- (4) A block management agreement that was in effect on September 20, 1993, and was terminated in protest of the board's decision to expand the definition of "general recreational use" to include hiking and bird-watching may be renewed prior to October 1, 1994, under this rule.
- (5) The department may renew a block management agreement that includes state land only if it meets the criteria for approval contained in ARM  $\underline{36.25.165}$  and contains the provisions of ARM  $\underline{36.25.166}$ .

History: <u>77-1-804</u>, MCA; <u>IMP</u>, <u>77-1-804</u>, MCA; <u>NEW</u>, 1994 MAR p. 2002, Eff. 7/22/94; <u>TRANS</u>, 1996 MAR p. 2384; <u>AMD</u>, 1997 MAR p. 315, Eff. 2/11/97.