

**FISH, WILDLIFE AND PARKS AND THE FISH AND WILDLIFE COMMISSION**

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**NOTICE OF ADOPTION**

**MAR NOTICE NO. 2025-424.4**

**Summary**

FWP and the Fish and Game Commission has adopted, amended, and repealed the Fisheries Division's Administrative rules to implement HB 74, and complete a Red Tape Relief project as follows.

**Previous Notice(s) and Hearing Information**

MAR Notice No. 2026-424.1, Issue No. 5, published March 6, 2026. A public hearing was held on March 30, 2026, and public comment was accepted through April 6, 2026. One organization provided public comment on the proposed changes.

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**Final Rulemaking Action – Effective July 11, 2026**

**ADOPT WITH CHANGES**

**NEW RULE 2 (12.7.604) APPLICATION**

- (1) A private pond ~~stocking~~ license is required for stocking fish in a private pond.
- (2) The application fee must be submitted with the application by check or credit card at a regional office, area office, or headquarters prior to the license being issued.
- (3) An application fee cannot be refunded once an onsite inspection or environmental assessment has been completed by the department.

**Authorizing statute(s):** 87-4-606, 87-4-607, MCA

**Implementing statute(s):** 87-4-603, 87-4-606, 87-4-607, MCA

### **NEW RULE 3 (12.7.605) ISSUANCE**

- (1) The department shall may issue a private pond license upon approval of a correct and complete application.
- (2) The license must specify the terms and conditions of the license which may include:
  - (a) the duration of the license;
  - (b) the timing of license renewal;
  - (c) the species licensed by the department to be stocked;
  - (d) the source of the fish to be stocked;
  - (e) the required construction, implementation, operation, and maintenance of measures or devices to prevent species from escaping into adjacent waters.
- (3) The department may revoke a license based on sufficient evidence of violation of the terms and conditions of a license.
- (4) A person may appeal a determination by the department to deny an application or revoke a license. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply.

**Authorizing statute(s):** 87-4-606, 87-4-607, MCA

**Implementing statute(s):** 87-4-603, 87-4-606, 87-4-607, MCA

### **Subchapter 12.7.6 Private Pond Stocking SUB CHAPTER Amended Name = Private Pond Stocking-Licensing**

#### **ADOPT AS PROPOSED**

The agency has adopted the following rules as proposed:

#### **New Rule 1 (12.7.603) DEFINITIONS**

#### **AMEND AS PROPOSED**

The agency has amended the following rules as proposed:

#### **12.7.101 APPLICATION**

#### **12.7.201 APPLICATION**

#### **12.7.202 ISSUANCE**

#### **12.7.701 AUTHORIZATION FOR DEPARTMENT AND COMMERCIAL FISH PLANTING**

**12.7.801 DEFINITION**

**12.7.805 DEPARTMENT DECISION**

**12.7.807 PROHIBITED CONTESTS**

**12.7.901 WHEN EGGS WILL BE SOLD**

**12.7.902 SOURCE OF EGGS TO BE SOLD**

**12.7.903 BUYERS' LIST**

**12.7.904 SALES PROCEDURES**

**12.7.905 TRANSFER PROCEDURES**

**12.7.906 METHODS OF PAYMENT**

**12.7.1201 PURPOSE**

**12.7.1202 DEFINITIONS**

**12.7.1203 PROJECT RANKING AND APPROVAL**

**12.7.1204 PERMITS**

**12.7.1205 INSPECTION AND PAYMENT BY DEPARTMENT**

**12.7.1206 PROJECT MAINTENANCE**

**12.7.1207 PROJECT MONITORING**

**12.7.1208 EFFECT OF RULE VIOLATIONS**

**12.7.1401 COOPERATIVE FISHING ACCESS AGREEMENTS**

**REPEAL AS PROPOSED**

The agency has repealed the following rules as proposed:

**12.7.203 REVOCATION**

**12.7.204 APPEAL**

**12.7.601 GENERAL POLICY FOR FISH PLANTING**

**12.7.602 SPECIFIC POLICY FOR STREAM PLANTING**

**12.7.808 WAIVER**

**12.7.809 APPEAL TO THE COMMISSION**

**12.7.1001 DEFINITIONS**

**12.7.1002 SELECTION OF CORPORATION AND NOTICING**

**12.7.1003 CRITERIA IN SELECTING NONPROFIT CORPORATION**

**12.7.1004 OPERATING PLAN**

**12.7.1005 RECORDS**

**12.7.1006 PERMIT**

**12.7.1104 PROJECT APPLICATION**

**12.7.1105 PROJECTS**

**12.7.1106 PROJECT REVIEW AND ASSESSMENT**

**12.7.1107 PERMITS**

**12.7.1108 INSPECTION AND PAYMENT BY DEPARTMENT**

**12.7.1109 PROJECT MAINTENANCE**

**12.7.1110 EVALUATION**

**12.7.1111 RECORDS**

**12.7.1112 EFFECT OF RULE VIOLATIONS**

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**Statement of Reasons**

FWP and the Fish and Game Commission considered the comments and testimony received. A summary of the comments received, and the responses are as follows:

Comment 1: One non-governmental organization (NGO) NGO submitted comments and expressed continued support for the proposed adoption and changes to Fisheries administrative rules.

Response 1: FWP thanks them for their participation in the rulemaking process and their insights. This comment does not require FWP to accept or reject the proposed rules on its substance.

Comment 2: The NGO specifically expressed support for the amendment and language modernization of ARM 12.7.101, 12.7.201 and 202, 12.7.901 through 906, and repeal of 12.7.1001 through 1006.

Response 2: FWP appreciates the support of the amendment and repeal of these ARMs. These comments do not require FWP to accept or reject a change in language from the proposal notice.

Comment 3: The NGO specifically supports the inclusion of FWP fish planting policy in ARM 12.7.701(3).

Response 3: FWP thanks the NGO for its support and insights into potential hatchery pressures.

Comment 4: The NGO reviewed and supports the changes suggested to fishing contest regulations in the amendment of ARM 12.7.801, 805, and 807 and the repeal of ARM 12.7.808, and 809.

Response 4: FWP appreciates the support of the amendment and consolidation of these ARMs. These comments do not require FWP to accept or reject a change in language from the proposal notice.

Comment 5: The NGO also expressed support for combining the rules for administering the Future Fisheries Improvement Program and the River Restoration Program, amending ARMs 12.7.1201 through 1208, and repealing ARMs 12.7.1104 through 12.7.1112. The NGO suggested adding a requirement that an applicant include documentation of a waiver of adverse effect with their application for funding in ARM 12.7.1203(9).

Response 5: FWP appreciates the support but rejects the proposed change to ARM 12.7.1203(9) because applicants are required to obtain and submit all permits, including a documented adverse effect waiver, necessary to complete the proposed project under ARM 12.7.1204.

Comment 6: The NGO expressed support for the proposed amendment to ARM 12.7.1401 and expressed concern that the program will prioritize lower cost over fishing access. The NGO also expressed support for the list of benefits to landowners for participating in the rule and suggested additional opportunities to enforce landowners' rules, such as SB 441's new Block Management enforcement network.

Response 6: FWP acknowledges the NGOs' concern but rejects the change, as FWP will continue to evaluate and support applications that provide the greatest fishing access and restoration opportunities while maximizing the use of program funds. FWP also appreciates the NGO's acknowledgment that enforcing a landowner's rules would require additional legislation and, therefore, the suggestion does not require FWP's acceptance or rejection.

Comment 7: The NGO supports the proposed adoption of New Rules I through III (ARM 12.7.603 through 605). The NGO requested additional refinement of “high” likelihood of escapement in New Rule I (ARM 12.7.603(12)). The NGO also pointed out the addition of “stocking” to a “private pond license” in New Rule II (ARM 12.7.604(1)). Finally, the NGO highlighted FWP’s authority to reject a licensing request and suggested updating New Rule III (ARM 12.7.605(1)) to reflect statutory discretion.

Response 7: FWP rejects the suggested change to New Rule I, as “high” likelihood of escapement includes modifications to plans to require installation of measures to mitigate escapement in major and minor surface water situations, such as screening an outlet stream. FWP thanks the NGO for their careful review and accepts the suggested clarifying language for New Rules II and III.

Comment 8: Finally, the NGO thanks Rep. Walsh, the Fish and Wildlife Commission, and FWP for developing the rules and for the opportunity to comment on the proposal before any changes to the Fisheries Division's administrative rules are adopted.

Response 8: FWP and the Commission appreciate the NGO’s continued commitment to Montana’s fisheries and watersheds through conservation, protection, and restoration efforts.

### **Contact**

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### **Rule Reviewer**

Jaime MacNaughton, Rule Reviewer

### **Approval**

Christy Clark, Director

### **Approval**

Lesley Robinson, Chair, Fish and Wildlife Commission