



**FWP Fish Removal Projects  
Fish and Wildlife Commission Work Session  
May 18, 2021**

Fish removal is a common method used to manipulate population densities and species composition of a fishery. Fish removals may be used to reduce competition between species, remove undesirable or invasive species, protect species with elevated conservation risk, or to improve the quality of a sport fishery. Removals are often intended to restore or reintroduce native fish to a drainage or to improve an existing fishery. Most removal projects aspire to improve fishing opportunity by reintroducing species better suited for available habitats or by reducing competition with other species. Tools commonly used by FWP for removal include angling regulations, netting and electrofishing, dewatering, construction of barriers, and use of piscicides/chemicals (Table 1). These are described in more detail below.

Table 1: Comparison of fish control or removal methods commonly used for fisheries management.

<b>Control Method</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Typical Use</b>
<b>Angling regulations</b>	Allows harvest of fish, and less fish waste	Slow, angling pressure often inadequate for significant change, and many species/sizes not vulnerable	Used where total removal not possible or necessary
<b>Netting and Electrofishing</b>	Can allow for selective removal	Unlikely to eradicate fish and could harm non-targeted species through bycatch	Used in large lakes or rivers where chemicals not feasible, small streams to reduce species competition, or where sensitive/endangered species must be protected
<b>Dewatering of pond/reservoir</b>	May be low cost and allows for less mechanical effort or use of chemical	Water remains in pools, detrimental to aquatic community, and often environmentally disruptive	Removal of most fish and serves to prep waterbody for piscicide use or more efficient mechanical removal
<b>Physical barriers</b>	Relatively permanent	Doesn't block downstream migration, less effective under floods, high cost, isolates populations	Block upstream migration of undesirable species and create closed system for piscicide use or mechanical removal
<b>Piscicides/Chemicals</b>	Effective in complex habitats, avoidance by fish difficult	Kills many non-target gilled organisms	Removal of entire fish assemblage

## TOOLS FOR REMOVALS

### Regulations

Angling regulations are the most common fish removal tool. This tool can be applied through bag limits or length restrictions to direct harvest of a particular species while protecting others. Though cost-effective, angling regulations are constrained in that it could take a long time for a notable population change to occur, the species desirable for removal may not be vulnerable to angling, or angling pressure may be too low to effectively influence the fishery.

### Mechanical Removal

Mechanical tools are more effective at removing fish than angling and may be used in conjunction with other removal tools. Mechanical tools include netting and electrofishing, draining or dewatering a waterbody, and construction of physical barriers. Nets and electrofishing allow managers to selectively remove undesirable species and leave desirable fish in the waterbody. Fish removed through these methods may be killed or may be moved to another waterbody or below a physical barrier, depending on project objectives. Rarely are species completely eradicated from a waterbody through nets or electrofishing alone.

Draining or dewatering can completely remove all fish and other aquatic species from a waterbody or can be used to improve removal efficiency by other means. Dewatering might not completely eliminate the undesirable species unless the waterbody is completely drained of all water, which isn't always possible. Complete draining will be highly impactful to the desired species of the aquatic community and may extend the period of time needed for their re-establishment.

Physical barriers are often used to conserve native fish populations and in many waterbodies are the first step before initiating mechanical or chemical removals. Physical barriers prevent upstream migration of undesirable species, but they also fragment habitat and can isolate fish populations detrimentally. Construction of physical barriers can be very expensive and permanent. Barriers impact fisheries above and below, and long-term sustainability of the upstream and downstream fishery are thoroughly considered prior to construction.

### Chemical Removal

Use of piscicides, or chemicals, are one of the most effective tools to remove all fish from a waterbody. Piscicides are most commonly used in streams above barriers to remove non-native fish and replace with native species. Piscicides are also commonly used to quickly remove illegal introductions that threaten the local fishery. Piscicides are restricted-use pesticides that are closely regulated by the U.S. Environmental Protection Agency and the Montana Department of Agriculture and all applications require the presence of a certified licensed applicator during treatment. Piscicide chemicals are safe for non-gilled organisms and are chemically neutralized at waterbody outlets or downstream barriers to prevent impacts to humans and non-target organisms outside the treatment area. All gilled organisms are impacted by piscicides, but aquatic life in treated waterbodies rebound quickly due to reduced competition for habitat and abundant food; this also leads to quick reestablishment of the fishery when fish are reintroduced.

## AUTHORITY FOR REMOVAL

The commission may approve fish removal projects through its broad authority to set policy for the conservation, protection, management, and propagation of fish species under MCA 87-1-301(1)(a). Approval for fish removal projects varies depending on the type of project, be it Future Fisheries Improvement Program, aquatic invasive species, or others. For all projects, the department solicits public input through the MEPA process. The commission approves all angling regulations, projects funded through the Future Fisheries Improvement Program, and aquatic invasive removals. Fish removal projects which don't fall into these categories have not been getting review and approval by the commission.

In order to ensure the department is authorized to conduct fish removal projects, the department will seek approval through the commission for removal of fish in restoration projects. Of the planned current 22 fish removal projects, 8 have been specifically approved through previous commission action, and 14 are still seeking commission approval. One project has been approved for planning purposes by the Director, but still need commission approval prior to starting the project.

## CURRENT PROJECTS

Currently, there are 22 fish removal projects that are planned for the 2021 field season with 14 that have not been reviewed by the commission. Types of projects for this year range from mechanical removals to reduce competition or hybridization risk of native species, piscicide treatments to remove nonnative fish above barriers and reintroduce native species, piscicide and mechanical removals to improve sport fisheries, and piscicide treatments to remove unauthorized introductions of fish. Many of these removal projects have already completed the MEPA process (Environmental Assessment (EA) and Decision Notice) while others have EA's pending. Some mechanical removals have been ongoing for several years, some piscicide projects have already completed initial treatment (leaving a waterbody completely or partially fishless), while others are just getting started this year.

The purpose of the work session in May is to share more information about fish removal projects. All fish removal projects planned for 2021 can be found in Table 2 below. In order to qualify for inclusion in the table, fish removal projects had to be taking management actions that manipulate fish densities and/or species composition at a population scale; the table does not include fisheries sampling or monitoring where a subset of a fish population is collected for evaluation and is not intended to change the angling opportunity. The department intends to seek guidance from the commission on process for the projects presented here and process to engage the commission for future projects; the department will present some possible options for handling future projects at the work session.

**Table 2. Proposed Fish Removal Projects 2021**

Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
Doolittle Creek	R3	Westslope cutthroat trout (WCT) conservation	Piscicide, Mechanical	Brook trout	Fishing opportunity for brook trout in the treatment area would be lost. In the treatment area WCT will be salvaged and replaced back into the treated area as soon as possible. A fishable population of WCT is expected in about 1-3 years. Displaced anglers during treatment and reintroduction could fish in the nearby Big Hole River.	EA complete and decision notice issued 2017.	Barrier construction cost \$25,000 (FFIP, US Forest Service (USFS), Trout Unlimited (TU)). Treatment costs \$3,921 plus staff time (General License (GL)/Dingell-Johnson (DJ) base funding).	No: Previous approval by Future Fisheries Improvement Program (FFIP) and Commission
Shields River	R3	Yellowstone Cutthroat Trout (YCT)	Mechanical, Piscicide	Brook trout	Brook trout angling opportunity will be diminished in the removal area. During mechanical removal, YCT opportunity is expected to improve due to reduced competition with brook trout. During chemical treatment, YCT will be salvaged prior to treatment and replaced immediately afterwards to minimize impacts to angling opportunity.	EA for chemical treatment being drafted.	Barrier construction cost: \$394,625 (FFIP; Gallatin National Forest, Bring back the Natives, Western Native Trout Initiative (WNTI); One Fly Partnership). Treatment costs estimated at \$1,000 plus staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission
French Creek	R3	Westslope cutthroat trout, Arctic grayling restoration.	Piscicide	Brook trout, brown trout, rainbow trout	The treatment area does not currently have a fishable population as the stream was first treated in 2020. WCT will be restocked as soon after removal as possible. 40 miles of native sport fish opportunity is expected within 2-3 years of reintroduction. Angling pressure has historically been very low, and reintroduction of a native fishery is expected to provide better angling opportunity than the nonnative fishery.	EA completed and Decision Notice issued 2018. Barrier constructed in 2019. First year treatment in 2020, second year planned for 2021.	Barrier construction cost: \$418,000 (MDT, FFIP, National Fish & Wildlife Foundation (NFWF); USFS, US Fish and Wildlife Service (USFWS), Northwestern Energy (NWE), Arctic Grayling Recovery Program, Bureau of Land Management (BLM), TU, State Wildlife Grant (SWG). Treatment costs \$32,079 plus staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission

Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
NF Spanish Creek	R3	Westslope cutthroat trout, arctic grayling restoration.	Piscicide	Brook trout, brown trout, rainbow trout hybrids	Project area does not currently have a fishable population as the stream was treated in 2019 and 2020. Treatment area will be stocked with WCT and arctic grayling after treatment and will provide 17 miles of native sport fish opportunity within about 2-3 years. Angling pressure has historically been very low and the native fishery is expected to improve angling opportunity.	EA completed and Decision Notice issued 2017. First two treatments in 2019 and 2020, third year planned for 2021.	Barrier construction costs: \$405,000 (FWP; NFWF; FFIP; NWE; Turner Enterprises Inc (TEI); Madison-Gallatin TU; Arctic Grayling Recovery Program; Custer-Gallatin NF; WNTI). FWP staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission
Selway Creek	R3	Westslope cutthroat trout, arctic grayling restoration	Piscicide	Brook trout, brown trout, hybridized WCT	Brook trout, brown trout, and hybrid WCT fishing opportunity would be lost after treatment. WCT and grayling will be restocked soon after treatment. 40 miles of native sport fish opportunity expected about 2-3 years after reintroduction. Angling pressure has historically been low, and the native fishery is expected to improve angling opportunity.	EA completed and Decision Notice issued 2019. Barrier construction completed. First treatment planned for 2021	Barrier cost \$409,845 (70% USFS, remaining 30% were USFWS, FFIP, and Malteuro grants). Treatment cost \$15,000 plus staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission
Cottonwood Creek	R3	Westslope cutthroat trout restoration	Piscicide	Brook trout, hybridized WCT	Brook trout fishing opportunity would be lost in the treatment area. During and post-treatment, existing pure WCT above a waterfall will remain in place and fish colonize downstream into the treated area. Population will be further supplemented with stocking local WCT. Project will add 3.7 miles of sport fish opportunity in about 1-3 years.	Barrier constructed in 2020. EA for removal not released, currently under review and awaiting approval. First treatment planned for 2021.	Barrier construction cost \$31,600 (FFIP, TU, Trout and Salmon Foundation, MT Trout Foundation). Treatment cost likely less than \$1,000 in chemical cost, plus staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission

Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
South Fork Sixteenmile Creek	R3	Westslope cutthroat trout restoration	Piscicide	Rainbow trout hybrids	Stream does not currently have a fishable population due to previous treatments. WCT will be stocked after final treatment. Project will add 7 miles of native sport fish opportunity in about 1-3 years. Minimal angling pressure pre-treatment. Native fishery expected to improve fishery quality.	EA and decision notice completed and issued 2012. First two treatments in 2018 and 2020, third treatment planned for 2021.	Barrier \$178,000 (FFIP, USFS, TU, NWE). Treatment costs: \$14,000 including USFS, and FWP staff time (GL/DJ base funding).	No: Previous approval by FFIP and Commission
Reser Reservoir	R6	Sport fish restoration and habitat enhancement for largemouth bass, black crappie, and bluegill.	Dewatering, Mechanical, Piscicide	Crappie, bluegill, golden shiner, largemouth bass, rainbow trout, yellow perch	BLM reservoir getting drawn down for dam repair. The draw down provides opportunity to improve fish habitat and improve the largemouth bass fishery. Bass, crappie and bluegill will be stocked. Currently there is minimal fishing opportunity, and the project is expected to provide an enhanced recreational fishery. Sport fishing opportunity is expected to return 1-2 years after fish reintroduction.	BLM NEPA complete for drawdown. EA for fish removal in preparation.	\$40,000 FFIP habitat enhancement, \$1.1M BLM for dam repair and habitat enhancement. Additional treatment costs to be covered through FWP GL/DJ base funding.	No: Previous approval by FFIP and Commission
Flathead River Tributaries (7 tributaries)	R1	Ongoing maintenance removal of rainbow trout for WCT conservation. Removal occurs during spawning season, 2021 spawning season has passed, next opportunity is early in 2022.	Electrofishing	Rainbow trout	No impacts to fishing opportunity. A self-sustaining WCT population provides fishing opportunity. Captured rainbow trout are moved to Pine Grove Pond to provide family fishing opportunity.	EA complete and Decision Notice issued in 2013.	Bonneville Power Administration (BPA) funded, in current BPA contract. Staff time only, in base BPA funding.	Yes

Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
Cooney Creek	R1	Westslope cutthroat trout conservation project in a tributary to the Swan River. One of the few pure WCT populations in the area. This would be the third year of electrofishing removal.	Electrofishing	Brook trout, rainbow trout	Fishing opportunity for brook trout and rainbow trout is expected to diminish, while WCT fishery is expected to improve through reduced competition and hybridization. Fishing pressure is low and is not expected to increase after nonnative removal.	EA complete and decision notice issued 2019.	Staff time only, in GL/DJ base funding.	Yes
Red Butte Creek	R1	Westslope cutthroat trout conservation project in a tributary to the Swan River. USFS is the lead agency on the project.	Electrofishing	Brook trout	Minimal impacts to fishing opportunity. Salvaged brook trout are moved below a downstream barrier. Any lost opportunity is replaced below the barrier or with increased WCT opportunity above the barrier. Angling pressure or opportunity is not expected to change due to this project.	USFS completed an EA for barrier construction. USFS applies to FWP for a Scientific Collectors Permit.	USFS staff. FWP staff time only (GL/DJ base funding).	Yes
Smith Creek	R1	Westslope cutthroat trout conservation project in a tributary to the Swan River. USFS is the lead agency on the project.	Electrofishing	Brook trout	Minimal impacts to brook trout fishing due to low population densities. Any lost opportunity would be replaced with improved WCT opportunity.	USFS applies to FWP for Scientific Collectors permit.	USFS staff. FWP staff time (GL/DJ base funding).	Yes
Swan Lake	R1	Maintenance removal of lake trout in Swan Lake for the benefit of listed bull trout. Lake trout were illegally introduced into the system impacting the existing kokanee and bull trout fishery. USFWS project.	Gill netting	Lake trout	Project is expected to diminish lake trout opportunity while improving bull trout, WCT, and kokanee salmon opportunity.	EA currently being edited. USFWS and USFS taking lead on environmental compliance documents.	USFWS led effort. FWP staff time for EA/approval process and population monitoring.	Yes

Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
Martin Creek	R1	Westslope cutthroat trout restoration	Piscicide	WCT/YCT hybrids	Fishing opportunity will be lost within the treatment area. Stream will be stocked with neighboring pure WCT as soon after treatment as possible. Native sport fishing opportunity is expected 1-2 years after reintroduction.	EA complete and decision notice issued 2020. First year of treatment was in 2020, second treatment planned for 2021.	Treatment costs \$3,500 plus staff time in BPA base funding. USFS staff time	Yes
NF Blackfoot	R2	Westslope cutthroat trout restoration	Piscicide	Rainbow trout hybrids	Fishing opportunity would be lost during and shortly after treatment. Stocking of WCT for several years after treatment. Reintroduced native fishery is expected to provide better opportunity than with previous hybridized fish. Sport fishing opportunity expected 2-3 years after reintroduction.	EA complete and decision notice issued 2020. Removal in 2021.	USFS Crown of Continent (\$135,000); MT Natural Resource Damage Program (\$500,000); FWP Staff time only, in GL/DJ base funding.	Yes Approved by Director
Unnamed Koi Pond, Bitterroot Valley	R2	To remove illegally introduced koi. The pond is at risk of flooding into the Bitterroot River.	Piscicide	Koi carp	Private pond, public opportunity does not exist.	EA pending.	Department will work with the landowner to get costs reimbursed.	Yes
Andrus Creek	R3	Westslope cutthroat trout restoration. Recent invasion of rainbow trout impacting the pure population.	Piscicide	Rainbow trout, hybrids, brook trout	Loss of rainbow and brook trout opportunity following treatment. Stream will be recolonized with salvaged WCT. Minimal fishing pressure not expected to change post-treatment. Native fishery expected to improve fishing opportunity. Fishing opportunity expected 1-3 years post-treatment.	EA completed and decision notice issued 2017. Barrier construction August 2021. First treatment planned for 2021	Barrier construction cost \$93,000 (landowner, FFIP). Treatment cost \$2,845 plus FWP staff time (GL/DJ base funding). BLM, TU, FWP, and USFS staff time).	Yes
Unnamed Private Pond, Bridgers	R3	Walleye and perch illegally stocked into a private pond.	Piscicide	Perch, walleye	Private pond with no public access.	Region actively working with landowner and enforcement.	Department will work with landowner to get costs reimbursed	Yes



Site	Region	Purpose	Removal type	Species targeted for removal	Impacts to opportunity	Project status	Funding	Needs commission approval Yes/No
Brushy Fork	R5	Yellowstone cutthroat conservation by reducing competition with non-native species.	Mechanical	Brook trout and brown trout.	Mechanical removals expected to diminish brook trout and brown trout opportunity while improving fishing opportunity for YCT. Fishing opportunity for nonnative fish downstream not impacted by removals.	EA expired, update pending.	FWP staff time (GL/DJ base funding).	Yes
Buffalo Creek	R5	Yellowstone cutthroat conservation through removal of rainbow trout.	Piscicide	Rainbow trout	Rainbow fishing opportunity will be lost in the treatment area. YCT will be stocked into the area after treatment. Low angler pressure due to remote wilderness location. Native YCT fishery expected to improve fishing opportunity. Sport fishing opportunity expected 1-3 years after treatment. Stocking catchable size YCT in Hidden Lake (located within the basin) will mitigate lost opportunity.	Public comment complete on EA, decision notice pending. Treatment is planned for 2022, approval in 2021 is preferred in order to have all planning work complete prior to treatment.	Treatment costs, including supplies, staff time, and outfitter costs \$239,0000 (FWP-GL/DJ, National Park Service, TU, USFS).	Yes
Arapooish	R5	Sport fish restoration to improve bass fishery and water quality.	Mechanical, piscicide	Native suckers, other nongame species	Project is intended to improve angling opportunity by removing nongame fish. Fishing opportunity also available in the adjacent Bighorn River.	EA currently being drafted.	FWP staff time only (GL/DJ base funding).	Yes
Unnamed Pond, near Zortman	R6	Removal of illegally introduced goldfish.	Piscicide	Goldfish	Private pond, no fisheries potential.	EA complete, decision notice issued 2020	Very minimal treatment and staff costs covered with GL/DJ base funding.	Yes

## Montana Code and Administrative Rules Related to Fish Removal

**87-1-201. Powers and duties.** (1) Except as provided in subsection (12), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (12), the department shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is under the control of the department and is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) Except as provided in subsection (12), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under [87-5-107](#) or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under [87-5-107](#) or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species;

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in [87-1-322](#) and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [87-1-323](#). In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(iv) in accordance with the forest management plan required by [87-1-622](#), address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(10) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal, as defined in [87-2-101](#), in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count.

(11) The department shall report current sage grouse population numbers, including the number of leks, to the Montana sage grouse oversight team, established in [2-15-243](#), and the environmental quality council, established in [5-16-101](#), on an annual basis. The report must include seasonal and historic population data available from the department or any other source.

(12) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

- (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;
- (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;
- (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to [87-6-401](#)(1)(f);
- (d) the regulation of migratory game bird hunting pursuant to [87-3-403](#); or
- (e) the restriction of the use of rifles for bird hunting pursuant to [87-6-401](#)(1)(g) or (1)(h).

From <[https://leg.mt.gov/bills/mca/title\\_0870/chapter\\_0010/part\\_0020/section\\_0010/0870-0010-0020-0010.html](https://leg.mt.gov/bills/mca/title_0870/chapter_0010/part_0020/section_0010/0870-0010-0020-0010.html)>

**87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in [23-1-111](#) and [87-1-303\(3\)](#), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in [23-1-111](#) and [87-1-209\(2\)](#) and (4);

(f) except as provided in [23-1-111](#), shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in [23-1-111](#), shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in [87-1-322](#) and maintain elk, deer, and antelope population numbers at or below population estimates as provided in [87-1-323](#). In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to [87-3-145](#); and

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3.

From [https://leg.mt.gov/bills/mca/title\\_0870/chapter\\_0010/part\\_0030/section\\_0010/0870-0010-0030-0010.html](https://leg.mt.gov/bills/mca/title_0870/chapter_0010/part_0030/section_0010/0870-0010-0030-0010.html)

**87-1-283. Native Montana fish species enhancement program.** (1) In order to enhance populations of native Montana fish species through habitat restoration, reductions in species competition, and natural reproduction, the department shall, through its future fisheries improvement program, restore habitats and spawning areas and reduce species competition in rivers, lakes, and streams for Montana's native fish species.

(2) In order to implement this section, the department may expend revenue from the native Montana fish species enhancement program for one additional full-time employee and one contractor to assist the review panel.

(3) The department shall also work with the department of transportation to implement enhancement of native Montana fish species by providing annual updates to the state transportation improvement program regarding possible additions to projects that will benefit the enhancement effort. State transportation improvement plan funds expended for native Montana fish species must be accounted for separately and reported annually.

From <[https://leg.mt.gov/bills/mca/title\\_0870/chapter\\_0010/part\\_0020/section\\_0830/0870-0010-0020-0830.html](https://leg.mt.gov/bills/mca/title_0870/chapter_0010/part_0020/section_0830/0870-0010-0020-0830.html)>

**87-1-702. Powers of department relating to fish restoration and management.** The department is hereby authorized to perform such acts as may be necessary to the establishment and conduct of **fish restoration and management projects** as defined and authorized by the act of congress, provided every project initiated under the provisions of the act shall be under the supervision of the department, and no laws or rules or regulations shall be passed, made, or established relating to said fish restoration and management projects except they be in conformity with the laws of the state of Montana or rules promulgated by the department, and the title to all lands acquired or projects created from lands purchased or acquired by deed or gift shall vest in, be, there remain in the state of Montana and shall be operated and maintained by it in accordance with the laws of the state of Montana. The department shall have no power to accept benefits unless the fish restoration and management projects created or established shall wholly and permanently belong to the state of Montana, except as hereinafter provided.

From <[https://leg.mt.gov/bills/mca/title\\_0870/chapter\\_0010/part\\_0070/section\\_0020/0870-0010-0070-0020.html](https://leg.mt.gov/bills/mca/title_0870/chapter_0010/part_0070/section_0020/0870-0010-0070-0020.html)>

**87-5-715. Extermination or control of transplanted or introduced wildlife or feral species posing threat.** Any wildlife or feral species transplanted or introduced in the state may be exterminated or controlled by the department if the commission determines that the species poses harm to native wildlife or plants or to agricultural production.

From <[https://leg.mt.gov/bills/mca/title\\_0870/chapter\\_0050/part\\_0070/section\\_0150/0870-0050-0070-0150.html](https://leg.mt.gov/bills/mca/title_0870/chapter_0050/part_0070/section_0150/0870-0050-0070-0150.html)>

**80-7-1008. Invasive species management area -- authorization.** (1) Except as provided in [80-7-1015](#), when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

- (a) the invasive species present or considered threatening; and
- (b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:
  - (i) the use of quarantine measures;
  - (ii) the movement of vessels and equipment within, to, and from the area; and
  - (iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to, or from the area. Mandatory inspections of any interior portion of a vessel or equipment that may contain water may occur only if the use of mandatory inspections is included as part of quarantine measures established pursuant to subsection (3)(b)(i).
- (4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in [80-7-1004](#). The departments may coordinate with any other governmental entity for the posting of signs.

From <[https://leg.mt.gov/bills/mca/title\\_0800/chapter\\_0070/part\\_0100/section\\_0080/0800-0070-0100-0080.html](https://leg.mt.gov/bills/mca/title_0800/chapter_0070/part_0100/section_0080/0800-0070-0100-0080.html)>

## **Administrative Rule Subchapter: 12.7.15 Unauthorized Placement of Fish**

### **12.7.1501 GENERAL PURPOSE**

- (1) As determined by the department, these rules pertain to the department's response to the detection of a species of fish in public waters where the department has not authorized the presence of that species. These rules are intended to cover all placement of unauthorized species into the public waters, including from outside or inside the state through introduction or transplantation. Unauthorized species refers to any live fish found in public waters without authorization by the department.
- (2) Unauthorized fish in public waters is of significant concern and is likely to have many adverse impacts, including but not limited to:
  - (a) adverse impacts on native, wild and stocked fish populations;
  - (b) potential to spread disease;
  - (c) degradation of water quality;
  - (d) degradation of aquatic habitat;
  - (e) increased fishery management costs;
  - (f) loss of angling opportunities and quality; and
  - (g) harm to local and regional tourism economies.

(3) The department and commission shall make prevention of and response to unauthorized species a priority.

(4) During efforts to respond to unauthorized species, the department will endeavor to protect the previously existing fishery and suppress or eradicate the unauthorized species to maintain the existing management objectives for that fishery.

History: [87-5-704](#), MCA; [IMP](#), [87-5-701](#), [87-5-704](#), [87-5-713](#), [87-5-715](#), MCA; [NEW](#), 2014 MAR p. 1592, Eff. 7/25/14.

From <<http://www.mtrules.org/gateway/RuleNo.asp?RN=12%2E7%2E1501>>

#### **12.7.1502** DEPARTMENT'S INITIAL RESPONSE AND ACTION PLAN

(1) The department shall begin an initial investigation within 30 days after the report of the presence of an unauthorized species in an attempt to confirm that an unauthorized placement has occurred and to estimate the distribution, abundance, age structure, and potential population expansion of the unauthorized species.

(2) The department shall prepare an action plan for responding to an unauthorized species. The action plan will identify the department's immediate and long-term management objectives for the unauthorized species and the management actions that may be implemented to achieve those objectives. The management objectives shall be based on a risk and feasibility assessment, with consideration for the following:

(a) the risk that the unauthorized species could expand into connected or nearby waters;

(b) the current distribution of the unauthorized species and the proximity of those populations to the new placement;

(c) the probability that the unauthorized species will survive and propagate;

(d) the impact that the unauthorized species might have on the existing fishery, especially threatened or endangered species, native species, game species, and important forage species;

(e) the immediate and long-term impacts that the unauthorized species might have on previously existing angling opportunities; and

(f) the immediate and long-term economic impacts that the unauthorized species might have on the department, the public, and the economy.

(3) To protect existing fisheries, local economies, wildlife enjoyment, and angler opportunities, the department shall attempt eradication or suppression of the unauthorized species if determined to be practical and necessary based on a risk and feasibility assessment, as set forth in this rule.

(4) The department shall attempt to identify and cite any individuals responsible for the unauthorized placement and seek penalties and restitution pursuant to the penalties and fines outlined in law.

History: [87-5-704](#), MCA; [IMP](#), [87-5-701](#), [87-5-704](#), [87-5-713](#), [87-5-715](#), MCA; [NEW](#), 2014 MAR p. 1592, Eff. 7/25/14.

From <http://www.mtrules.org/gateway/RuleNo.asp?RN=12%2E7%2E1502>>

### **12.7.1503** MANAGEMENT ACTIONS

- (1) The department's action plan for responding to a confirmed unauthorized species may include, as determined by the department, the following management actions for eradication or suppression:
- (a) prohibit or discontinue stocking the water body if the presence of the unauthorized species reduces the effectiveness of the stocking effort;
  - (b) prohibit or discontinue stocking of any forage fish species that benefits the unauthorized species;
  - (c) modify angling regulations for the immediate and connected water bodies with unauthorized species including:
    - (i) liberalizing or removing daily angling limits;
    - (ii) enacting catch-and-release fishing;
    - (iii) extending or removing the angling season;
    - (iv) allowing capture methods other than hook and line;
    - (v) instituting mandatory catch-and-kill regulations; or
    - (vi) closing the water to all fishing.
  - (d) deny applications for fishing contests that target the unauthorized species, except in cases where the department determines the contest is an essential tool for suppression or eradication and requires that the contest has catch-and-kill rules;
  - (e) authorize commercial harvest or economic harvest incentives for the unauthorized species if statutory authority is provided and is prescribed by a management plan;
  - (f) implement physical control measures to reduce the population of unauthorized species, including:
    - (i) installation of fish barriers;
    - (ii) removal using chemical or mechanical methods;
    - (iii) netting spawning fish;
    - (iv) habitat manipulation (e.g., reservoir drawdown);
    - (v) removing illegal species when encountered incidental to other management or survey activities; or
    - (vi) disturbing spawning areas to reduce survival.
  - (g) implement angler harvest incentive programs.



History: [87-5-704](#), MCA; [IMP](#), [87-5-701](#), [87-5-704](#), [87-5-713](#), [87-5-715](#), MCA; [NEW](#), 2014 MAR p. 1592, Eff. 7/25/14.

From <<http://www.mtrules.org/gateway/RuleNo.asp?RN=12%2E7%2E1503>>

#### **12.7.1504** ADAPTIVE MANAGEMENT APPROACH FOR UNAUTHORIZED SPECIES

(1) The department may amend its management objectives for a body of water if after a reasonable period of time the department concludes that:

(a) the management actions have succeeded and the department has accomplished the management objectives and that continued implementation of the existing action plan is no longer necessary; or

(b) the management actions have failed to accomplish the management objectives, and that continued implementation of the existing action plan is unlikely to accomplish the desired outcome.

(2) Revisions to the management objectives may prescribe management actions that are more tolerant or less tolerant of the presence of the unauthorized species and must include a rationale for any changes. The department shall report any revisions to the management objectives to the commission.

History: [87-5-704](#), MCA; [IMP](#), [87-5-701](#), [87-5-704](#), [87-5-713](#), [87-5-715](#), MCA; [NEW](#), 2014 MAR p. 1592, Eff. 7/25/14.

From <<http://www.mtrules.org/gateway/RuleNo.asp?RN=12%2E7%2E1504>>

#### **12.7.1505** REPORTING REQUIREMENTS

(1) The department shall maintain an electronic repository utilizing a standardized format to document the initial investigation and subsequent management actions taken in response to each unauthorized species.

(2) Documentation must include, but is not limited to:

(a) results of the department's initial investigation to confirm the presence of the unauthorized species and information collected on the distribution, abundance, age structure, and potential population expansion of the unauthorized species;

(b) the action plan for responding to the unauthorized species, including the management objectives and potential management actions;

(c) a summary of management actions taken to respond to the unauthorized species; and

(d) changes to any action plan taken under the adaptive management approach.

(3) The electronic repository shall be updated on an annual basis to include all new unauthorized species and changes to documentation regarding previously reported unauthorized species.

(4) The electronic repository will be made available to the public.

History: [87-5-704](#), MCA; IMP, [87-5-701](#), [87-5-704](#), [87-5-713](#), [87-5-715](#), MCA; NEW, 2014 MAR p. 1592, Eff. 7/25/14.

From <<http://www.mtrules.org/gateway/RuleNo.asp?RN=12%2E7%2E1505>>