

**Recommended Edits to Licensing Rules
within the Fish and Wildlife Commission’s Rulemaking Authority**

New Rules

NEW RULE I OUTFITTER PREFERENCE POINTS (1) Preference points are non-refundable and not transferable between applicants.

(2) In accordance with 87-2-115, MCA, nonresidents hunting with an outfitter may purchase an outfitter preference point in addition to the purchase of a preference point.

(3) if an applicant is unsuccessful in the drawing and retains their outfitter preference point, those accumulated points may only be used when the applicant elects to hunt with an outfitter at the time of application in subsequent drawings if done in consecutive years.

AUTH: 87-1-301, MCA

IMP: 87-2-115, MCA

REASON: HB 637 (2021) added language allowing “a nonresident hunting with an outfitter licensed pursuant to Title 37, chapter 47, part 3” and providing the required documentation, “may purchase two preference points per license year.” The language contained New Rule I clarifies that the preference points are non-refundable and not transferable and also clarifies outfitter preference points may only be purchased when the applicant elects to hunt with an outfitter at the time of application.

Amendments to current rules: (new matter underlined and deleted matter interlined)

12.3.105 LIMITATION ON NUMBER OF HUNTING LICENSES (1) When the ~~department~~ commission sets a limitation or quota for the number of hunting licenses to be issued in any hunting district or other designated area, resident applicants shall receive at least 90% of the total hunting licenses to be issued for that game species in that district. When the number of resident applicants totals less than 90% of the quota for that district, all resident applicants shall receive a hunting license for that game species.

(2) The remaining licenses will be issued to the nonresident applicants for that district by drawing. Then, any remaining licenses for that district shall be sold as surplus or over the counter.

~~(3) Any thereafter remaining licenses for that district shall be issued in such manner as the director determines.~~

AUTH: 87-1-304, 87-2-506, MCA

IMP: 87-2-701, 87-2-506, MCA

REASON: The amendments to ARM 12.3.105 clarifies the appropriate authority and the long standing process for issuing licenses that remain unallocated after the drawing.

12.3.110 DEFINITIONS For purposes of these annual regulations this chapter:

(1) "Bonus point" as described in 87-2-117, MCA.

(2) "Commission" means the Montana Fish and Wildlife Commission.

(3) "Contiguous land" means land that is owned in fee title by the applicant and that is not interrupted by land owned by another person. Land that is owned by the applicant that is interrupted by adjacent federal or state land may on an individual basis be considered as contiguous land if the individual leases the federal or state land.

(4) "Department" means the Department of Fish, Wildlife and Parks.

(5) "Drawing" means the random selection of licenses or permits when applications received exceed the quota set by the commission for a hunting district. The license or permit may include limitations on taking by sex, age, species, time period, or designated area.

(6) "Employee" means individual who is paid by a landowner for services rendered and have state, federal, or FICA taxes withheld from their pay.

(7) "Game damage" as described in 87-1-225, MCA.

(8) "Immediate family member" means related individual by blood or marriage.

(9) "Land that is used by elk" means land that elk inhabit.

(10) "Landowner preference" means a drawing that is conducted before the general drawings in which the landowners are randomly drawn for a portion of the quota as set by the commission.

(11) "Landowner sponsor" means a landowner who meets the qualifications of section 87-2-511, MCA and these rules for licenses.

(12) "License" means an electronic or hardcopy document issued to an individual that grants the opportunity to hunt or fish for the species of animal.

(13) "License agent" means an entity that has received an appointment pursuant to 87-2-901.

(14) "Party" means a group of two to five persons applying together to obtain a permit or license.

(15) "Permit" means an electronic or hardcopy document to be used in conjunction with the proper license to hunt or fish for specific species of animals.

(16) "Preference point" as established in 87-2-115, MCA.

(17) "Quota" means a set number of animals to be harvested, or licenses to be issued, within a specified land area (hunting district, administrative region or state).

(18) "Regional license quota" means the total quota established of hunting districts within a specific department administrative region.

(19) "Super-tag" means licenses established under 87-1-271, MCA

(1) "Hunting season" means any season set to accomplish one or all of the following:

(a) to provide sport hunting (general season);

(b) to harvest numbers of a species to manage the population according to available habitat (management season);

(c) to fulfill responsibilities for game damage control (damage season);

(d) to address the risk of disease.

(2) "License" means the document issued to an individual upon payment of the proper fee and in compliance with other requirements of law and rule from the department or its authorized license agent. A license constitutes the grant of authority

by the state of Montana to hunt the species of game animal under the conditions set forth in annual rules adopted by the commission.

(3) "Permit" means the document issued to an individual which, upon payment of the proper fee and in compliance with requirements of the department, constitutes permission to that individual to hunt the listed game animal species under the conditions set forth thereon. A permit may be used only in conjunction with the proper license.

(4) "Drawing" means the random selection of licenses or permits when applications received exceed the quota set by the commission for a hunting district. The license or permit may include limitations on taking by sex, age, species, time period, or designated area.

(5) "Commission" means the Montana Fish and Wildlife Commission.

(6) "Contiguous land" means land that is owned in fee title by the applicant and that is not interrupted by land owned by another person. Land that is owned by the applicant that is interrupted by adjacent federal or state land may on an individual basis be considered as contiguous land if the individual leases the federal or state land.

(7) "Disease" means any disease that may directly or indirectly impact wildlife or wildlife management.

(8) "Game damage" means damage by game animals to private property (most often stored livestock feed such as hay stacks or silage or standing cultivated crops such as grain, alfalfa hay or alfalfa seed) which is of a magnitude deemed "unreasonable", constituting a problem for landowners.

(9) "Land that is used by elk" means land that elk inhabit.

(10) "Landowner preference" means a drawing that is conducted before the general drawings in which the landowners are randomly drawn for a portion of the quota as set by the commission.

(11) "Landowner sponsor" means a landowner who meets the qualifications of section 87-2-511, MCA and these rules for licenses.

(12) "Employees" mean individuals who are paid by a landowner for services rendered and have state, federal, or FICA taxes withheld from their pay.

(13) "Immediate family members" mean individuals who are related to the landowner by blood or marriage.

(14) "Quota" means a set number of animals to be harvested, or licenses to be issued, within a specified land area (hunting district, administrative region or state).

(15) "Tentative regulations" means "proposed" regulations which are distributed for public review and comment in draft form. In March, following publication, the Montana Fish, Wildlife, and Parks Commission may amend "tentative regulations" prior to adopting them as "final regulations".

(16) "Class of licenses" means B-10 is a nonresident combination license, B7 is nonresident deer, etc.

(17) "Prerequisite" means a license that must be purchased by a sportsman in order to purchase another license.

AUTH: 87-1-201, 87-1-301, MCA

IMP: 87-1-201, 87-1-301, MCA

REASON: The amendments to ARM 12.3.110 place the definitions into alphabetical order so words and definitions can be easily located. “License” and “permit” have amended definitions from what is in current rule language. The proposed additional defined words are “bonus point”, “department”, “identification”, “party”, “preference point”, “regional license quota”, and “super-tag”.

12.3.112 ANTELOPE LICENSES (1) ~~Manner of drawing.~~ The department shall issue antelope licenses as described in section 87-2-706, MCA, and ARM 12.3.104 (landowner preference).

(2) Fifteen percent of a district quota will be set aside for the landowner drawing.

~~(3) Landowner applications must be on current year forms and postmarked no later than June 1st.~~

~~(4) Party applications.~~

~~(a) Party applications are limited to five or fewer members per party.~~

~~(b) All valid applications will be considered as a single application for purposes of the drawing; that is, all members will either be successful or unsuccessful.~~

~~(c) Any applicant applying as a member of an antelope party and who is otherwise eligible for landowner preference will be contacted and asked to make a choice between landowner preference and being in the party.~~

~~(d) Applications must have all requested party information, and that information must be correctly presented.~~

~~(e) A party will be broken up only under the following circumstances:~~

~~(i) If all members of the party do not list districts in the same order on their applications, the party will be split up and all members will be entered into the drawing individually.~~

~~(ii) If one member of the party fails to provide mandatory information such as date of birth, signature, etc. — that member will be excluded from the drawings. The remaining members will be processed as a party.~~

~~(5) Landowner preference applications. All applications claiming landowner preference are verified through local game wardens for authenticity of ownership. Applications with errors may be sent back to the applicants for correction at the discretion of the department if time allows.~~

AUTH: 87-2-706, MCA

IMP: 87-2-706, MCA

REASON: The proposed amendments delete language that has been moved and consolidated the language regarding party applications to ARM 12.3.160. ARM 12.3.112(3) has been moved to ARM 12.3.140(6). ARM 12.3.112(5) is a practice that is no longer feasible as there is not enough time between when applications are submitted and approved that allows local game wardens time to approve individual LOP applications. The current practice is to prepare a report specific to LOP applications in each region for enforcement review.

12.3.113 ELK PERMITS (1) ~~Manner of drawing.~~ The department issues elk permits for landowner preference described in section 87-2-705, MCA, according to the following policies and procedures:

(a) The statutory requirement of 640 acres of contiguous land is used only to determine if the applicant is eligible to apply as a landowner.

(b) If license/permits are valid in a designated portion of a hunting district, some of the land owned by the applicant must be within the boundaries of that portion.

(c) Both resident and nonresident landowners must use the special drawing application provided by the department. The department shall verify that the applicant owns 640 acres, that it is contiguous land used by elk, and that the designee of the landowner preference is eligible.

~~(d) The 15% calculation may result in a fraction of a license/permit. e.g. 15% of 50 is 7.5. If the decimal is equal to or greater than .5, it will be rounded up to the next whole number. If the decimal is less than .5, it will be rounded down to the next whole number.~~

~~(e)~~ (d) Partnerships may delegate landowner preference to members of the immediate family, a partner or an employee. Only one person may be delegated landowner preference for each sole proprietorship, partnership or corporation. A corporation may delegate the landowner preference to one shareholder.

(f) All applicants entitled to landowner preference will be considered in the preference drawings for elk. Unsuccessful landowner applicants who exceed 15% of a district will be entered into the regular drawings with their district choices. ~~As a result, unsuccessful landowner applicants will have two opportunities to be drawn.~~

~~(g) Landowner applications must be on current year forms and be postmarked no later than June 1.~~

~~(2) Party applications. Where the commission has authorized party elk hunts, the following rules apply:~~

~~(a) Application for elk permits is limited to two members per party;~~

~~(b) Both applications will be considered as a single application for the purpose of the drawing; both members of the party will either be successful or unsuccessful.~~

~~(c) Applications must have all requested party information correctly presented. A party will be broken up only under the following circumstances:~~

~~(i) If both members of the party do not list their districts in the same order on their applications the party will be broken up and both members will be entered in the drawing individually.~~

~~(ii) If one member of the party is missing mandatory information such as date of birth, signature, etc. only that member will be eliminated from the drawings. The remaining member will be entered in the drawing individually.~~

~~(3) (2) Special elk permits. Residents may not apply for an elk permit without first purchasing an A-5 elk license.~~

~~(3) Nonresidents must purchase the B-10 nonresident big game combination license prior to or at the time of submittal of drawing applications. All persons holding a valid elk license may participate in postseason elk drawings under annual rules adopted by the commission.~~

~~(4) Landowner preference applications. Applications with errors may be sent back to the applicants for a correction at the discretion of the department if time allows.~~

AUTH: 87-1-301, 87-2-702, MCA
IMP: 87-2-706 87-1-301, MCA

REASON: The deletion of language from ARM 12.3.113 (d) & (f) was done because the language was found in 87-2-705, MCA and thus unnecessary to be duplicated in administrative rule. ARM 12.3.113(2)(a)-(c)(ii) have been moved and consolidated the language regarding party applications in ARM 12.3.160. ARM 12.3.113(4) has been consolidated to ARM 12.3.165. ARM 12.3.113(f) is unclear. Landowners that are unsuccessful in the Landowner Preference drawing are considered in the general drawing with their original randomized drawing number thus not truly not giving them a secondary drawing opportunity.

12.3.115 DEER B LICENSE/DEER PERMITS (1) Residents may not apply for a deer permit without first purchasing an A-3 license.

(2) Nonresidents must purchase a B-10 or B-11 license at the time of submittal of drawing application.

(1) The department shall issue deer B licenses and deer permits as described in ARM 12.3.104 (landowner preference).

~~(2) Residents who apply for a deer permit may do so without prior purchase of a deer license. When an individual is successful in a drawing for a deer permit, he must purchase the appropriate license before hunting. A permit is not valid unless it is accompanied by a valid license for the proper species. A conservation license must be purchased prior to application. Nonresidents who are applying for drawings for deer permits must purchase a B-10 or B-11 license prior to or at the time of submittal of drawing applications.~~

~~(3) Applications with errors may be sent back to the applicants for correction at the department's discretion if time allows.~~

AUTH: 87-1-304, MCA
IMP:87-1-304, MCA

REASON: The amendments to ARM 12.3.115 were made to be consistent with the long standing and current practice of issuance of deer permits. ARM 12.3.115 (3) has been consolidated to ARM 12.3.165.

12.3.116 MOOSE, SHEEP, GOAT LICENSES (1) The department shall issue moose, sheep, and goat licenses as described in sections 87-2-701 and 87-2-506, MCA according to the following policy and procedures:

~~(a) (1) Applicants for moose and goat licenses must specify designate only one choice for a hunting district. However, for bighorn sheep, an applicant may specify a second choice.~~

(2) Applicants for sheep licenses must designate a first choice for hunting district. Any secondary opportunity selection must be for ewe only.

~~(b) Application for unlimited sheep must be postmarked no later than May 1. The deadline may be extended by the department if necessary to provide adequate time for the applicants to apply.~~

~~(2)~~ (3) The following procedure will be used when allocating 10% license opportunities for nonresidents in moose, sheep and goat drawings:

(a) The total regional license quota, by species and region, will be used to determine 10% nonresident quota.

(b) Nonresident license allocations will be applied to those hunting districts and season types with a quota of ten or more ~~in the tentative regulations.~~

(c) Any remaining license allocation will be ~~put~~ included, on a rotating basis, in those hunting districts and season types with a quota of less than ten ~~of the tentative regulations.~~

(d) If no hunting district in a region has a quota of ten or more licenses ~~on the tentative regulations~~, all of the nonresident license authority will be allocated as described in (c).

(e) If a region has a total quota of less than ten, no nonresident license allocations will be made for that region.

AUTH: 87-1-304, 87-2-701, MCA

IMP: 87-1-304, 87-2-506, 87-2-701, MCA

REASON: The amendments to ARM 12.3.116 were made to be consistent with the long standing and current practice of issuance of moose, sheep, and goat licenses.

12.3.131 PROPOSALS FOR LICENSES SOLD BY AUCTION OR LOTTERY

~~(1) The commission may authorize:~~

~~(a) the department to conduct the auction or lottery; or~~

~~(b) a wildlife conservation organization to conduct the auction or lottery.~~

~~(2)~~ (1) Organizations that demonstrate a commitment to the conservation of the species may submit a proposal to the commission for a license to be sold by auction or lottery.

~~(3)~~ (2) A proposal must include:

(a) a statement of the organization's purpose;

(b) copies of bylaws or articles of incorporation;

(c) details of the organization's previous involvement in the conservation of the species hunted under the license;

(d) details of the organization's previous experience in auctions or lotteries;

(e) information on how the auction or lottery would be conducted and an estimate of the potential revenue that will be generated; and

(f) a statement indicating whether the organization plans to retain up to 10% of the proceeds to cover reasonable auction expenses and that the organization will submit expenses associated with the auction of the license.

~~(4)~~ (3) The commission reserves the right to reject all bids and proposals.

AUTH: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

IMP: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

REASON: The deletion of language from ARM 12.3.131 was done because the language was found in statute and was unnecessary to be in administrative rule.

12.3.132 PROCEDURE FOR SUBMITTING PROPOSALS AND AWARDING AN AUCTION OR LOTTERY LICENSE (1) ~~The department will advertise the opportunity for organizations to submit auction or lottery license proposals through media announcements and letters to organizations showing interest in previous years solicit and accept proposals from organizations to conduct auctions or lotteries for licenses.~~

(2) ~~Proposals for auctions or lottery licenses to be issued for the following license year must be mailed or hand delivered to Montana Department of Fish, Wildlife and Parks, License Bureau, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701 and must be postmarked or hand delivered received by the department's Licensing Bureau on or before July 15. If July 15 is a Saturday or Sunday the next business day is when proposals will be due.~~

(3) ~~The commission may select a conservation organization proposal to receive the auction or lottery license and conduct the auction or lottery. The license will be valid for the following license year.~~

AUTH: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

IMP: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

REASON: The deletion of language from ARM 12.3.132 were made to be consistent with the long standing and current practice of issuance

12.3.133 ISSUANCE AND USE OF A LICENSE SOLD BY AUCTION OR LOTTERY (1) A license obtained through an auction or lottery may not be resold and may not be transferred except in accordance with this rule. ~~A license transferred by sale will be voided with no refund.~~

(2) The highest bidder or lottery winner may designate one person to receive the license before issuance of the license by:

(a) ~~submitting a completed and signed affidavit provided by the department;~~ and

(b) ~~sending the affidavit certified mail to the department.~~

(3) The department shall issue the appropriate hunting license to the highest bidder, lottery winner, or a designee:

(a) after receipt of completed application; and

(b) after verification that the applicant is legally able to be licensed ~~under current statutes and administrative rules.~~

(4) A ~~hunting~~ license sold by auction or lottery is valid for ~~take of~~ one animal of the species for which it is issued.

(5) A ~~hunting~~ license sold by auction or lottery may be used in legally described hunting districts during legal hunting seasons for the species for which the license is issued.

AUTH: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

IMP: 87-2-722, 87-2-724, 87-2-725, 87-2-811, 87-2-812, MCA

REASON: The amendments to ARM 12.3.133 were made to be consistent with long standing and current practice.

12.3.134 MOOSE, SHEEP, AND GOAT - SEVEN YEAR WAIT REQUIREMENT

(1) Prior to August 1, Applicants who are successful in drawing a moose, sheep, or goat license in a license year may request to have their license voided. A voided license under this rule does not subject a hunter to the seven year wait requirement when annulled and therefore are deemed not to have been issued the license so that they are not subject to the requirement to wait seven years to reapply if the following circumstances occur:

(a) the applicant is:

(i) a member of the armed forces and is either deployed outside the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) to a combat zone, deployed in support of a peace-keeping mission, or deployed in response to a state or national emergency; or

(ii) affected by a catastrophic or major natural disaster or man-made event that requires the applicant's assistance as a member of a local, state, or federal management agency.;

~~(b) the applicant did not use and was unable to use the license during any part of the hunting season in the license year for which the license was issued and can provide appropriate documentation; and~~

~~(c) the applicant return the unused license as soon as possible during the hunting season for the species for which the license was issued or at least by December 31 and certifies that it was not used;~~

~~(i) the director or designee may authorize exceptions for extenuating circumstances that prevent the applicant from meeting the December 31 deadline for the return of license.~~

(b) Moose, sheep, and goat licenses returned under these circumstances may be reissued to unsuccessful applicants ~~in~~ for the original drawing.

AUTH: 87-1-301, MCA

IMP: 87-2-702, MCA; NEW, 2002 MAR p. 2654, Eff. 9/27/02.)

REASON: The amendments to ARM 12.3.134 were made to be consistent with long standing and current practice.

12.3.135 BONUS POINTS: AWARD AND ACCUMULATION (1) Bonus points are non-refundable and non transferable between applicants or species. There is a bonus point program.

(2) If An applicant for a permit/ or license drawing who has elected to participate in the bonus points program by paying the fee established in 87-2-113, MCA is unsuccessful in the drawing, they shall be awarded a the species-specific bonus point they purchased. for that species for each year the applicant is unsuccessful, if the applicant has elected to participate in the bonus point program. Bonus points are awarded only when a participant in the bonus point program is unsuccessful in a

drawing. A person may not "purchase" or be awarded a bonus point without applying for a license.

~~(3) The bonus point is awarded to the species, not the district, except in the case of a nonresident combination license classes B-10 and B-11, the bonus point applies to the license and not the species.~~

~~(4) (3) An applicant's bonus points accumulate until the applicant is successful in drawing a permit/ or license for a species in their first choice district, including landowner preference applications, or until the applicant fails to apply for a permit/license for more than two consecutive years for a particular species. However, if the applicant is a Montana resident in full time active military status, as verified by military orders, said time period can be for as many additional years as the applicant is on active duty.~~

~~(5) (4) If an applicant is successful in drawing a permit/ or license for a species in the first choice district, the applicant's loses all accumulated bonus points are reduced to zero for that species only.~~

~~(6) (5) If the following special circumstances occur, an applicant who is successful in drawing a permit/ or license in the first choice district may retain their accumulated bonus points if:~~

~~(a) the applicant is:~~

~~(i) a member of the armed forces and is either deployed to a combat zone, deployed in support of a peace-keeping mission, outside the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) or deployed in response to a state or national emergency; or~~

~~(ii) affected by a catastrophic or major natural disaster or man-made event that requires the applicant's assistance as a member of a local, state, or federal management agency; and~~

~~(b) the applicant did not use and was unable to use the permit/license during any part of the hunting season in the license year for which the permit/license was issued and can provide appropriate documentation; and~~

~~(c) (iii) the applicant returns the unused permit/ or license as soon as possible or at least by December 31 and certifies that it was not used; prior to the first day of the season applicable to the permit or license.~~

~~(i) (6) The director or designee may authorize exceptions for extenuating circumstances that prevent the applicant from meeting the December 31 deadline for the return of permit/licenses.~~

~~(7) Rejection of an application pursuant to ARM 12.3.140 is equivalent to failure to apply.~~

~~(8) (7) Applicants who lose hunting and fishing privileges through court action will lose accumulated bonus points for all species.~~

AUTH: 87-1-301, 87-2-117, MCA

IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705, 87-2-706, 87-2-113, 87-2-117, MCA

REASON: The amendments to ARM 12.3.135 were made to be consistent with long standing and current practice. ARM 12.3.135(3) is deleted as the bonus point system was replaced with the preference point system for B-10 & B-11 licenses in 2011.

12.3.140 APPLICATION FOR DRAWINGS (1) The application deadline for B-10 and B-11 license drawings is April 1.

(2) The application deadline for elk and deer permit drawings is April 1.

~~(4) (3) The application deadline date for the moose, sheep, and goat, and bison special drawings is on or before May 1.~~

~~(4) The application deadline date for elk B, deer B, and antelope, and antelope B special license and permit drawings is on or before June 1.~~

~~(5) Applications for youth licenses and permits are determined by the age of the child at the time of submitting the application.~~

~~(6) All applications for participation in any special permit/ or license drawing, except drawings under ARM 12.9.801 (damage hunts) provided for by these regulations must be submitted by the expressed deadline, postmarked by the U.S. Postal Service on or before the deadline date of the current license year, or delivered by private mail service on or before the deadline date; or if personally delivered, received in the Helena Fish, Wildlife and Parks office by 5:00 p.m., on the deadline date of the current license year. If the deadline date for application for any license or drawings, as set by the department, falls on a Sunday or state holiday, that date shall be automatically extended to 5:00 p.m. of the next full work day. The deadline may be extended by the department if necessary to provide adequate time for the applicants to apply.~~

~~(2) The department shall reject an application for any permit/license drawing or for surplus, mountain lion, black bear, trapping, buffalo, or grizzly bear licenses if:~~

~~(a) application is not made on the current year's form provided by the department;~~

~~(b) applicant fails to provide mandatory information on the form;~~

~~(c) applicant fails to sign the application; or~~

~~(d) applicant fails to submit the proper fee. The department will not accept personal checks from nonresidents for nonresident license applications and drawing fees.~~

~~(3) Submittal of more than one application for any one drawing by an individual will disqualify that individual's applications from the drawing for which the multiple applications were submitted.~~

~~(4) (7) No corrections or changes may will be made after the department has received the drawing application, except those types that can be made without contacting the applicant. These include:~~

~~(a) adding hunter safety numbers;~~

~~(b) moving valid district choices up to replace invalid choices;~~

~~(c) eliminating species choices on those applications that are short money when the shortfall is the amount for that species; and~~

~~(d) adjusting party applications to insure party consistency.~~

~~(5) Any category of correction made by the department must be applied to all applications. In addition, the department will accept corrections on the applications of~~

~~those seeking landowner preference. Unless otherwise provided by these rules, all drawings will take place in Helena.~~

~~(6) All applications for participation in buffalo, spring grizzly bear, swan and turkey drawings must be postmarked by the U.S. Postal Service by the advertised deadline date, or delivered by private mail service on or before the date to the address indicated for the particular drawing which is being applied for.~~

~~(7)~~ (8) If an application for any species is rejected by the department pursuant to this rule:

~~(a) the application must not be included in the procedure for awarding the permits/licenses applied for~~ will not be included in the drawing;

~~(b) the applicant must~~ will not be awarded a bonus point for that drawing for that species; and

~~(c) the drawing fee, preference point fee, and any bonus point fee, and any prerequisite licenses once the application is entered into the drawing, will be retained by the department. Applications not processed in the drawing because of errors will be returned to the applicant with all fees.~~

(9) Rejection of an application pursuant to this rule is equivalent to failure to apply.

AUTH: 87-1-304, 87-2-701, MCA

IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-705, MCA

REASON: The amendments to ARM 12.3.140 were made for clarification and to be consistent with the long standing and current practice of application for drawings. Applications are limited to electronic submissions only and require mandatory information from the applicant prior to submission making ARM 12.3.140(2)-(3) unnecessary. Mail-in applications are no longer accepted with the exception of limited application types which maintain submission requirements that are incompatible with the current automated licensing system.

12.3.160 PARTY APPLICATIONS MEMBERS OF A PARTY; EFFECT OF REJECTION OF APPLICATION OF ONE MEMBER; EFFECT OF SPECIFICATION OF AN INCORRECT DISTRICT OR SPECIES (1) All valid applications will be considered as a single application for purposes of the primary drawing; that is, all members will either be successful or unsuccessful.

(2) The party establisher will designate all members of the party at the time application.

(3) Each party member is responsible for individually finalizing their own applications.

(4) Applications must have all requested party information, and that information must be correctly presented.

(5) The party establisher will create the party's hunting districts, bonus point enrollment, outfitter preference point, and preference point enrollment for the entire party. Any member applying under different designations will be removed from the party and will be entered into the drawing individually.

(6) Any applicant applying as a member of a party and who is otherwise eligible for landowner preference will be removed from the party and entered into the landowner preference drawing as an individual.

~~(1) If the department is required, pursuant to ARM 12.3.140, to reject an application submitted by one member of a party, the department will not reject the applications of the remaining members, if submitted correctly, and they will remain in the party.~~

~~(2) If a member of a party specifies on the application a species or district different from that specified by any other member or members of the party, that application will be eliminated from the party and entered into the drawing as an individual.~~

~~(3) As used in this part, "party" means two or more persons applying together as a group to obtain a permit/license.~~

AUTH: 87-1-301, MCA

IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705, 87-2-706, MCA

REASON: Proposed amendments to ARM 12.3.160 consolidate language originally found in ARMs 12.3.113 and 12.3.112 and the definition of "party" was added to ARM 12.3.110.

12.3.165 APPLICATION ERRORS BY THE DEPARTMENT (1) Applications submitted with errors may be sent back to the applicants for correction at the department's discretion if time allows.

~~(1) (2) If the department commits an error which results in the rejection or incorrect processing of an application that has been submitted in compliance with the regulations for a permit/license, the authorized number of permits/licenses, established by the commission, may be exceeded by up to 10% of the quota for each district by at least one license.~~

(3) The department is not responsible for third-party errors. If an applicant for a permit or license drawing proves to the satisfaction of the department the rejection of the application was due solely to a third-party error, and the department deems there is sufficient time to complete the processing of the application before the drawing is held, the department shall include the application in that drawing.

~~(2) (4) The issuance of the permit/ or license referred to in (1) will be considered on a case-by-case basis only to accommodate those applicants who might have received a permit/license if not for an error on the part of the department in processing the application. This Any increase in the quotas must be approved by the director and may not exceed 50 for all species in any license year. Any necessary quota extension in excess of the number herein authorized 50 must be approved by the commission.~~

(5) If the application of an applicant who is entitled to purchase a bonus point and/or a preference point and is not entered into the drawing solely because of an error, and the applicant fails to obtain a permit or license for the year the application was submitted, the applicant is entitled to purchase a bonus point or preference point for that year.

~~(3) If the department confirms an error on a rejected or incorrectly processed application and no permit/license can be issued, the department shall award that applicant a bonus point, if applied for, for the species for which the application was submitted.~~

AUTH: 87-1-301, MCA

IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705, 87-2-706, MCA

REASON: Language contained in 12.3.115 regarding application errors and ARM 12.3.170 regarding third-party errors has been consolidated into ARM 12.3.165.

12.3.185 SUPER-TAG HUNTING LICENSES ~~(1) The department will issue one deer, one elk, one shiras moose, one mountain sheep, one mountain goat, one wild buffalo or bison, one antelope, and one mountain lion hunting license each year through a lottery. These hunting licenses are known as "super-tags."~~

~~(2) (1) For each species, as designated in 87-1-271, MCA, an unlimited number of chances to draw a super-tag will be sold at \$5 per chance. Chances will be sold by license agents as defined in ARM 12.3.201A or through the department authorized web site on the internet. License agents will receive a commission of \$0.50 for each super-tag transaction for a species. A transaction in this case means the purchase of one or more super-tag chances of the same species at one time. Individuals purchasing a ticket through the internet shall pay a convenience fee in accordance with the current internet provider contract.~~

~~(3) (2) After the completion of the special license drawing for a species, the department will conduct a computerized drawing to selecting randomly the super-tag winner for that each species. The department shall issue the appropriate super-tag to the lottery winner.~~

~~(4) (3) Only a person legally able eligible to be licensed under current Montana statutes may purchase chances to draw a super-tag or use a super-tag. A person must possess a valid conservation license to be eligible to purchase a chance to draw a super-tag.~~

~~(5) (4) The super-tag is valid for the taking of one animal of the species for which it is issued and is valid only for the current license year. A super-tag may be used in any legally described hunting district open for hunting of that species with an established season. A super-tag may be used only during the legal hunting season for the species for which it is issued. The person using the super-tag may use it only during a hunting district's open established season and is subject to all hunting regulations, including special weapons regulations, that apply to a hunting district. However, if a hunting district requires a permit to hunt that species in that district, a super-tag can be used without the special permit, and a super-tag is not subject to an established quota in a hunting district.~~

~~(6) (5) In the event that a person who drew a license or purchased a license is also drawn for the super-tag for the same species, the person must surrender the license to the department before receiving the super-tag. The department will refund the license fee paid by the winner of the super-tag. The person winning the super-tag shall retain any accumulated bonus points for that species.~~

~~(7)~~ (6) The super-tag is a nontransferable license.

AUTH: 87-1-271, 87-1-301, MCA

IMP: 87-1-271, MCA

REASON: The amendments to ARM 12.3.185 were made for clarification and to be consistent with the long standing and current practice of issuance of super-tags.

12.3.186 SALVAGE PERMITS (1) For the purposes of 87-3-145, MCA, an individual may apply for a salvage permit for a A deer, elk, moose, or antelope accidentally killed as a result of a vehicle collision may be salvaged and possessed if a permit is obtained from a peace officer, a department regional office during regular business hours, or by the department through an electronic application and issuing process within 24 hours of taking possession of the animal.

(2) Any animal taken for salvage must:

(a) be taken in its entirety; and

(b) be disposed of in accordance with 75-10-213, MCA, ~~and any meat rendered must be utilized for human consumption and may not be used for bait or any other purpose.~~

(3) The salvage permit will be issued on a form provided by the department.

(4) ~~Big game~~ Licenses and tags issued for the purpose of hunting shall not be used for purposes of salvaging animals.

(5) All parts of animals salvaged shall be made available for inspection by a peace officer upon request.

AUTH: 87-3-145, MCA

IMP: 87-1-301, 87-3-145, MCA

REASON: The amendments to ARM 12.3.410 remove language found in statute.

12.3.187 APPRENTICE HUNTER CERTIFICATE (1) An apprentice hunter must be accompanied by a mentor while hunting. The mentor must:

(a) meet the requirements of 87-2-810, MCA;

(b) possess a completed department-issued designation form;

(c) only accompany one apprentice at a time;

(d) remain within direct voice contact with the apprentice without the use of enhancement or transmittal devices, except prescription hearing aids; and

(e) remain within direct sight of the apprentice without the use of any magnifying or enhancing aids except prescription eyewear.

~~(2) Section 87-2-810, MCA, states a person cannot obtain an apprentice hunting certificate upon completion of a hunter safety course. For the apprentice hunter certificate, completion of a hunter safety and education course is defined as:~~

~~(a) passing a state approved hunter education course including the required test and field day; and~~

~~(b) reaching 12 years of age by January 16 of the license year.~~

~~(3)~~ (2) Apprentice hunters 15 years of age or younger are allowed to hunt during any specified statewide youth season as provided in the regulations.

AUTH: 87-2-810, 87-1-301, MCA

IMP: 87-2-810, MCA

REASON: The amendments to ARM 12.3.187 remove language found in 87-2-810.

12.3.402 LICENSE AND PERMIT REFUNDS (1) All license sales are final.

~~(1)~~ (2) No refund will be issued for any hunting, fishing, or trapping licenses or permits sold by the department, or associated fees, except as provided in ~~(1)(a) through (e)~~ of this rule.

(3) The department will review ~~all applicable information in evaluating requests~~ issue refunds as follows:

(a) a surviving heir of a license or permit holder may receive a full refund of the license or permit fees if the license or permit holder dies and has not used the license or permit;

(b) A a license or permit holder may receive a 90% refund if an immediate family member spouse, domestic partner, parent, step-parent, child, or step-child dies and the license or permit holder has not used the license or permit; ~~A request for such refund must be accompanied by appropriate supporting documentation which includes, at a minimum, a copy of the death certificate of the license holder or immediate family member. For a hunting license, the request must be postmarked by the end of that calendar year;~~

~~(b)~~ (c) a license or permit holders may receive a 90% refund in the event that a medical emergency occurrence prevents the license or permit holder from using the license or permit; ~~A request for a medical emergency refund must be accompanied by appropriate supporting documentation which includes, at a minimum, a statement signed by a licensed physician. The physician must describe the nature of the medical emergency and state why it precludes using the license. For a hunting license, the request must be postmarked by the end of the calendar year;~~

~~(c)~~ (c) ~~a resident who has purchased a conservation, bear, deer, elk, bird, or fishing license may request a refund by returning the license to the Helena or regional office at the time of application for a combination license. A resident who purchases a two-day fishing license may request a refund by returning the license to the Helena or regional office at the time of application for a season fishing license. A nonresident who has purchased a conservation, season bird, season fishing or deer license may request a refund by returning the license to the Helena office at the time of application for a nonresident big game combination license. A nonresident who has purchased a conservation, season bird or season fishing license may request a refund by returning the license to the Helena office at the time of application for a nonresident deer or elk only combination license;~~

(d) if an applicant is issued an incorrect license ~~(e.g., a sportsman over 62 years old is issued a regular conservation license and elk license for full price instead of the half price elk license)~~ through the fault of the department or a license agent, the license fees will be refunded and the applicant may purchase the correct license or permit;

~~(e) except for refunds under (1)(a), (b), and (c), nonresident combination license B-10 and B-11 license holders may receive a license refund according to the following schedule, provided the nonresident license holder certifies that the license was not used:~~

~~(i) 80% refund if postmarked on or before August 1 of the license year;
(ii) 50% refund if postmarked after August 1 of the license year, but on or before the first day of the general big game hunting season for which the permit or license is applicable. with the following exceptions:~~

~~(A) if the license holder is outfitter sponsored and lack of success in drawing a permit eliminates opportunity to use the license, the amount retained by the agency will be \$100, provided that the request is postmarked on, or prior to, October 1;~~

~~(B) if the license holder is landowner sponsored and lack of success in drawing a permit eliminates opportunity to use the license, the amount retained by the agency will be \$50, provided the request is postmarked on, or prior to, October 1;~~

~~(iii) no refund will be issued after the opening of the general big game hunting season;~~

~~(f) for the purpose of considering refunds, any license ordered by mail shall be considered sold when the department receives a valid application;~~

~~(g) (4) †The director, or his designee, may authorize exceptions to the refund policy this rule due to extenuating circumstances including but not limited to the following:~~

~~(i) (a) declaration of war or police action;~~

~~(ii) (b) catastrophic or major natural disaster or man-made event that necessitates the assistance from state or federal emergency management agency.~~

~~(5) Requests for refunds must be postmarked by December 1.~~

~~(6) Any request for a refund must be accompanied by supporting documentation as requested by the department.~~

~~(7) Refunds will not be issued for any licenses or permits sold on behalf of other entities.~~

AUTH: 87-1-301, MCA

IMP: 87-1-301, MCA

REASON: The amendments to ARM 12.3.402 were made for clarification and to be consistent with the long standing and current practice. ARM 12.3.402(c) was moved to NEW RULE II CONVERSION OF LICENSE TYPE. ARM 12.3.402(e)(ii)(A) refers to Outfitter sponsored licenses which were voided in 2010/

12.3.410 EXTENSION OF DEADLINES (1) The director has the authority to extend a deadline for purchasing or applying for a license or permit if, in the director's discretion, a significant event occurs that hinders the public from purchasing or applying for licenses or permits. ~~A significant event is an occurrence that has widespread impacts of sufficient magnitude to warrant, in the director's opinion, the extension of purchasing and application deadlines. Some examples of a significant event include:~~

~~(a) automated licensing system failure;~~

~~(b) natural disaster; or~~

~~(c) major national or state emergency.~~

~~(2) The director has the discretion to determine the amount of time to extend a deadline, after consideration of all the circumstances surrounding the significant event. The director may determine that the totality of circumstances makes an extension impractical.~~

~~(3) All other rules and statutes pertaining to licenses and permits are still in effect when the director extends a deadline.~~

AUTH: 87-1-301, 87-1-304, MCA

IMP: 87-1-301, 87-1-304, MCA

REASON: The amendments to ARM 12.3.410 remove unnecessary language.

Repeal:

12.3.109 PURPOSE

AUTH: 87-1-201, 87-1-301, MCA

IMP: 87-1-201, 87-1-301, MCA

REASON: Administrative rules that state purpose are no longer considered necessary.

12.3.111 LICENSE/PERMIT PREREQUISITES

AUTH: 87-1-201, 87-1-304, MCA

IMP: 87-1-201, 87-1-304, MCA

REASON: Applicable license and permit prerequisites requirements were added to 12.3.113 & 12.3.115

12.3.120 HUNTER SAFETY REQUIREMENTS

AUTH: 87-1-301, 87-2-105, MCA

IMP: 87-2-105, MCA

REASON: Hunter safety requirement are outlined in 87-2-105, MCA.

12.3.121 DRAWING FEE

AUTH: 87-1-301, MCA

IMP, 87-2-113, MCA

REASON: Incorporated in ARM 12.3.402

12.3.125 CERTIFICATE FOR GUIDED NONRESIDENT

AUTH: 87-1-301, MCA
IMP: 87-2-511, MCA

REASON: References outfitter-sponsored licenses which are no longer in use.

12.3.150 COMPUTERIZED SYSTEM OF DRAWING: BONUS POINT PROGRAM

AUTH: 87-1-301, MCA
IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-705, MCA

REASON: Applicable bonus point information was included in ARM 12.3.135.

12.3.155 BONUS POINTS: NONTRANSFERABILITY; APPLICABILITY TO A PARTY

AUTH: 87-1-301, MCA
IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705, 87-2-706, MCA

REASON: Applicable bonus point information was included in ARM 12.3.135. Applicable party information was added to 12.3.160.

12.3.170 THIRD-PARTY ERRORS

AUTH: 87-1-301, MCA
IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705, 87-2-706, MCA

REASON: Applicable information was included in ARM 12.3.165.

12.3.179 NONRESIDENT DEER LICENSES SEPARATED FROM BIG GAME COMBINATION LICENSES

AUTH: 87-1-301, 87-2-512, MCA
IMP: 87-1-301, 87-2-512, MCA

REASON: The amendments to ARM 12.3.179 remove language found in 87-2-512.